

# Rural Development Sub-Committee

RDC(3)-10-10 Paper 4

## Inquiry into the Provision of Local Authority Farms : Evidence from Farmers Union Wales

28<sup>th</sup> June 2010

### Background

#### Local Authority Holdings

1. The origins of Local Authority holdings date back to the Small Holdings Act 1892, which gave Local Authorities certain legal powers in relation to the purchase and management of holdings, for example by allowing local authorities to borrow money on the security of County Funds and any revenues of the Council.
2. Following the 1<sup>st</sup> World War such holdings grew in importance, due to the emphasis on providing for those returning from the war, and as a result authorities were given further responsibility for the provision and organisation of their holdings.
3. The Agriculture Act 1970 consolidated previous legislation, providing local authorities with formal powers to provide land for the purposes of smallholdings for persons who 'were, or would shortly become, qualified by reason of their agricultural experience to farm a holding on their own account'.
4. Regulations made under the 1970 Act require that applicants for smallholdings must have a specified minimum period of practical experience and/or formal training, while Section 39 of the Act, specifically requires that local authorities, "... *having regard to the general interests of agriculture and of good estate management, shall make it their general aim to provide opportunities for persons to be farmers on their own account by letting holdings to them*".
5. In 1995 the UK Government introduced the Agricultural Tenancies Act 1995, and the concept of the Farm Business Tenancy agreement (FBT). While one of the aims of the Act was to increase the availability of available land, FBTs are being offered for far too short a period, undermining confidence and security in the tenanted sector, and, in the context of agri-environmental schemes such as Glastir, significantly limiting access by tenants to such schemes.
6. In November 2008, Sir Donald Curry, as Chairman of the Sustainable Farming and Food Delivery Group, published "*The Importance of the County Farms Service to the Rural Economy*"; an up to date guide for Local Authorities encouraging them to recognising the strategic importance of land holdings, and the commercial and societal benefits they can provide. While the report appears to be primarily aimed at English Local Authorities, its key messages, recommendations and conclusions are nevertheless of direct relevance to Wales.
7. The key messages of the report were that:
  - i. *Farms owned and managed by Local Authorities are an important, strategic, national asset that should be retained and*

- ii. *These farms assist Local Authorities in meeting wider regional economic, countryside and environmental objectives and provide an essential route into farming for new entrants.*
8. The report made the following recommendations:
  - i. *Greater networking and collaboration in the management of Local Authority Estates should be pursued*
  - ii. *Regional Economic Strategies should recognise the importance of the County Farm structure as a crucial entry point for new entrants to agriculture*
  - iii. *Local Authorities should carry out strategic reviews of their estates so that policy decisions on the retention, disposal or acquisition of land take a longer-term view seeking to maximise revenue from development whilst not undermining the principal objectives of the estates*
  - iv. *Local Authorities should make greater effort to develop the wider benefits that their land holding could provide particularly in regard to renewable energy, local food, public access, education, employment and the broader rural economy*
9. The report drew the following conclusions:
  - i. *Local Authority smallholding estates are an important, strategic, national asset that should be retained*
  - ii. *More effort should be made to support existing and future tenants on these estates to sustain their businesses either on the smallholding estates or in actually encouraging moves in the future into the private sector*
  - iii. *There should be greater collaboration between individual County farm estates to help effective management*
  - iv. *Local Authorities should seek to manage their disposals of land from estates in a more patient and thoughtful way to maximise revenue from development sales whilst not undermining the principal objectives of the estates. Some of this development profit should be used to re-invest in the estate*
  - v. *Local authorities should pay greater attention to the wider benefits derived from owning and managing their estates and should regard Local Authority Farms as a vital part of the wider regional economic strategy*

### **The Farmers' Union of Wales' and Tenants**

10. The Farmer's Union of Wales has a long established Tenants Committee which meets annually, or more frequently if so required, to discuss and act on issues of concern to the tenanted sector.

11. In addition to this work, the FUW's twelve County Branches provide a wide variety of services to tenant members, and the Union also offers specialist advice through Davis Meade Property Consultants.

## **ANSWERS TO SPECIFIC QUESTIONS POSED BY THE COMMITTEE**

### **The statistical information available relating to local authority farms in Wales and the current circumstances of the network**

12. Under section 59 of the Agriculture Act 1970, the Minister of Agriculture, Fisheries and Food was required to present an annual report to Parliament summarising, for each financial year, his/her proceedings and those of local authorities in relation to smallholdings in England and Wales.
13. Following Welsh devolution, it is understood that the legal obligation of the relevant Minister became limited to producing information in relation to only English smallholdings. For a number of years, reports on smallholdings in Wales were produced for the National Assembly for Wales. However, the Union is unaware of such a publication having been produced since the early years of the last decade.
14. Given the absence of such reports, the FUW regularly writes to all Welsh Authorities asking for updates on each particular Local Authority policy regarding holdings, and this occurred most recently in December 2009, when the Union emphasised the importance of such holdings to rural communities, and expressed its concern at the impact that the sale of such holdings would have for young entrants to farming.
15. The letter also underlined the imminent introduction by WAG of the Young Entrants Support Scheme (YESS), and the possible opportunities that a future 'flat-rate' Single Payment Scheme could create for young entrants, provided they have access to land.
16. Of the 22 Welsh Local Authorities contacted, 10 replies were received, and these can be summarised as follows:

*Blaenau Gwent: No longer has any holdings*

*Cardiff: No longer has any holdings*

*Ceredigion: Did not wish to discuss the issue of Local Authority holdings*

*Conwy: Will be retaining at least some of their remaining holdings*

*Glamorgan: Will be retaining at least some of their remaining holdings*

*Neath Port Talbot: Response stated that the query had been forwarded to the appropriate officer*

*Pembrokeshire: Will be retaining at least some of their remaining holdings*

*Powys Will be retaining at least some of their remaining holdings*

*Swansea Stated that they have 33 tenancies totalling 133.29ha but gave no information regarding their intentions*

*Wrexham Will be retaining at least some of their remaining holdings, but were 'unable to foresee any circumstances which would see the letting of LA small holdings continue at their current rate'*

17. Following further enquiries by the Union's twelve County Branches, the FUW was provided with the following information relating to 2010 (data for 1999 is also provided for comparison):

<b>LOCAL AUTHORITY</b>	<b>NUMBER OF HOLDINGS (2010)</b>	<b>NUMBER OF HOLDINGS (1999)</b>
Anglesey	95	125
Blaenau Gwent	0	0
Bridgend	0	1
Caerphilly	0	0
Cardiff	0	0
Carmarthenshire	31	61
Ceredigion	15	17
Conwy	9	10
Denbighshire	30	45
Flintshire	30	54
Gwynedd	49	53
Merthyr Tydfil	0	0
Monmouthshire	Unknown	64
Neath Port Talbot	0	0
Newport	Unknown	15
Pembrokeshire	50	59
Powys	165	205
Rhondda Cynon Taff	0	1
Swansea	33	2
Torfaen	Unknown	3
Vale of Glamorgan	2	3
Wrexham	15	31

18. While the FUW fully recognises the financial and work pressures that exist in terms of collecting and analysing information regarding Local Authority holdings, it is believed that the importance of such holdings warrants the production of regular reports regarding such holdings, as previously occurred.

## **The future contribution of the local authority farm network in Wales to providing a key access point for new entrants to farming and promoting progression of existing tenants within the public and private sectors**

19. The introduction by WAG of the Young Entrants Support Scheme, and the possible opportunities that changes to the Common Agricultural Policy may bring – including the likely advent of ‘flat-rate’ Single Payments, and the possible introduction of compulsory young entrant schemes and the attachment of CAP payments to land – have the potential to bring significant opportunities for new entrants to the farming industry.
20. It therefore follows that any moves which undermine the current local authority farm network will undermine the availability of tenanted land, and thereby any opportunities which may present themselves for new entrants.

## **How tenancy legislation can best provide a balance between the flexibility needed by new entrants and the long-term security needed for the best management of rural land**

21. As has already been alluded to, the introduction of short term Farm Business Tenancies under the 1995 Agricultural Tenancies Act has undermined the long-term security needed by tenants, particularly in terms of long term investment, and CAP funded agri-environment schemes, which require land to be within the management control of signatories for a minimum of five years.
22. The FUW is also aware of numerous contract clauses introduced by Local Authorities and other landlords which significantly weaken the position of tenants, thereby undermining long term security.
23. Examples of clauses include those which :
  - i. Allow Local Authorities to access all private business records relating to a tenant
  - ii. State that, after a certain period, either party may terminate the agreement on an annual ‘break date’
  - iii. Allow ‘part termination’ of an agreement, allowing the landlord to take back significant areas of land with a notice period of only 3 months
  - iv. Transfer any Single Payment or similar entitlements to the landlord upon the termination of an agreement.
24. The FUW therefore believes that there are significant grounds for legislation which enhances the long term security required by tenants, and prevents the inclusion of unfair clauses which undermine the rights of tenants.

## **How to encourage long-term investment and diversification of tenanted farms whilst maintaining the size of the local authority farms estate**

25. The FUW believes that Local Authorities must take a long-term view of their farm holdings, in terms of the income derived from such holdings and their likely importance in future, and that more integration should occur between Local Authorities and the private sector to ensure access to holdings and accession between holdings.
26. Moreover, proactive management of Local Authority estates has the potential to create business, environmental, and public education opportunities which would meet a number of key strategic targets for authorities while simultaneously benefiting tenants and increasing the value of holdings. However, such opportunities can only be realised if a long term view is taken, and best-practice models are shared between and adopted by Local Authorities.

**Whether a co-ordinated approach to the disposal and/or retention of local authority farms is needed**

27. During a meeting of the FUW's Tenants Committee held on the 9<sup>th</sup> of February 2010, members agreed that the imminent threat to Local Authority holdings, caused by the current financial climate, should be addressed.
28. Members therefore agreed that the FUW should make inquiries regarding the possible establishment of a trust which could buy up any eligible Local Authority holdings placed on the market, in order to ensure the preservation of such holdings.
29. Initial inquiries into the eligibility of such a proposition have been made, and it is believed that, with careful management, such an initiative would be both financially viable and of significant value for rural communities and new entrants. However, the establishment of such a trust would require significant investment, and possible government intervention.

**Whether local authorities and the Welsh Assembly Government could take any further action to help maintain and develop the local authority farm network in the future, both in terms of improving the estates themselves and contributing to wider community and environmental goals**

30. The FUW believes that certain Local Authorities could take more proportionate action by properly assessing the long term value of their agricultural holdings, rather than viewing them as disposable assets which can be sold off to meet budgetary deficits.
31. Both Local Authorities and the Welsh Assembly Government could take more action by working with the farming industry to ensure that information regarding best practices, as adopted by those Local Authorities which retain large numbers of holdings, is shared, and that a network which links Local Authorities and the private sector across Wales is established in order to aid access to holdings and accession between holdings.
32. While the FUW fully recognises the impact of the current financial crisis on the Welsh Assembly Government budget, it is believed that there would be significant merit in funding the establishment of a trust in order to buy and manage holdings

placed on the market by Local Authorities, and that the possibility of funding such a scheme using European monies should also be investigated.

## **Other Issues**

### **Implications of Changes Regarding Dual Claims on Land for Tenants**

33. Under current arrangements, tenants and landlords are able to claim separate payments for being responsible for different scheme criteria on single pieces of land, and the FUW's view is that, where scheme criteria for payments are different, different parties should continue to have the right to claim on the same land. However, following a decision by the European Commission, the Welsh Assembly Government has decided to ban such dual claims in conjunction with the introduction of the Glastir scheme.
34. In many circumstances, landlord-tenant arrangements involving two individuals claiming different payments on single land parcels date back to the 2000-2002 Single Payment reference years, when area payments and direct headage payments were more distinct. The view of the EU Commission therefore fails to recognise the contradiction between allowing a region to operate an historically based Single Payment scheme, while later insisting that farmers cannot make claims that have effectively become crystallised in the historical Single Payment Scheme regime.
35. Following detailed discussion regarding the issue, the FUW's Tenants Committee agreed that the banning of dual claims will represent significant disruption for the tenanted sector, and in some circumstances could lead to rises in land rents or tenants being forced to sell their Single Payment entitlements to landlords.
36. The Union has therefore lobbied the Welsh Assembly to take a robust attitude towards the European Commission, and to continue to allow dual claims, as is happening in England.