

## **CAAV EXAMINATIONS – NOVEMBER 2006**

### **National Oral Questions**

**Note – Each Examination Centre should select three of these six questions for use. Those three chosen questions are to be asked of all candidates attending the Oral. Each question carries 5 marks and so this section of the Oral carries 15 of the 50 marks with the remaining 35 marks turning on the topic.**

**Centres with candidates whose experience is in Wales or Scotland should consider this when selecting the questions and marking any points arising from that practice which may be given in their answers.**

## QUESTION 1

**Apart from purely agricultural production considerations, what are the other non-farming factors that influence purchasers of farms and rural land?**

### Notes for Answer

Amenity and pride of ownership, quality of life

Marriage value of land with house on small plot, protection of amenity of house by buffer effect of land, securing control over the use of land surrounding house.

Pony paddock demand.

Country lifestyle/pursuits

Longer-term development opportunities including residential and commercial development, minerals.

Taxation advantages-possible relief from IHT, opportunity to roll over CGT gains, chance to run a business and claim BPR and Income Tax advantages, earned versus unearned income.

Asset that holds its value against inflation and outperforms other asset classes e.g. equities.

Short term development opportunities - chance to develop assets such as barn conversions and land sales of part to residential purchasers.

Communications-commuting distances.

General economic confidence, city bonuses.

## QUESTION 2

**Energy crops have been a topical subject in the farming press recently. Briefly outline the main energy crops in grown in the UK and their uses**

### **Notes for Answer**

#### **Crops:**

##### **Bio energy:**

Bio-ethanol-in the UK produced by fermenting wheat to make ethanol or sugar beet – sugar beet has less energy per volume than wheat. Used in blends with petrol for vehicle - fuel-engines need adapting to use at high levels.

Bio-diesel –plant oils mainly oilseed rape in UK, used in blends with mineral diesel for vehicle fuel, can use at high levels with no engine adaptation and through normal filling station pumps and tanks.

##### **Biomass:**

Short Rotation Coppice Willow (SRC)-chipped and used to fire boilers for electricity generation, or for direct heating. Also used to co-fire with coal in conventional power stations but needs milling to a 5mm particle size for this.

Miscanthus - Elephant Grass-perennial crop producing canes which are chipped or baled and used to fire boilers for heat and power.

Other Biomass such as wood chip, forest by products, Oilseed rape meal, grain, and straw also used to fire boilers for heat and power generation and slurry can be used in a methane digester.

### QUESTION 3

**Summarise the action available to an agricultural tenant (in England/Wales) whose Landlord has refused to sanction a proposed diversification and explain the procedure**

#### Notes for Answer

Procedure introduced as part of TRIG package.

A non-statutory Code of Practice for Agri-Environment Schemes and Diversification Projects within Agricultural Tenancies was prepared by TRIG and issued by Defra in 2004.

The code provides a framework for dealing with such issues:-

- Early consultation between parties on any project
- Agreement on timetable while terms are discussed
- Preparation of detailed proposals and a sound business case by the Tenant
- Written exchange on important issues
- Preparation of a formal written agreement between the parties

In cases such as this, where agreement cannot be reached, there is an opportunity for the Tenant (or in other circumstances the Landlord) to refer the matter to a **non-binding** adjudication process

The Adjudication process is administered by the RICS and funded by Defra but the parties have to bear their own costs

Applications are made using a form available from the RICS, the application should include an outline proposal with reasons why adjudication is appropriate, the application must be copied to the other party.

The RICS will appoint an Adjudicator within 15 working days and the Adjudicator must advise the parties within 7 working days whether adjudication is appropriate.

If it is parties must then submit written representations within 14 working days to the Adjudicator and each other. They then have 7 working days to comment on the other's case. There is no oral hearing, the Adjudicator may inspect if they so choose. They must report within 56 working days of appointment although extensions can be agreed.

The Adjudicator has a similar role to an ombudsman – to determine whether refusal of consent was reasonable or not. He must issue a written decision either in favour or against the proposal with conditions if appropriate. Even if he finds it unreasonable that does not overturn the refusal. Defra has said it will monitor the adjudications to establish how far tenants have reasonable opportunities to diversify

## QUESTION 4

**Describe the statutory provisions for rent reviews under the Agricultural Tenancies Act 1995 when there is no reference to rent reviews in the agreement**

### Notes for Answer

In the absence of any provisions in the agreement rent reviews are to open market value as provided for in sections 10-14 of the Act

Either party can serve notice in writing requiring that the rent be referred to arbitration  
- “statutory review notice”

The Rent Review date must be at least 12 months but less than 24 months after service of the Notice

The rent review date must not fall less than three years from either the beginning of the tenancy or the date the rent was last agreed in writing, arbitrated or otherwise determined

The rent properly payable is the rent at which the holding might reasonably be expected to be let in the open market by a willing landlord to a willing tenant taking into account all relevant factors including the terms of the tenancy

In assessing the rent the following should be disregarded:

Tenant’s Improvements except:

- Those provided under an obligation at or before the beginning of the tenancy
- Any improvement to the extent that allowance or benefit has been given by the Landlord
- Any improvement where the Tenant has received compensation from the Landlord

The fact that the Tenant is in occupation of the holding

The impact of dilapidation, deterioration or damage caused by the Tenant

Any Arbitrator’s appointment will now be under the Arbitration Act 1996

## QUESTION 5

**Explain the principal constraints of farming land either in:**

- a) Nitrate Vulnerable Zones; or**
- b) An SSSI**

### **Notes for Answer - NVZ**

55% of England designated NVZ in December 2002 – but only small areas in Wales and limited areas in SW Scotland and Aberdeenshire There is separate Scottish legislation.

Farmers in NVZs are required to implement Action Programme Measures (NVZ or nutrient management plans).

There are 4 key elements to the measures:

- a) Limit inorganic nitrogen fertiliser to the volume required by the crop after allowing fully for residues in the soil and other sources
- b) Limit organic manure application to 210kg/ha of total nitrogen each year averaged over the area of the farm not in grass (reducing shortly to 170kg/ha) or if area was a 1996 NVZ and 250kg/ha each year averaged over grass area
- c) On shallow or sandy soils do not spread slurry, poultry manure or sludge from 1<sup>st</sup> September (1<sup>st</sup> October in Scotland) to 1<sup>st</sup> November (grass or autumn sown crops) or 1<sup>st</sup> August to 1<sup>st</sup> November (spring sown crops) and maintain adequate storage capacity for these manures
- d) Keep farm records, including cropping, livestock numbers and the use of organic manures and nitrogen fertilisers

The Farm Waste Grant Scheme introduced to assist with capital cost is now closed to new applicants in England (limited monies may still be available in Wales and Scotland)

### **Notes for Answer - SSSI**

SSSIs are governed by the Wildlife and Countryside Act 1981 as amended (for England and Wales but not Scotland) by the Countryside and Rights of Way Act 2000 and the Natural Environment and Rural Communities Act 2006 and now supervised by Natural England and CCW in Wales. In Scotland, the system is supervised by SNH.

Natural England/CCW (but not SNH) is obliged to notify owners of the creation of a SSSI. As part of that notification they must also include a statement of their views on management and a list of harmful operations.

If the occupier wishes to carry out any harmful operations they must first notify Natural England/CCW which has 4 months to consider options. They may permit the works with or without conditions or refuse. This also applies in Scotland.

The owner may appeal against a decision from Natural England/CCW/SNH to DEFRA/Welsh Assembly Government/Scottish Executive.

Natural England/CCW/SNH may negotiate a management agreement or develop a management scheme for the land. If land is not then managed in accordance with the scheme, Natural England/CCW/SNH may serve a Management Notice requiring works.

Management Agreements must be used to facilitate positive management, not just to prevent damaging operations.

Large fines (up to £20,000 in England and Wales) (on summary conviction) or unlimited (on indictment) can be imposed for operations which damage special features. In certain circumstances, Natural England/CCW/SNH can make a Compulsory Purchase Order but it must have made an offer for a Management Agreement first.

## QUESTION 6

**List 5 important pieces of information you would require from a new client to enable you to prepare a SP5 (SAF in Wales) for his 200 hectare mixed (upland/lowland) farm**

### Notes for Answer

Identity of Client – name, SBI, CReg01 esp. if new, business changes needing IACS26/27

Copy of pre-populated SP5 (SAF in Wales) form (if available)

Copy of last year's form

Most recent RLR maps

Details (with evidence) of entitlements held at May 15<sup>th</sup> – if not agreed may need to refer to SP1, etc

Details of cropping programme/field uses

Details of last year's period(s), occupation and intentions to inform choice of 10 month period(s)

Details of any new land taken on since the last application form which will not be shown on the pre-populated sheets (and of land no longer held)

Details of any changes in field areas/boundaries to enable amendment to field data sheets (and possible submission of RLE1 forms in England)

Details of any common rights

Details of any involvement in special schemes, e.g.

- Organic scheme
- Contracts with processor for non-food set-aside or energy crops
- Hemp
- Hill Farm Allowance/Tir Mynydd

Cross compliance details e.g.:

- Livestock numbers
- Any special designations on the holding

Et cetera