

BETWEEN:

JOHN STUART DAVIES

Applicant

- and -

PAUL DAVIES-COOKE
ADELE DAVIES-COOKE

Respondents

DECISION OF THE TRIBUNAL

- 1 By written Application to the Tribunal dated 22 November 2012 Mr Philip Meade MRICS MRAC MEWI of Davies Meade Property Consultants Limited, as Agents for the Respondents, applied to the Tribunal for an extension of the time specified in paragraph 1 of the Tribunal's Order dated 31 October 2012. By the terms of that Order, made under the Agricultural Holdings Act 1986, S.11, following a Hearing on 18 September 2012, it was ordered that by 1 March 2013 the Respondents complete the construction on Bryn Ceyln Farm of a lined earth banked slurry lagoon adjacent to the existing slurry facilities with a capacity of 700 cubic metres.
- 2 The Application dated 22 November 2012 which was accompanied by an e-mail from "KarlCSlater@Flinthshire.gov.uk", addressed to the second-named Respondent, Mrs Adele Davies-Cooke, and based on the ground that any Planning Application for the slurry lagoon would have to go to the full Planning Committee, since the second-named Respondent was a local Councillor and it was highly unlikely that the Respondents could obtain quotations, be granted Planning Permission, instruct a contractor and complete the work by 1 March 2013. In these circumstances it was proposed that the time limit should be extended for 6 months, that is until 1 September 2013,

and that such extension would not result in the Applicant being prejudiced since he would be able to spread slurry on the tenanted land, as opposed to storing it, from February 2013 onwards.

- 3 By letter dated 12 December 2012 from the Solicitors acting on behalf of the Applicant, the Respondents' Application was opposed. It was pointed out in the letter that Planning Permission already existed for the provision of a slurry store on the site; that the evidence before the Tribunal at the Hearing on 18 September 2012 was that Planning Permission would not be an issue; that the e-mail tendered from Karl Slater was of no probative value; and that no information had been forthcoming as to whether a Planning Application had been made or, if and when it was made, when it was likely to be determined.
- 4 Following the Tribunal's Order dated 31 October 2012 the Respondents should clearly have taken the necessary steps to comply with the Order promptly, that is to apply for any necessary Planning Permission and instruct a contractor. The fact that the second-named Respondent is a County Councillor, and that it may be necessary for the Planning Application to be considered by the full Planning Committee, self-evidently does not preclude the necessary Planning Application being made, and neither should there have been any delay in the instruction of a contractor. There is no evidence before the Tribunal that the Respondents had taken either of these steps or, assuming that they had not been taken, when they intended to do so.
- 4 The Tribunal having considered the representations made on either side have no hesitation in refusing the Respondent application that the time limit specified in paragraph 1 of the Order be extended to 1 September 2013. However, in recognition of the present practical position whereby the slurry lagoon cannot now be realistically completed by 1 March 2013, the Tribunal is prepared to extend the time limit by 3 months, that is until 1 June 2013. That extension should provide the Respondent with ample opportunity to comply with the Tribunal's Order.

5 The Tribunal wishes to make clear that unless wholly exceptional circumstances arise hereafter, it is highly unlikely that it would be prepared to grant any further extension for compliance with the time limit provided by the Order dated 31 October 2012.

Signed.....*J. A. F. Buxton*
J A F Buxton
Chairman

Dated 8 February 2013.

IN THE AGRICULTURAL LAND TRIBUNAL FOR WALES

ALT 6268

BETWEEN:

JOHN STUART DAVIES

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- and -

PAUL DAVIES-COOKE
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Respondents

ORDER OF THE TRIBUNAL

In the matter of an Application for variation of the Order of the Tribunal dated 31 October 2012 (“the original Order”).

WHEREAS by written Application dated 22 November 2012 the Respondents applied to the Tribunal for a variation of the time limit contained in Clause 1 of the original Order.

AND WHEREAS on 4 February 2013 a duly constituted Tribunal consisting of Mr J A F Buxton (Chairman), Mr Richard Williams (Farmer Panel) and Mr Gareth Wall (Landowner Panel) considered the Application including representations made on behalf of the Applicant.

NOW THE TRIBUNAL makes the following Order for the reasons set out in the Decision of the Tribunal that accompanies this Order:

- 1 That the time limit specified in paragraph 1 of the original Order be varied to 1 June 2013.
- 2 That there be no Order as to costs.

Signed.....*J. A. F. Buxton*.....

J A F Buxton
Chairman

Dated 8 February 2013