



## WELCOME...



We hope that this reaches you full of the joys of spring (and Easter eggs). Having handled well in excess of £3M of property deals in February and March alone we have

seen a firm start to the year and greater confidence and movement in the market than last year. We launch Ovington Grange this month, a lovely Georgian house in the Essex/Suffolk borders.

With the East of England Plan Examination in Public now concluded the wait has begun for the outcome of the Inspector's Report. The new planning system, with Structure Plans being phased out, together with the M11 Corridor's status as a growth area, means this Regional Plan will have a profound impact on the character of the area for decades to come. Meanwhile, at the local level, East Herts has followed Uttlesford in tightening up on change of use of existing buildings to residential, with informal guidance now seeking 12 months marketing for alternative uses before a residential proposal will be considered. Whilst this has yet to make it into formal guidance it is another marker of increasing protectionist attitudes towards development in the countryside, and provides an interesting counterpoint to the large scale 'sustainable urban extensions' proposed under the East of England Plan.

As DEFRA launched their Whole Farm Approach initiative at the end of March, so we at Sworders will be running a series of seminars later this year on our own version of the Whole Farm Approach. Our article on the inside page gives an example of how seemingly small and straightforward decisions can have significant and often costly consequences.

Single Farm Payment continues to occupy the minds (and not bank accounts) of many. At the time of going to print a large proportion of our clients had still not been paid although the RPA are (we understand) now making some headway.

Hugo Richardson

# Panel Faces Unenviable Task

The Examination in Public of the East of England Plan finished in February leaving the Panel facing the extremely difficult task of reconciling vastly different viewpoints from the main participants over the level and location of growth across the region.

Although disagreement is only to be expected when the proposed housing levels are so high, the most significant conflict remains between Central Government and the East of England Regional Assembly (EERA). The East of England Plan assumes projections of 465,000 households by 2021 whilst projections from the ODPM are at 561,000.

This assessment of higher housing need has underpinned all representations made by Go-East (the voice of central Government at the Examination) and was particularly evident in discussions of the 'northern' M11 corridor, centred on Stansted, where Go-East strongly criticised numbers which it believed represented a 20% decrease in housing levels in current plans.

At the Examination, Go-East warned that housing totals would suffer from further upward pressure when revised household projections were released in March. When these numbers were published the headlines did indeed declare further increases, however the region by region breakdown told a different story. For the East the numbers remained the same, with the major increases coming from the North and Midlands. Although this diffuses Assembly fears of further pressures it does not, of course, resolve the conflict between the Assembly and Go-East.



Because of this, although specific development locations were discussed at some length in the sessions covering the M11 corridor, the arguments made both for and against must be viewed against a background where the pressure is on from Central Government to provide a higher provision than outlined in the plan.

However, it was clear at the Examination that the Panel have concerns about 'new' allocations at this stage in the process, even at the district level, since this would not allow the local communities or local authorities adequate opportunity to respond now the Examination process has concluded. This could favour two approaches, either supporting EERA's stated approach of an 'early review' of the Plan to consider allocating a new town, perhaps between Stansted and Cambridge, or increasing the numbers associated with existing major allocations (for example around Harlow).

Whatever approach the Panel recommend, the ultimate decision rests with John Prescott as Secretary of State. The Panel's report is due out in June/July, with the proposed modifications to the Plan being published by the Office of the Deputy Prime Minister in the Autumn. Publication of the Plan is due early next year. ■

## Are your buildings adequately insured?

Sworders have recently carried out a number of valuations for insurance purposes and in a number of cases have found that buildings are significantly underinsured. In one case a yard of buildings were insured only to approximately a half of their full reinstatement value. It is important to ensure that buildings are both sufficiently covered for their replacement cost but also their hope value for alternative uses should be carefully considered. Please contact Sworders for more advice. ■



## Sworders on target

On Friday 3rd March Sworders entered a team into the Bilton Grange School Clay Pigeon Shoot, held at Honesberie Shooting Ground in Warwickshire, fundraising to assist in re-building a school demolished by the Boxing Day Tsunami.

All the teams present enjoyed the glorious bright but cold February day with a range of practice in the morning and early afternoon and a small competition between the teams to round off the day.

All members of the Sworders team managed to avoid competing for the wooden spoon and the team finished third overall. High Gun for the day looked a certainty when 2000 Olympic Double Trap Champion Richard Faulds pulled into the car park. However, our own Richard (Couling) was on form as he smoked his way to victory over the Olympic Champion by a single clay. ■

# Land Swap?

**With diesel prices almost 11% higher than in February last year, farmers and contractors are having to look even more closely at the economic viability of farming off lying blocks of land.**

The conundrum is that if you give up the land, you lose your economies of scale and unless the off lying block happens to be of an appropriate scale to meet your set aside requirements, then alternative solutions are limited.

As a firm, we have gradually been mapping our clients' land. From this map we have looked at a number of opportunities to put clients in touch with other landowners with a view to swapping land on a temporary basis either under licence, a farm business tenancy or if there are longer term development opportunities whereby farming in hand is considered to be beneficial from a tax point of view, on reciprocal contracting arrangements.

It is rare to find an opportunity for two landowners to farm each other's land but more easy to identify opportunities for several landowners to swap and, in some cases where other landowners are seeking

a contractor or farm business tenant, it is possible to combine these swaps with an increased acreage for all those who wish to continue farming.

For clients who are interested, all you need to do is to supply us with an accurate plan and fill in a simple, one page questionnaire without cost or obligation on your part and we will do the rest. ■



## East Herts Tightens Change of Use Policies

East Herts has published new guidelines in an attempt to crack down on the change of use of buildings to residential. It is now proposing that buildings are marketed for 12 months first in order to ascertain whether there is any demand for business, tourism or community uses as these are regarded as being preferable to residential.

The guidance has not been the subject of public consultation and as such is only of an 'informal' nature –if an application was refused on the basis it

did not comply with the Guidance and the matter taken to appeal the Inspector should not place undue weight on it. However, it does show the direction in which the Local Authority are taking policy and with the preparation of the new Local Plan (known as a Local Development Framework) now underway these policies could make their way into formal policy guidance. As a result it is wise to consider looking at securing change of use consents sooner rather than later. ■

## Home Inspection Reports (HIPS)

The Home Inspection Report will become mandatory from 1st June 2007 and will affect the sale of most residential property (farmhouses where sold with the farm and let properties fall outside of the rules). Sellers will have to prepare the pack which will contain a Sale Statement, a Home Condition Report carried out by an accredited Home Inspector, a Home Contents Form and a Home Use Form. This latter form will include details of title, searches and contract.

This will mean a delay in going to the market and that someone has to pay for the cost of producing the report. However it is our view that these are positive steps. Sworders always advise preparing title and contracts ahead of a marketing campaign. More often than not with rural property there are issues that arise such as restrictions on title, boundaries or

third party rights to name but a few and it is important to be aware of these so that they can be shown in a positive light. This helps to avoid the all too familiar price reductions a purchaser will seek to agree when they find out for example that you can only offer possessory title to part of the property. ■



# Whole Farm Approach to Managing Property Assets

In managing a variety of rural property assets, whether or not run in conjunction with an in hand farming business, every day decisions that need to be made in respect of individual assets can have often unrealised “knock on effects” elsewhere.

A whole farm or whole estate approach seeks to recognise the close interconnection between assets and decisions in order that decisions taken are “in the round” rather than in isolation. A simple example is shown to give you a taste of these inter-relationships and sometimes unforeseen circumstances.

## EXAMPLE

Your farm worker is due to retire in 3 years but occupies a house on the farm. He has indicated that he has inherited a house in a local village that he is having renovated and in 12 months he would be prepared to give vacant possession for £10,000 but not a penny less. He wants to continue working for you until he is 65.

## DO YOU –

Agree to pay him £10,000 and re-let the house on an Assured Shorthold Tenancy at £1,000 per calendar month, thus getting your money back within 12 months and two extra months rent “for free” before you will need the house for a replacement worker. Do you rush to complete the deal? How could the whole farm approach affect such a clear cut opportunity when you get your money back within 12 months, so how could you go wrong?

The answer sadly is – you could go wrong very easily, so, instead of rushing into any deal in isolation, you should consider all the potential knock on effects. There could be a number of different ways in which the above deal could affect your position but we have picked three examples.

## 1. Income Tax

You should stop to think about the tax treatment of the £10,000 payment and how (although your tenant may be able to get it tax free for giving up possession of his Principal Private Residence) if you agree the above, you would have to pay it out of capital therefore getting no tax relief on it.

Alternatively, you could consider redundancy and calculate his entitlements which come to say £8,940 and you agree an ex-gratia top up of £1,060 and pay him £10,000 redundancy. He gives vacant possession of the property as part of the deal and, as a 40% tax payer, you could get £4,000 tax relief on the redundancy payment so you have a vacant house for £6,000 instead of £10,000.

## DO YOU RUSH TO COMPLETE THE DEAL? – NO.

## 2. Inheritance and Capital Gains Tax

You stop to think about the Inheritance Tax position on the Cottage, particularly if it is presently owned in whole or part by an older member of the family.

Consider the opportunity to gift or sell it to the next generation whilst firstly APR (Agricultural Property Relief) applies at the time of the gift (as it is occupied by an agricultural employee) and secondly the capital gains tax liability on the gift is reduced (because the property value is often significantly reduced by the Security of Tenure enjoyed by the tenant). Thirdly, even if there is some capital gain on the gift – if gifted

whilst used in the family, business holdover relief can usually be obtained.

## DO YOU RUSH TO COMPLETE THE DEAL? – NO.

## 3. Planning

Would you like planning for another house on the farm? Bear in mind that once you get vacant possession of this cottage in the yard and let it on an Assured Shorthold Tenancy, you will prejudice your chances of getting planning for another dwelling. Consider the opportunities first and if a case can be made for another dwelling then seek to secure planning for new dwelling first before getting vacant possession of the cottage.

## WHAT IF YOU DID RUSH TO COMPLETE THE DEAL?

The landowner who did not apply the whole farm approach thought he was onto a good thing but he voluntarily paid £4,000 extra income tax and, in his rush to get vacant possession of the Cottage, turned it from an agricultural property with a value of £250,000 into a non agricultural property with a value of £375,000. His elderly father sadly died shortly after he obtained vacant possession of the cottage and his failure to think about other consequences cost him an extra £150,000 in Inheritance Tax. He also missed out on a potential opportunity to obtain planning for a further house with an agricultural tie which would have been ideal for his daughter, who wants to live on the farm but is not an essential farm worker. The following year he buys his daughter a house in the village for £365,000 which provides her with the same accommodation as an agriculturally tied dwelling which could have been provided at a build cost of £135,000.

So, the potential cost of the quick decision to accept the farm worker’s original offer was;

Income Tax	£4,000
Inheritance Tax	£150,000
Extra house costs for daughter	£230,000
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	£420,000

Would an independent assessment of the potential opportunities to maximise the value of your property assets be beneficial? We think so and will be running a series of seminars later in the year. For more information please contact Sworders. ■



# Waste Management

The Waste Management (England and Wales) Regulations 2006 (known as the Agricultural Waste Regulations) will apply to agricultural waste from 15 May 2006 and require farmers to stop burning or burying agricultural waste.

There is no definitive list of what is or is not waste. However agricultural waste includes discarded pesticide containers, plastics such as silage wrap, bags and sheets, packaging waste, tyres, batteries, clinical waste, old machinery and oil etc.

There will be five options available to farmers when dealing with waste.

## 1 Storing the waste.

Waste can be stored for up to 12 months in a secure way. This will depend on the nature of the waste but in short means that the waste cannot escape your control.

## 2 Take the waste yourself to a recovery or disposal site.

A system is being developed by the Environment Agency and the NFU known as the Waste Recycling Directory which will allow you to search for your nearest site by entering your postcode.

## 3 Transfer the waste to someone else for recovery or disposal off-farm.

Those who wish to collect & transport agricultural waste professionally will have 6 months to register.

## 4 Register licence exemption with the Environment Agency

The Government have allowed 12 months in which to register and is free for activities involving agricultural waste. Proposed Exemptions include Spreading Slurry, Depositing plant tissue at the farm of production and Spreading Manure.

## 5 Obtaining a waste management Licence (PPC) Pollution Prevention and Control

This can be costly and problematic and is for those farmers that are looking to diversify. The main issues have been set out below.

- Application fee and annual subsistence fee.
- May require planning permission.
- Meet certain tests i.e. financial provisions and technically competent.

For further information contact the Environment Agency and DEFRA. ■



## Commercial feature working well

Despite mixed and sometimes depressed reports in the commercial property press, our full page adverts in the quarterly commercial features of the Herts & Essex Observer and in the Guardian Series newspaper has generated a good number of enquiries. If you have any empty buildings or wish to discuss how the service operates, please contact Richard Couling. ■

[www.ourproperty.co.uk](http://www.ourproperty.co.uk)

Did you know that once your neighbour has sold their property and the transaction processed by the Land Registry, details of the sale will soon after be available at [www.ourproperty.co.uk](http://www.ourproperty.co.uk). There is currently no charge for this information although you do have to set up an account. ■

# Ovington Grange

We are pleased to report that we will be launching another significant country property onto the market in Spring 2006. Ovington Grange is located on the Essex / Suffolk border close to the market town of Clare.

The property is an impressive former Georgian rectory with five bedrooms, a number of formal reception rooms and a range of family orientated accommodation. The property stands in approximately 6 acres of formal gardens and paddocks. In addition, there is a range of outbuildings, including a reconstructed Georgian Coach House with a 2-bedroom apartment on the first floor. The Coach House has the potential for conversion to a separate significant country house (subject to planning).

For more information on this and other properties available please call 01279 771188. ■



"The articles featured in this publication have been selected and prepared with a view to disseminating key information and are not intended to be comprehensive nor to provide advice. Before taking action advice should be sought for specific queries."