

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	FINANCE AND DEMOCRACY COMMITTEE	28 MARCH 2022	5
AGREEMENT FOR GRAZING LAND AT KIRKHAM			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

This report proposes a Farm Business Tenancy for a period of 20 years to be granted to John Kirkham to ensure there is a written legal agreement in place for grazing of the land at Carr Farm.

RECOMMENDATION

1. It is recommended that Fylde Council grants a Farm Business Tenancy to John Kirkham for a term of 20 years.

SUMMARY OF PREVIOUS DECISIONS

Cabinet 23rd March 2011

Whilst this report was not directly related to the farmer's use of the grazing land – see [Cabinet 23 March 2011](#) item 15 – it refers to the farmer's agreement to give up some of the grazing land to enable a transfer to Kirkham Town Council to enable expansion of the adjacent community allotments.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	
Tourism – To create a great place to live and visit	✓

REPORT

Background

1. A parcel of land adjoining Carr Farm, School Lane, Kirkham has been owned by the Council (and its predecessors) since 1929. The land is registered under title number LAN231549.
2. For potentially over 40 years the land has been occupied by Richard Kirkham and his son John Kirkham.
3. It has come to light that Mr Richard Kirkham passed away in 2016 and Mr John Kirkham has occupied the land solely since that time.

4. Since 2018 the Council have been negotiating a formal arrangement for the occupation. Officers started discussions regarding a grazing licence in June 2018 which Mr John Kirkham refused to sign. Officers then approached him in October 2019 regarding a Farm Business Tenancy ("FBT"), but again at that time he refused to sign the tenancy. Mr John Kirkham claims to have a full tenancy of the land.
5. As it currently stands there is no formal arrangement in writing. In the absence of any formal agreement for the occupation of the land, the Council are keen to formalise the situation by way of FBT in order to secure the land in the long term.
6. A meeting between officers and Mr John Kirkham took place on the 15th June 2021 whereby the content of the FBT was discussed. Since that time communication between the parties has taken place to prepare a draft FBT in a suitable format. The proposed FBT will not change the legal relationship between Mr Kirkham and Fylde Council.
7. Terms have now been agreed between the parties. Attached at Appendix 2 is the draft FBT.

Legal background

8. A Farm Business Tenancy (FBT) is a tenancy of agricultural land that is governed by the Agricultural Tenancies Act 1995 ("ATA 1995"). It is a Lease of agricultural land.
9. A tenancy of agricultural land will be a farm business tenancy if:
 - (a) It was granted on or after 1st September 1995;
 - (b) All or part of the land is used for trade or business for the purpose of farming¹; and
 - (c) The character of the tenancy is primarily or wholly agricultural.²
10. A FBT details the needs of the landlord and the tenant to include; the length of the tenancy term, the agreed rent, maintenance obligations of both landlord and tenant and what the tenant can and cannot do on the land.

IMPLICATIONS	
Finance	The proposed Farm Business Tenancy, as described in this report has an initial annual rental of £50.00 per annum which increases every 5 years.
Legal	This will provide a written legal agreement between Fylde Council and the tenant.
Community Safety	No implications
Human Rights and Equalities	No implications
Sustainability and Environmental Impact	No implications
Health & Safety and Risk Management	No implications

LEAD AUTHOR	CONTACT DETAILS	DATE
Phil Haworth/Carly Smith	Philip.haworth@fylde.gov.uk & Tel 01253 658495	03/03/2022

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection

Attached documents

1. Demise Plan
2. Draft Farm Business Tenancy

¹ This includes agricultural activity under section 38(2) Agricultural Tenancies Act 1995

² Agriculture includes the use of land as grazing land – Section 39(1) ATA 1995