

Report

Cabinet Member for Assets

Part 1

Date: 22 March 2021

Subject Disposal and Grant of a Farm Business Tenancy (FBT) at Bowden's Farm (Penhow 12), Newport

Purpose To seek approval from the Cabinet Member for Assets to dispose of the freehold of the subject farmhouse and outbuildings and the grant of a Farm Business Tenancy on the remainder of the premises (land).

Author Housing and Asset Manager

Ward Langstone

Summary The subject land is currently let under the Agricultural Holdings Act. An opportunity has arisen, to sell the Farmhouse and outbuildings to the current tenant and to enter into a new FBT in respect of the bare land.

Proposal Agree to the freehold disposal of the Farmyard and grant of a Farm Business Tenancy on the remaining land on terms to be agreed by Head of Law and Regulation.

Action by Head of Regeneration, Investment and Housing, Head of Law and Regulation

Timetable Immediate

This report was prepared after consultation with:

- Head of Finance – Chief Finance Officer
- Head of Law and Regulations – Monitoring Officer
- Head of People and Business Change
- Head of City Services
- Head of Regeneration, Investment and Housing
- Housing & Assets Manager
- Associate Director of Property Services, Newport Norse
- Associate Valuation and Estates Management, Newport Norse
- Service Manager

Signed

Background

Bowden's farm comprises part of the County Farm Portfolio. It will be recalled there has been consideration of the strategy for the County Farm Portfolio, culminating in a discussion at the CSAMG meeting of 8 March 2019. At that meeting it was decided, amongst other matters, to:

- *continue with disposal policy as and when opportunity arises but consider on a case-by-case basis. Particular consideration to be given to disposing of farmhouses only and retaining land and barns in order to maximise income. We would recommend that disposals are to existing tenants at market value. If the portfolio was to be sold as an investment it should be noted that any sale price would be subject to the tenancies and therefore provide a lower capital receipt.*

Bowden's Farm is owned freehold by the Council and is shown on the attached plans. It comprises a four-bedroom farmhouse, a range of outbuildings in mixed condition and a total land area of approximately 23.19 hectares (57 acres). There has been very limited investment by the Council over the years and therefore capital investment is likely to be required in the near future. The proposed action would prevent such costs falling on the Council, which will release funds for investment in other policy objectives within the Community. The farm is let under the Agricultural Holdings Act, on an agreement dated 1959, at a rent of £4,150 per annum, for the farmhouse, outbuildings and land.

The tenant, submitted proposals for the Council's consideration over a year ago. Collaborative negotiations have continued for some time, involving the Tenant and his Agent, culminating in the Tenant now submitted a proposal comprising:

1. Purchase of farmhouse, buildings and 1.6 acre of land in the sum of £415k, as shown hatched on the first plan attached. This comprises the rational boundary for the farmyard; and
2. A five year Farm Business Tenancy on the remainder of the land, at a rent of £4,150 per annum (£75.45 per acre) for the bare land only. This is shown hatched on the second plan attached.

By retaining an interest in the land and buildings, the Tenant will be able to develop an integrated approach to management of the farming unit.

The terms negotiated include an overage provision on the farm outbuildings. This would enable the Council to secure an additional payment, if the outbuildings are redeveloped for residential uses.

As the premises is held under the Agricultural Holdings Act, the Council has very limited opportunity to obtain vacant possession. It is therefore appropriate to deal with the tenant exclusively, as a special purchaser of the premises. For this reason, no general community consultation is appropriate but local elected Members are consulted as part of the decision making process. Moving to a modern Farm Business Tenancy will offer more control to the Council, over the future of this asset.

A more secure and long-term interest in the premises will encourage the farmer to invest capital and activity into the farm business. This will help secure the good condition of the farming unit the long term and assist its economic viability. This will contribute to the long-term economic well-being of the local area.

Financial Summary

The transaction would generate a significant capital receipt to the Council and remove any responsibility for maintenance costs in respect of the buildings. The level of rent is being maintained, even though the area of land is reduced and the buildings are not included in the assessment.

Risks

If the farm buildings are not sold, the Council will forego a capital receipt and may face future maintenance costs.

If the bare land is not put onto a Farm Business tenancy, it may be more difficult for the Council to obtain possession, should it require to do so in future.

Links to Council Policies and Priorities

The project delivers against the “Thriving City” and “Aspirational People” themes of the Corporate Plan.

Additionally, the project contributes to the Council’s wellbeing objectives, namely: to promote economic growth and regeneration whilst protecting the environment and to build cohesive and sustainable communities. Proceeding with this action would not adversely affect the other objectives.

Options Available and considered

1. Dispose of the farmhouse and outbuildings and grant a Farm Business Tenancy on the remainder of the premises.
2. Take no action and do not dispose of the land

Preferred Option and Why

Dispose of the farmhouse and outbuildings and grant a Farm Business Tenancy on the remainder of the premises. This will generate a capital receipt, whilst retaining the current level of rent.

Comments of Chief Financial Officer

Disposal of this freehold will benefit the Council by the realisation of a capital receipt, particularly as it is of no economic or strategic value to the authority. The elimination of any maintenance liabilities is an additional benefit. The capital receipts is a corporate resource and will be utilised in due course but is restricted to funding capital expenditure.

The five year Farm Business Tenancy agreement will also ensure that there is no impact on the achievement of the overall income target for the commercial estate which this sit’s under.

Comments of Monitoring Officer

I would support the proposed action which is in accordance with the Council’s statutory powers under Section 123 of the Local Government Act 1972 to dispose of surplus land. The land is subject to an Agricultural Tenancy under the Agricultural Holdings Act 1986, which means that the tenant has a life tenancy, rights of succession for qualifying family members and restricted rent reviews. The Council would also have continuing landlord’s repairing obligations for the duration of the life tenancy. Therefore, the “investment” value of the farm holding to the Council is limited because of the sitting tenant’s extended security of tenure, the rent restrictions and the on-going maintenance liabilities. The sale of the Council’s freehold reversionary interest to the sitting tenant would generate a capital receipt and avoid continuing landlord’s repair costs. The market value of the freehold reversion would have to take account of the life interest and the agricultural use of the farmhouse and outbuildings. Although the Council has an obligation under s123 to secure the best value reasonably obtainable for the disposal of the freehold, a sale to the sitting tenant as a special purchaser would secure the best value as any other sale would be subject to the agricultural tenancy. However, to ensure best value, some overage and claw-back provisions would need to be included in the transfer in the event of any future sale and re-development of the buildings. In addition, the lease of the remaining farmland on a new Farm Business Tenancy would secure the agricultural use of the land and the viability of the farm unit, and give greater flexibility in terms of future land use.

Comments of Head of People and Business Change

The report writer has fully considered the Sustainable Development Principle and the Well-being Goals of the Well-being of Future Generations Act 2015 when developing this report.

Furthermore, from an HR perspective, there are no staffing implications to this report.

Scrutiny Committees

N/A

Equalities Impact Assessment and the Equalities Act 2010

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Children and Families (Wales) Measure

Although no targeted consultation takes place specifically aimed at children and young people, consultation on planning applications and appeals is open to all of our citizens regardless of their age. Depending on the scale of the proposed development, applications are publicised via letters to neighbouring occupiers, site notices, press notices and/or social media. People replying to consultations are not required to provide their age or any other personal data, and therefore this data is not held or recorded in any way, and responses are not separated out by age.

Wellbeing of Future Generations (Wales) Act 2015

The author has given consideration to the Act throughout the background of the report. The proposed disposal will assist with meeting some of the seven well-being goals including a prosperous Wales, a resilient Wales, a healthier Wales and a globally responsible Wales by utilising resources efficiently and proportionately. The project does not affect the other goals.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

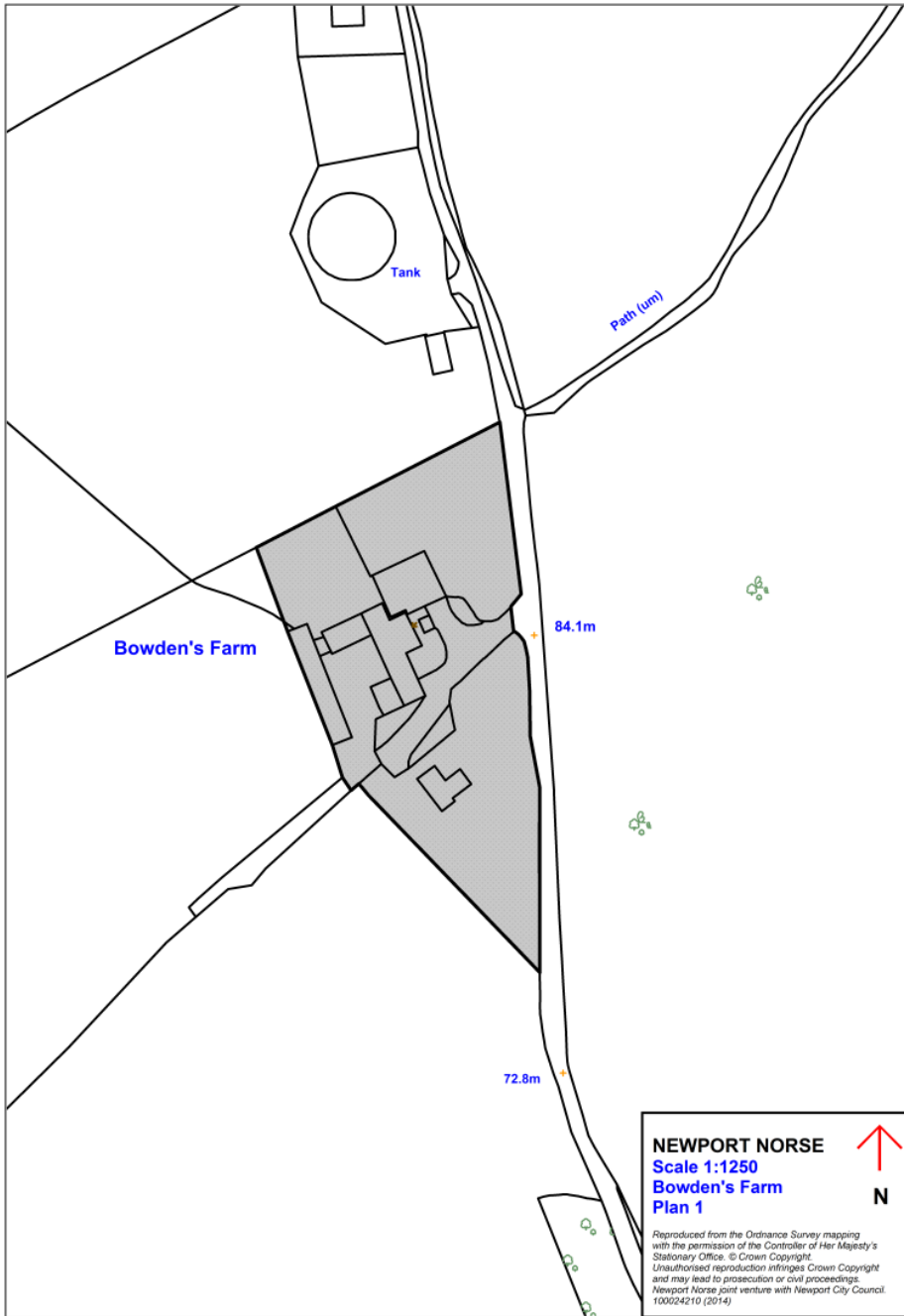
Consultation

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

Background Papers

Site plans attached.

Dated: 15 March 2021



NEWPORT NORSE
Scale 1:1250
Bowden's Farm
Plan 1



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Newport Norse joint venture with Newport City Council.
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