

## **Record of Officer Decision**

### **Farm Business Tenancy Renewal, Elberry Farm, Broadsands Paignton TQ4 6HJ**

#### **Decision Taker and Date Decision Taken:**

Director of Place on 14 October 2021.

#### **Summary of Matter or Issue Requiring Decision:**

The existing protected Farm Business Tenancy (FBT) is a Secure Agricultural Tenancy granted under 1986 Agricultural Holdings Act. These tenancies usually have lifetime security of tenure and those granted before 12 July 1984 also carry statutory succession rights, on death or retirement. It is under this arrangement the current tenancy commenced on the 1<sup>st</sup> April 1992 and followed the retirement of the tenant, whose lease commenced on the 20<sup>th</sup> August 1963.

Since 1999 through until April 2021 the farm tenancy was managed by Torbay Coast & Countryside Trust (TCCT). The property returned to the direct control of Torbay Council in April 2021 under a funding arrangement with TCCT, for the Occombe Farm redevelopment.

The current position is that the tenant now wishes to step back from the day-to-day involvement with the farm and for his close relative, to take over with a new protected Farm Business Tenancy (FBT) solely in his favour. Because a succession of the original 1963 FBT occurred in 1992, there is now no automatic right of renewal.

Notwithstanding this point the tenants agent, confirmed that preceding the transfer back to Torbay Council, there had been discussion about the principle of a new FBT. TDA has since picked up the negotiation with this principle in mind and have, subject to final Council approval agreed terms for a new FBT.

As further background and evidence of the proposed tenants long term commitment to the farm they have recently entered into a new Stewardship Agreement for a 5-year period, which includes options relating to over wintering cirl bunting and the use of low fertiliser and hedgerow management. During the last 3 years the tenant has undertaken a programme of modernisation across the farm, which included installation of new heating system and refurbishment of the farmhouse. In addition, the farmyard was completely re-concreted with the drainage system re-set in 2016.

The terms for the new FBT are as follows:

1. A tenancy for a term of 35 years to commence with effect from 25<sup>th</sup> December 2021.
2. The tenancy will be based on the existing terms and conditions of the FBT granted on 1<sup>st</sup> April 1992 and will be a full repairing and insuring lease.
3. The tenant only will have an option to break the FBT on each 5<sup>th</sup> year anniversary of the lease on 12 months' notice.
4. The rent will be set at £9,250 per annum payable quarterly in advance with a rent review every 5<sup>th</sup> anniversary.

The terms agreed represent market value.

**Decision Taken:**

That the Director of Place, in consultation with the Chief Executive, be authorised to approve a renewal on the terms set out above of a protected Farm Business Tenancy of the property known as Elberry Farm, Broadsands Paignton TQ4 6HJ.

**Summary of Reason(s) for Decision Taken:**

The tenants have operated the farm since 1963. Granting a new protected Farm Business Tenancy will provide succession to the current tenant's close relative and secure the commitment of the family to the farm for the foreseeable future.

**Summary of Alternatives or Options considered and rejected and Background Papers:**

Whilst the existing Farm Business Tenancy is afforded protection under the Agricultural Act there are no succession rights afforded with this agreement. Consequently, the Council could serve notice, following the prescribed grounds and bring the FBT to an end. However, the Council would need to demonstrate just grounds for taking such action. The current tenant, intends to still provide support and assistance to his close relative through a handover period and will remain in the background during his retirement. At present there is no justification for taking this approach.

**Details of any conflict of interest and dispensation granted to the Officer taking the decision or by any Member of the Council in delegating responsibility for any specific express delegation:**

None.

**Implementation:**

This decision will be implemented immediately.

A copy of this decision and any supporting documentation considered by the Officer taking this decision may also be available for inspection by the public at the Council's offices or posted upon payment of any copying and postage charges. Any member of the public wishing to take up either of these options is asked to please ring (01803) 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Director of Place)