

## WRITTEN EXAMINATION

### PAPER II

12 NOVEMBER 2009

10.45am – 12.45pm

Time Allowed – 2 Hours

#### Instructions to Candidates:

1. Complete the Green Examination Information Sheet by stating your examination candidate number (not your name) together with the area in which you are practising and the local Association of which you are a member. Attach the green sheet to the top of your answer pad and ring the numbers of the **three** questions that you have answered.
2. Write your candidate number (not your name) on each page. Put the number of the question and the page in the top right-hand corner.
3. Write on one side of the paper only, leaving the margin on the left- hand side.
4. Start each answer on a separate sheet and place your answers in numerical order.
5. Time has been allowed for you to read through the Question Paper **and plan** your answers.
6. You should attempt to answer **three** out of the six questions, ringing their numbers on the green sheet.
7. All questions carry equal marks: 20 each.
8. Questions are framed so as to minimise the need to make assumptions but state clearly any that you do make and the reasons for them.
9. Where appropriate, you will be expected to state the relevant Act, Statutory Instrument or case upon which you have based your answers.
10. You may use imperial or metric measurements in your answers. Please indicate which units you are using.

11. The presentation and clarity of your answers is important.

## PAPER II Q 1

You act for Bill Sykes, owner of Green Farm, Lavington. The holding comprises 200 hectares Grade 3 combinable cropped arable land, 8 hectares permanent pasture, a four bedroomed detached farmhouse constructed in 1980 and subject to an agricultural occupancy condition, grain storage for 1,200 tonnes, workshop and machinery store and some stables housed in traditional buildings.

Mr Sykes has, to date, been farming the holding on his own with assistance from his wife at busy times. Aged 68 he has decided it is time to do less after harvest 2010. Bill likes the farming lifestyle and does not wish to move house. His accountant has told him that a contract farming agreement would suit him and he has asked you to meet him to discuss.

In advance of your meeting write a briefing note to cover:

- i) The taxation advantages of a contract farming agreement in Bill Sykes's situation. **(3 marks)**
- ii) The basic principles and mechanisms of a contract farming agreement. **(5 marks)**
- iii) The likely levels of return for both farmer and contractor on a £/ha or percentage basis as appropriate. **(3 marks)**
- iv) Headings of areas to be covered in the agreement. **(6 marks)**
- v) Timetable for setting up the agreement. **(3 marks)**

## PAPER II Q 2

Your client, the Reverend Green, has been gifted Golden Acre, an 8 hectare arable field, from his maiden aunt, Miss Brown. The land is occupied by Fred Flint, a 55 year old farmer, who owns and farms land extending to 300 hectares on three sides of Golden Acre. Mr Flint has been in occupation for at least 25 years and the current rent passing is £600 per year. There is no written tenancy agreement.

Reverend Green has no knowledge of agriculture or farming but hopes the gift might help fund his retirement in some way, preferably by a sale.

Write bullet points in readiness for a meeting with Reverend Green to cover:

- i) The existing tenancy arrangement and how this might be formalised. **(5 marks)**
- ii) The basic terms to be embodied in any written agreement and dispute resolution mechanism available if the parties fail to agree. **(5 marks)**
- iii) Comment on the rent passing and outline any action you propose and what level of rent might be achievable and what dispute resolution mechanism is available. **(5 marks)**
- iv) Any suggestions you have for sale with indicative values and calculations. **(5 marks)**

### PAPER II Q 3

You act for the Snobsville Court Estate owned by the Rt. Hon Geoffrey Hardup and his family. The estate comprises 2,500 acres of let and in hand land, forestry and a portfolio of commercial property situated within the local village of Snobsville which is inhabited substantially by commuters who all work in the nearby city and by second home owners who visit the area at weekends and for holidays.

Your client was at a dinner party over the weekend where he heard talk of a “loophole” in the planning system whereby he could obtain planning consent for residential development on green field sites in the greenbelt/countryside areas on the fringe of Snobsville and thereby generate a significant capital injection to the estate, which is much needed.

He has telephoned your secretary in a state of great excitement requesting to see you urgently to discuss this news and enquiring as to why you have not mentioned to him this loophole that is “affordable housing – rural exception”.

Please prepare notes for your meeting setting out:

- i) The planning policy issues surrounding and the definition of affordable housing – rural exception **(5 marks)**
- ii) The valuation issues surrounding this planning exception and the likely returns to the landowner **(5 marks)**
- iii) The various types of this affordable housing exception and vehicles available to the estate for selling land for it and how they might influence the subsequent use of that housing and how that may or may not benefit the estate **(7 marks)**
- iv) The tax implications of any such sale **(3 marks)**



#### PAPER II Q 4

Your client is a tenant of a 200-acre holding on a private estate. In addition he owns 150 acres of accommodation land approximately two miles away. He also purchases from the Estate 100 acres of grazing on an annual basis under a grazing licence.

It is a mixed livestock farm with 100 dairy cows plus all youngstock (dairy and beef) and 700 breeding ewes. All the buildings including the farmhouse are located on the tenanted holding. Some of the livestock buildings are becoming outdated and your client is considering two options; either,

- a) to erect a 15m x 30m livestock building to house just the dairy replacements, which he can finance from the farming business' financial reserves,
- or,
- b) to put up a 30m x 30m livestock building to house both the dairy replacements and beef cattle, for which he will need additional bank borrowings.

The chosen building will be located on the 150 acres of accommodation land your client owns.

Prepare briefing notes in readiness for a meeting with your client at which you will:

- i) Explain the two types of development control procedures in relation to the two options your client is considering **(8 marks)**
- ii) Describe the planning process that your client should follow for option b), from submission of application to determination including the additional information and documentation you will need to submit in support of the application **(12 marks)**

## PAPER II Q 5

You have been approached by your clients the Muggins Family who own a 450-acre farm on the outskirts of the local market town adjacent to one of the junctions on the by-pass that serves the same.

Last week they received a visit from wayleaves officers representing the regional electricity company who were approaching them with regard to a proposed new 132kv overhead power line that they wish to construct to serve a new commercial development site adjoining your clients' property. The proposed route will cross your clients' farm from the south-east corner to the north-west corner and pass within 500m of the main farmhouse and steading which includes a range of redundant, traditionally constructed stone barns. The electricity company have indicated a very flexible approach as to how the matter can be dealt with legally.

The Muggins Family have asked you to attend a meeting with the family next week to discuss these proposals and in particular:

- i) On what bases the electricity company could be granted the right to construct the proposed electricity line **(4 marks)**
- ii) The advantages and disadvantages of the various alternatives open to them **(4 marks)**
- iii) The valuation implications and compensation alternative open to them including the heads of claim and principles of calculation of such compensation **(8 marks)**
- iv) Any other advice you think relevant in the circumstances **(4 marks)**

Please prepare notes in a bullet point manner in preparation for the proposed family meeting.



## PAPER II Q 6

You have recently received instructions from Bruce Pom who owns an estate extending to 1,600 acres on the edge of a town. The estate comprises arable land, woodland and saw mill, let cottages, traditional and modern and farm buildings all constructed prior to 1960. There is pasture land utilised for a suckler cow and sheep enterprise.

All estate farming and forestry operations are carried out by a workforce of 6 staff under the direction of the Farm Manager, Mr Slack. As a favour to his wife, a teacher in the local school, Mr Slack allows school parties to visit at lambing time.

Mr Pom has been living and working abroad for the last 25 years but, having retired, he has returned to the UK to live on the estate. He is concerned about possible health and safety issues and has asked for your help as Mr Slack has been quite evasive.

- i) Identify the possible risks that may be present **(12 marks)**
- ii) Write brief notes of areas of legislation that may be applicable **(8 marks)**