

AGRICULTURAL LAND TRIBUNAL WALES

TRIBIWNLYS TIR AMAETHYDDOL CYMRU

Application Nrs: ALT 02/2025 and 03/2025

Applicants: 1. Ms Mary Margaret Lewis (Application 02/2025)
2. Mr Ifan Aled Lewis (Application 03/2025)
(represented by Agri Advisor Solicitors)

Respondents: Cyngor Sir Ceredigion / Ceredigion County Council
(represented by Legal Services, Ceredigion County Council)

Property: Ystrad Caron, Caron Is Clawdd, Tregaron, Ceredigion SY25 6HW

Hearing Date: Dealt with without a hearing

Application: Applications to succeed on the tenant's death
Applications for documents and information

Decision-maker: Judge Christopher McNall, Tribunal Chairperson

Decision: 19 August 2025

DIRECTIONS

1. By no later than **4pm 19 September 2025**, Mrs M M Lewis shall provide the Respondent with the information and documents described in the Decision below, and shall inform the Tribunal that she has done so.
2. By no later than **4pm 19 September 2025**, Mr I A Lewis shall provide the Respondent with the information and documents described in the Decision below, and shall inform the Tribunal that he has done so.
3. By no later than **4pm 17 October 2025**, the parties shall inform the Tribunal what issues remain in dispute in relation to each application, and what further directions are required for the management of each application. Such directions shall be agreed (subject to the Tribunal's approval) if possible. Absent agreement, each party shall provide the Tribunal with its draft directions, and a short (less than two pages of A4, 12 point, 1.5 spaced) note as to why the other party's directions on this are not appropriate, whereupon the Tribunal will either deal with the directions on the papers or, if it considers it appropriate, at a case-management hearing.

REASONS

1. The immediate context of this decision are two applications to succeed (as a first succession) to the tenancy of the late Evan Glyndwr Davis, who died on 22 November 2024. The applications were made (in time) on 21 February 2025. They are made by the late tenant's widow and son respectively. There is a written tenancy agreement granted in June 1977. The holding is about 36 hectares in size. The applications were accompanied by accounts and plans.
2. The wider context of this decision is the appropriate scope for the provision of further information and documents in applications of this kind, especially where (as here) an applicant's suitability to succeed to the tenancy is put in issue by the landlord, and taking into account the new suitability test introduced in Wales with effect from 1 September 2024.

Eligibility

3. Each application is opposed.
4. Firstly, the landlord takes broad issue with whether the Applicants are eligible persons, and challenges the Applicants each to establish that they meet the so-called livelihood condition.
5. The livelihood condition renders eligible only a surviving "close relative" of the deceased tenant who "in the seven years ending with the date of death his (sic) only or principal source of livelihood throughout a continuous period of not less than five years, or two or more discontinuous periods together amounting to not less than five years, derived from his agricultural work on the holding or on an agricultural unit of which the holding forms part": Agricultural Holdings Act 1986 section 36(3)(a). The seven years here are from 23 November 2017 to 22 November 2024.
6. In the case of the deceased's wife, the reference in section 36(3)(a) to the relative's agricultural work shall be read as a reference to agricultural work "carried out by either the wife or the deceased (or both of them)": see section 36(4).
7. In section 36, "principal part" means not less than 50%. But, in the event of an application to succeed on the tenant's death (as opposed to retirement) section 41 provides that an applicant who is not fully eligible may apply to be treated as eligible where the condition in section 36(3)(a), "though not fully satisfied, is satisfied to a material extent." There is no hard and fast rule as to what constitutes "a material extent"; this is left to the sense and expertise of the Tribunal.
8. In response to application ALT 02/2025, the respondent landlord wrote:

"The information and documentation so far produced by the Applicant is insufficient to demonstrate that she satisfies that the livelihood condition.

The accounts produced suggest that the Applicant receives more income from Llwynmwyn and Cefn-graigwen ('the Other Land') than from Ystrad Caron ('the Holding'), although the accounts often include a single capital account which means that the position cannot be confirmed.

The accounts also show that the income and expenditure of the Holding and of the Other Land are accounted for separately.

Further, no details have been provided on the farming systems in place on the Holding or on the Other Land, nor who does what work where.

No details or substantiating evidence of the alleged sharing of resources and labour between the Holding and the Other Land or of jointly paid costs have been produced.

Particularly in these circumstances, the Applicant has not demonstrated that the Holding forms part of a larger agricultural unit together with the Other Land and where the accounts suggest that she receives more, at least in terms of drawings, from the Other Land than from the Holding, she has not demonstrated that she satisfies the livelihood condition."

9. The Respondent landlord went on to say:

"In any case, the Applicant has also failed to produce full details of her income and outgoings or substantiating evidence of the same. For example, as noted above, for some of the relevant period, the accounts in respect of the Holding and of the Other Land show just a single capital account and, given the Applicant's age, it is anticipated that she would be entitled to a state pension, but no details have been provided in respect of any pension entitlement.

Similarly, the Applicant has not produced details of the partnership in respect of the Other Land or the Holding, such as any partnership agreement, nor details and evidence of her assets, if any.

It is also not clear what, if any, agricultural work on the Holding and/or the Other Land the Applicant relies upon in respect of the livelihood condition. Therefore, the Applicant has also failed to demonstrate compliance with the livelihood condition even were the Tribunal to consider that the Holding forms part of a larger agricultural unit together with the Other Land."

10. In relation to application 03/2025, the Respondent landlord says (amongst other matters):

"...the Applicant has .. failed to demonstrate that he should be treated as an eligible person. In particular, the information and evidence produced is insufficient to demonstrate ... that the livelihood test is satisfied to a material extent.

In addition, the evidence so far produced suggests that it would not be fair and reasonable for the Applicant to be treated as an eligible person ...

even were the Tribunal to consider that the Applicant ... that the livelihood condition has been satisfied to a material extent, it remains that the Holding has consistently been loss-making: the accounts provided show that the Holding made a net loss each year from 1 October 2015 to 31 March 2024 (subject to provision of the accounts for the year ending 30 September 2020, which have not been produced) of between £6,876 and £21,365.

It is the Council's view that this is strongly indicative of a lack of investment in the Holding and this is further supported by the fact that the capital introduced into the Holding is consistently less than the net losses and drawings when taken together. This lack of investment also supports that it would not be just and reasonable to treat the Applicant as an eligible person."

11. In cases such as the present, the Tribunal's routine response (which was adopted here) is to issue a letter in the following terms:

"The Respondent has asked that you disclose certain documents and/or provide additional information about the application. 'Disclosure' means to supply a copy document.

In the first instance, the question of whether you voluntarily disclose the documents and/or provide the information asked for is one for you and/or your legal advisers or other representatives.

If you do decide to voluntarily disclose documents and/or provide information, then you should do so by sending two copies to the Tribunal.

Any maps should be on a scale of 1/10,000 or larger.

You need not provide any document if copies have already been delivered to the Secretary.

If you consider that any document (such as a map, plan, certificate or report, or other document which you intend to rely on) could be more conveniently provided by some other party to this application, or you consider it would be unreasonable on the grounds of expense or otherwise

to require such a document to be delivered at this stage, then you should tell the Tribunal.

If you decide not to voluntarily disclose any particular document sought, or provide any particular information asked for, then you should inform the Tribunal, setting out your reasons as fully as you can.

The Tribunal can then decide whether to excuse you from providing any document (for example, if the Tribunal considers providing that document at this stage is unreasonable, or not relevant to the issues in dispute, or unlawful).

As part of its decision-making powers, the Tribunal can also direct (ie, order) you to provide any information or documents which in the Tribunal's view may reasonably be required for the resolution of the dispute.

In giving effect to this power, the Tribunal must also take into account the need to protect any matter which relates to confidential material."

The italicised portion is emphasis added by me.

12. The Tribunal's letter goes on to say:

"Any refusal to voluntarily provide any document and/or information, and the reasons for the refusal, should be communicated to the Tribunal by that same time and date, whereupon the Tribunal will consider the matter further.

If you do not supply documents or information, and you do not contact the Tribunal by the time and date above to give your reasons, the Tribunal will move to decide the issue on the papers and without further reference to you."

13. I am informed by the Tribunal's Secretary that nothing at all has been heard from the Applicants' representatives in response to the Tribunal's letter. That is an unsatisfactory situation for parties who are legally represented. The result is that no issues have been narrowed or dealt with. It therefore falls entirely to me, and without the benefit of any submissions from or on behalf of either Applicant, to determine the appropriate scope of disclosure; and whether this should be in the terms sought by the respondent landlord, or in some different terms. I am not bound by the parties' respective positions, but may adopt an approach which I consider to be fair and just.
14. The starting point is that this is an adversarial jurisdiction. This means that the Applicants each bear the burden of proving (albeit only to the civil standard - namely, the balance of probabilities, or, put differently, whether something is

likelier than not) that she or he is eligible to succeed to the tenancy; and, in these applications, that he or she satisfies the statutory livelihood condition, whether in whole (section 36), or to a material extent (section 41).

15. The task of discharging the burden is ordinarily gone about by putting forward a sufficient body of evidence which can be assessed (in the first instance) by the Respondent to decide whether it continues to oppose the application in whole or in part; and, after that, if the application remains in dispute, which can be assessed and tested by the Tribunal.
16. Rule 11 of the Tribunal's Rules ((Agricultural Land Tribunals) (Rules) Order 2007) provides that, at any stage, the Chairman may, either of his own initiative or on the application of a party, "give the directions he considers necessary or desirable in the conduct of the application", including directing "the provision of any further information or supplementary statements or to produce any documents or copies of any documents which may reasonably be required".
17. It is to be noted that directions should be "necessary or desirable", and documents or information "reasonably" required. Whether or not something is reasonably required turns on the nature of the issue which is in dispute.

Eligibility

18. It seems to me that there are two issues at play here:
 - 18.1 Whether the subject holding, Ystrad Caron, is or is not a discrete holding, or whether it forms "part of an agricultural unit" together with Llwynmwyn and/or Cefn-graigwen (**'the Agricultural Unit Issue'**); and
 - 18.2 What each Applicant's livelihood is (**'the Livelihood Issue'**).

The Agricultural Unit Issue

19. This is an unusual issue which does not often arise. But when it does, the Tribunal must establish 'the agricultural unit' at the date of death.
20. Section 96 defines 'agricultural unit' as land which is an agricultural unit for the purposes of the Agriculture Act 1947, section 109(2) of which provides that:

“agricultural unit” means land which is occupied as a unit for agricultural purposes, including—

 - (a) any dwelling-house or other building occupied by the same person for the purpose of farming the land, and
 - (b) any other land falling within the definition in this Act of the expression “agricultural land” which is in the occupation of the same person, being

land as to which the Minister is satisfied that having regard to the character and situation thereof and other relevant circumstances it ought in the interests of full and efficient production to be farmed in conjunction with the agricultural unit, and directs accordingly".

21. The leading practitioners' works each offer a short discussion. Williams Scammell and Densham remarks that in Helm v ALIH (Properties) Ltd (2010) ALT E/1130, the Tribunal had to consider whether an additional 20 ha tenanted by the applicant personally but farmed in conjunction with the holding should be treated as part of a larger unit. The Tribunal held that it was: the two areas were worked by the same machinery and adopted the same cultivation system. Income and expenditure for the two areas were dealt with together. 'Occupation' was to be given 'a common sense meaning'. Muir Watt Moss suggests that, where land is farmed by a partnership, all areas farmed together by the partners should be considered as the agricultural unit. Beyond that, there is little guidance.
22. As to the present state of the evidence on this Issue:
 - 22.1 Each application expressly states that Ystrad Caron "forms part of a larger agricultural holding", together with Llwynmwyn and Cefngraigwen;
 - 22.2 Each application expressly states that there are two businesses; Ystrad Caron (tenanted) as one; and Llwynmwyn and Cefngraigwen (owned) as the other; but that *'both businesses, although they have separate financial accounts, are run as one business'*.
 - 22.3 As far as I can tell, the Ystrad Caron business was a partnership between the late tenant and his wife;
 - 22.4 As far as I can tell, the Llwynmwyn and Cefngraigwen business was a partnership between the late tenant's wife, and two of their sons;
 - 22.5 Each application says:

"We run Ystrad Caron Llwynmwyn and Cefngraigwen as two separate businesses from an accounting point of view and at the bank however for all intents and purposes they are one business and we run them as such .. we share all labour machinery and resources to make sure that we are able to farm all holdings efficiently".
23. It seems to me that the appropriate and proportionate manner of proving the issue is to examine the extent to which the alleged Other Land is farmed on an integrated basis with the holding, including issues such as: decision making, borrowing, cropping, shared equipment or other assets, shared staff or personnel, and shared holding number for official purposes. That can be done by the provision of information and documents.

The Livelihood Issue

24. As to the Livelihood Issue, in *Caswell v Welby* (1997) 71 P & CR 97, the Court of Appeal remarked that the requirement:
- "should be construed in a purposive manner and very much in the way that a jury would do, and without adopting too legalistic an approach. Livelihood can be defined as "means of living" (see *Shorter Oxford Dictionary*), that is to say what is spent or consumed for the purpose of living. The source of one's livelihood in so far as it is money, is income; in so far as it is the use or consumption of goods, it is benefits in kind. An applicant may have income derived from one or more sources."
25. That guidance binds me. The issue of livelihood is to be approached, both by respondents and by the Tribunal, in a common-sense way, and without adopting too legalistic an approach.
26. But it remains the position that meaningful assessment can only be done with adequate evidence.
27. Here, it seems to me that the Applicants should each set out, in a table, their figures for relevantly derived and non-relevantly derived livelihood for each of the seven years stretching back year-by-year from the date of the deceased's death.
28. Relevantly derived livelihood is that which is derived from the Applicant's "agricultural work" on the Holding (including the Other Land) (noting that what constitutes "agricultural work" has itself been the subject of several reported decisions and commentary in practitioners' works). The "relevantly derived" element should include the applicant's wages and/or partnership drawings; the value of their accommodation if on the holding or paid for by "agricultural work"; the value of any benefits in kind; and the amount of any bills. The inclusion of 'Other Land' is not to pre-judge the issue as to the extent of the holding; it simply seems to me simpler at this stage to require figures which are not segregated as between the holding and the Other Land.
29. The "non-relevantly derived" element should include income spent from savings; interest received; any money or income from outside work (whether agriculturally related or not); and benefits provided on a basis unconnected with farming on the Holding (including the Other Land) (such as, for example, State pension).

Suitability

30. Regardless of eligibility, the landlord also takes issue with each applicant's suitability.
31. The test of suitability is set out in section 39:

"For the purposes of this section, a person's suitability to become the tenant of a holding is to be determined (having regard to any views stated by the landlord) in accordance with criteria specified in regulations made by—

- (a) the Secretary of State, in relation to England, and
- (b) the Welsh Ministers, in relation to Wales.

(8A) The criteria referred to in subsection (8) must relate to the person's likely capacity to farm the holding commercially to high standards of efficient production and care for the environment, and may in particular include—

- (a) criteria relating to the person's experience, training or skills in agriculture or business management;
- (b) criteria relating to the person's physical health, financial standing or character;
- (c) criteria relating to the character or condition of the holding or the terms of the tenancy.

32. With effect from 1 September 2024, The Agricultural Holdings (Requests for Landlord's Consent or Variation of Terms and the Suitability Test) (Wales) Regulations 2024 (SI 2024 Nr 798 (W 127) Regulations 5 and 6 provide as follows:

The Suitability Test

5.—

(1) This Part applies where the Tribunal is determining a person's suitability to become the tenant of a holding in the case of a particular applicant under section 39(2), as between two or more applicants under section 39(6), or under section 53(5) of the 1986 Act.

(2) When determining an application as to whether a person is suitable to become the tenant of a holding under a provision referred to in paragraph (1), the Tribunal must have regard to all relevant matters including—

- (a) the person's likely capability to farm the holding commercially, with or without other land, taking into account the need for high standards of efficient production and care for the environment in relation to managing that holding;
- (b) the person's experience, training and skills in agriculture and business management;
- (c) the person's financial standing and their character;
- (d) the character, situation and condition of the holding;

- (e) the terms of the tenancy,

and having had regard to all relevant matters, the Tribunal must be satisfied that, if the applicant had applied in an open competition for a tenancy of this holding, that is assumed to be available under the 1986 Act, a prudent and willing landlord could reasonably be expected to regard the applicant as among the candidates to whom they would be willing to grant the tenancy.

- (3) When determining an application under paragraph (1), the Tribunal must disregard—

- (a) all offers as to rent in relation to the holding;
- (b) the age of the person applying.

33. Although the new test is (arguably) more demanding than the old, it continues to require the Tribunal to consider 'all relevant matters'.

34. Absent submissions on the point - it seems to me that the approach outlined by a leading commentator still applies, namely:

"Whereas the tests of eligibility are highly technical, the test of suitability are not technical, leaving wide discretion to the Tribunal members to use their common sense and knowledge of agriculture as to the general overall competence and ability of the applicant.": see Williams Scammell and Densham, The Law of Agricultural Holdings, 11th edition, §42.91

The Applications

ALT 02/2025

35. In relation to ALT 02/2025, the respondent landlords seek:

- a. The substantiating documentation in respect of the accounts produced.
- b. Details and evidence of the farming systems in place at the Holding and the Other Land, including who does what work where.
- c. Details and evidence of the alleged sharing of resources and labour between the Holding and the Other Land and of jointly paid costs.
- d. Details and substantiating evidence in respect of the Applicant's income and outgoings, including her tax returns for the relevant period and in respect of her pension entitlement, if any.
- e. Details and documentation in respect of the partnerships, including any partnership agreements. Details and documentation in respect of the Applicant's and/or the partnerships' assets and liabilities.

- f. Details and documentation in respect of any borrowing in respect of the Other Land and the Holding.
 - g. Details of the Applicant's health, including a medical certificate.
36. In my view, applying the relevant law:
- "a. The substantiating documentation in respect of the accounts produced"

In my view, this request goes too far. It is a disproportionate and unreasonable. The accounts provided in support of the applications are professionally produced, by accountants, on the basis of information and documents provided to them by the partners. The Respondent landlord does not point to any reason to suspect the figures in the accounts not to be accurate or reliable. Without some good reason, it is unreasonable and disproportionate to (in effect) require those accounts to be audited by the landlord. This part of the application for documents and information is refused.
 - b. "Details and evidence of the farming systems in place at the Holding and the Other Land, including who does what work where."

This goes to whether Ystrad Caron is or is not farmed as part of a wider holding. The Applicant shall provide a witness statement, supported by a Statement of Truth, and attaching any documents upon which in this regard the Applicant seeks to rely, setting out in sufficient detail how the holding and the Other Land are (and over the relevant period have been) farmed as one business.
 - c. "Details and evidence of the alleged sharing of resources and labour between the Holding and the Other Land and of jointly paid costs."

See (b) above, and the comments in this decision.
 - d. "Details and substantiating evidence in respect of the Applicant's income and outgoings, including her tax returns for the relevant period and in respect of her pension entitlement, if any."

This goes to the livelihood condition. The Applicant shall provide a table, populated as set out in the decision above, including details of her State pension during the relevant period, and attaching any documents upon which she seeks to rely showing how the figures have been arrived at. I am not making any specific order in relation to tax returns.

- e. "Details and documentation in respect of the partnerships, including any partnership agreements. Details and documentation in respect of the Applicant's and/or the partnerships' assets and liabilities."

This is drawn too widely. If there is a written partnership agreement(s), it/they should be provided. Absent a written partnership agreement, the Applicant's percentage partnership share in capital and income should be stated. The farm accounts have already been provided.

- f. "Details and documentation in respect of any borrowing in respect of the Other Land and the Holding."

The Respondent does not identify what issue this seeks to address. It seems to me to fall as part of the revised suitability test. The existence and extent of any borrowing is potentially relevant to that, and in particular to the issue of the Applicant's likely capability to farm the holding commercially. The Applicant should provide any documents which record any borrowing at the date of the tenant's death.

- g. "Details of the Applicant's health, including a medical certificate."

"Details of the Applicant's health" is far too vague. A letter from the Applicant's GP stating her general state of health is sufficient. Given that the Applicant has declared that she is in good health, then it seems to me undesirable and disproportionate for a GP's letter to go into more detail than that.

ALT 03/2025

37. In relation to ALT 03/2025, the landlords require sight of the following:

- a. The Applicant's full birth certificate.
- b. A grant of probate in respect of the deceased tenant's estate.
- c. The substantiating documentation in respect of the accounts produced.
- d. Details and evidence of the farming systems in place at the Holding and the Other Land and who does what work and where.
- e. Details and evidence of the alleged sharing and joint ordering of resources, joint decision making and provision of financial support between the Holding and the Other Land.

- f. Details and substantiating evidence in respect of the Applicant's income and outgoings, including his tax returns for the relevant period.
- g. Details and documentation in respect of the partnerships, including any partnership agreements. Details and documentation in respect of the Applicant's and/or the partnerships' assets and liabilities.
- h. Details and documentation in respect of any borrowing in respect of the Other Land and the Holding.
- i. Details of the Applicant's health, including a medical certificate.

38. In my view:

- a. A full certificate should - but simply for the sake of completeness - be provided. A short form (or 'abridged') birth certificate does not include parents' names.

However, I am bound to say that I do not really understand the respondent's insistence on this. The Applicant says that he is the deceased's tenant's son and there is no real reason to suppose that he is not. His presence on the farm for the last several decades is otherwise (put neutrally) hard to explain. But, even if he were not a natural child, he would surely be a person treated as a child of the family - and hence a 'close relative' - anyway.

Upon provision of the long form copy of his birth certificate, the respondent landlord shall inform the Tribunal whether or not it continues to oppose the application on the footing that Mr I A Lewis is not a close relative.

- b. I do not understand the purpose of being shown a grant of probate in respect of the deceased tenant's estate. An application to this Tribunal can be (and, given probate delays, usually is) made even if no grant or letters have been obtained. I make no order in this regard.
- c. I have dealt with "the substantiating documentation in respect of the accounts produced" above. The same applies to this application.
- d. I have dealt with "details and evidence of the farming systems in place at the Holding and the Other Land and who does what work and where" above. The same applies to this application.
- e. I have dealt with "details and evidence of the alleged sharing and joint ordering of resources" above.

It seems to me that "Joint decision making and provision of financial support between the Holding and the Other Land" is too vague.

- f. I have dealt with "details and substantiating evidence in respect of the Applicant's income and outgoings, including his tax returns for the relevant period" above.
- g. I have dealt with "details and documentation in respect of the partnerships, including any partnership agreements" above.
- h. "Details and documentation in respect of any borrowing in respect of the Other Land and the Holding". I have dealt with this above. The same applies in this application.
- i. Details of the Applicant's health, including a medical certificate.
I have dealt with this above. The same applies in this application.