

CAAV EXAMINATION 2002

ORAL SECTION – 14TH NOVEMBER 2002

NATIONALLY SET QUESTIONS

NOTES

- a) Group examiners must choose THREE of the six questions set out below and ALL candidates MUST be asked to answer the same THREE questions.**
- b) The questions are intended to prompt a reasoned and meaningful response explaining the answer as if to an enquiring client.**
- c) Examiners may ask a follow up question to elicit a full answer where the first response is incomplete or unclear. Such follow up should not include leading questions.**
- d) Each question is worth FIVE marks which should be awarded according to the examining panel's decision on the completeness and correctness of the candidate's response.**
- e) The six questions are listed below to ease choice and then set out in this paper with suggested outlines of answers which are, of course, not exhaustive.**

QUESTIONS

- Question 1. Outline the difference in the approach you would take to valuing the freehold of bare agricultural land let on a Farm Business tenancy with (a) 3 years unexpired and (b) 30 years unexpired.
- Question 2. What main issues are important in considering the advisability of entering into a 10 year environmental commitment under The Countryside Stewardship Scheme/ Tir Gofal?
- Question 3. What action would you recommend to a farm tenant about to let a new employee into a cottage within the farm tenancy and why?
- Question 4. What general clauses would you want to see in an easement deed for a proposed gas main to be laid through land which may have some long term development potential?
- Question 5. What are the tax considerations for contract farming or grazing licences over letting?
- Question 6. Outline the main criteria you would consider in assessing the suitability of a redundant farm building with planning consent for conversion to offices for letting in the open market.

Question 1. Outline the difference in the approach you would take to valuing the freehold of bare agricultural land let on a Farm Business tenancy with (a) 3 years unexpired and (b) 30 years unexpired.

Answer 1. The candidate should show an appreciation of the following facts:

- i) that (a) will be attractive to a range of potential purchasers but particularly those with an intention of occupying the land themselves on termination of the FBT. This should lead to the conclusion that the value should be taken as a discounted vacant possession price together with an “add-back” for the investment value of the unexpired term.
- ii) that (b) will be of interest only to those seeking an investment property possibly with hope of an improved vacant possession. The valuation will therefore need to consider the rent payable, its sustainability and an appropriate rate of return on the investment together with an “add-back” for the deferred vacant possession value.

Question 2. What main issues are important in considering the advisability of entering into a 10 year environmental commitment under The Countryside Stewardship Scheme/ Tir Gofal?

Answer 2. Points may include

- i) The restrictions and/ or cost/ loss income arising on not only the land included but also any other parts of the relevant business.
- ii) The level and likely continued level of the payments receivable and their adequacy to compensate for i).
- iii) The likely medium and longer term effects of the restrictions on the soil fertility, future uses, rental and capital values of the property.
- iv) The potential for the need to obtain consents (i.e. EIA assessments) to enable for example reversion to commercial arable farming.
- v) The risk of being prevented from reverting to commercial farming and at the same time having no continuing income from the scheme (i.e. if designated as SSSI as a result of CSS involvement).

Question 3. What action would you recommend to a farm tenant about to let a new employee into a cottage within the farm tenancy and why?

Answer 3.

- i) Check the wording of the farm tenancy agreement.
- ii) Prepare and serve notice on farmworker that his occupation will be an Assured Shorthold Tenancy before his first occupation of cottage.
- iii) Prepare and have farmworker and any other intended occupants (other than minors) sign Assured Shorthold Tenancy Agreement, N.B. Minimum rent must be equivalent to former rateable value of property

- iv) AST gives head tenant ability to regain possession more easily in the future thus giving greater flexibility than service occupancy, during continuation of farm tenancy and avoiding complications and possible costs associated with surrender/termination.

Question 4. What general clauses would you want to see in an easement deed for a proposed gas main to be laid through land which may have some long term development potential?

Answer 4. Points may include:

- i) In the event that development of land through which the pipe passes (including that outside the easement width) is either impeded or prevented there must be a right for the landowner to serve notice on Transco requiring them to put him back in the same position as if the pipe had not been there.
- ii) The method of such rectification will provide for alternatives to be chosen at the option of Transco. Those options will include “lift and shift” clause whereby Transco will bear the cost of moving the main to an alternative route AND a compensation clause requiring payment of compensation equivalent to the diminution in the development value caused by the present of the pipe.
- iii) It is important to note that due to Health & Safety Regulations development well outside the easement width may be affected by the present of the pipe.

Question 5. What are the tax considerations for contract farming or grazing licences over letting?

Answer 5. Points may include:

- i) Letting income charged to income tax under Schedule A:
 - Allowances restricted to expenses directly related to let property i.e. repairs, maintenance, insurance, management fees etc.
 - Excess of expenditure over income cannot be set off against profits under other Schedules.
 - Schedule A income not relevant for pension contribution payments.
 - Due 1st January for current year.
- ii) Income from contract farming/ grazing licence taxed under Schedule D:
 - Business expenses and depreciation set off against income.
 - Averaging of successive years profits possible.
 - Tax paid in two instalments 31st January and 31st July.
- iii) Capital Gains Tax –
 - Contract farmed/ grazing licence land treated as business asset and therefore has benefit of maximum taper relief being available after two years ownership whereas let land

- is a non-business asset where ten years ownership is required for maximum relief.
- Rollover relief (and retirement relief till April 2003) is available to contract farmed/ grazing licence land but not let land.
- iv) Inheritance Tax
 - 100% relief on agricultural value after two years ownership for “in-hand” land whereas same relief only available on land let post-1995 after seven years ownership.
 - Business Property Relief not available on excess value of let land
 - APR not available on retained farmhouse of appropriate character etc where associated land is let rather than farmed in hand (inc. contract farmed/ grass licence).
- v) VAT can be reclaimed on business costs for in hand land but not for let property (unless opted to tax when VAT on dwellings can still not be recovered).
- vi) The farmer taking a tenancy will pay stamp duty on the agreement but if contract farming other land using his own buildings could risk rate relief on those buildings.

Question 6. Outline the main criteria you would consider in assessing the suitability of a redundant farm building with planning consent for conversion to offices for letting in the open market.

- Answer 6.
- i) Character and suitability of building for conversion to proposed use including the availability of natural light/ ventilation and car parking.
 - ii) Proximity/ interaction of office use with continuing noisy/smelly agricultural uses.
 - iii) Proximity of site to city/ town/ main road and rail networks and other similar commercial users.
 - iv) Local availability of staff and facilities for their use i.e. shops, pub, etc.
 - v) Evidence of unmet demand or supply of alternative accommodation in the area and the relative rents being paid/ sought.
 - vi) The availability of grants to assist in defraying the capital cost and hence improving the viability of the proposal.