



WELCOME...



There is nothing so certain as death and taxes and Gordon Brown's successor at the Treasury will no doubt seek to match Gordon's ability to find ever more ingenious ways of taxing us all!

At the time of going to press we still have no confirmation that there will be any exemptions or diminuous sums applied to the new planning gain supplement (a development land tax payable potentially upon and triggered by planning consent) and thus this could impact on any of you who have planning for barn conversions where the consents have not been implemented.

Furthermore, for those of you who have barns and have worked on the basis that you can always obtain planning and sell them another day, it may well be worth reappraising the position sooner rather than later.

The ability to plan to reduce Inheritance Tax liabilities on farmhouses has also been further diminished by the McKenna Case and there is a little more detail herein.

However, before we get too negative about taxes, there are still some tremendous legitimate tax saving opportunities to minimise both Inheritance Tax and Capital Gains Tax liabilities and we are always happy to share these with our clients.

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Inheritance Tax and Farmhouses

The Inheritance Tax position regarding farmhouses has gradually evolved and reasonable guidance comes from the Cases of *Antrobus*, *Antrobus 2* and *McKenna*.

I am not going to bore you with a long article about the finer details of these (as I am quite capable of boring you with a short one!) but suffice to say that Gordon Brown and the Revenue have noticed the substantial increase in farmhouses over the years and it is more difficult to get a substantial farmhouse to the next generation without payment of tax.

Antrobus 2 appeared to set a threshold at 70% (i.e. 70% of the value of the property was allowed as being agricultural (and thus qualifying for 100% Agricultural Property Relief), with 30% being considered as being non agricultural (and thus potentially taxable at 40%).

Since *Antrobus* we have settled a case on a farmhouse where we managed to get the District Valuer to accept that the 30% non agricultural element was not cast in tablets of stone by *Antrobus* but merely a guideline and although in that particular case we only shaved off a further 2%, it does establish the principle for further negotiations.

The principles established by *McKenna* relate to the qualification for any Agricultural Property Relief in the first place as to whether the farm is a farmhouse occupied in the nature of a

farming business. There are a variety of tests and considerations that need to be applied, and each case should be judged on its merits, but no longer is it possible to just assume that if you have a straight forward contract farming agreement managed by an agent, that the farmhouse will automatically qualify for any Agricultural Property Relief.

There should not however be a rush to abandon contract farming arrangements, although certainly each situation should be reviewed on an individual basis, but there are other advantages to contracting that may justify the additional costs over and above, for example, a farm business tenancy, including the ability to off-set far more costs (for income tax purposes) through a contracting arrangement than is possible under an FBT.

We can provide a preliminary review of any farming family's potential liabilities for Inheritance tax at a relatively modest cost and more often than not as a desk top exercise using preliminary values supplied by the client.

This can enable us to identify opportunities, pitfalls and then work with your accountants and solicitors with a view to minimising the overall potential liability. ■



Tenancy Deposit Schemes

As you will no doubt be aware, with effect from 6th April 2007, the new Tenancy Deposit Scheme applies to all new deposits received for Assured Shorthold Tenancies. This will take the form of either an Insurance backed scheme (where the deposit is held by the Landlord or Agent) or a Custodial Scheme where the deposit is held by the Deposit Protection Service (DPS). In either event, there are new procedures to be followed and Landlords and Agents will need to ensure they meet the stringent new requirements. For advice in relation to the new Schemes please contact Sworders. ■

To agree or not to agree?

We are increasingly coming across situations where third parties enjoy rights over a landowners property where no agreement exists. Whilst in many circumstances this will not present problems, caution should be exercised when dealing with undocumented interests in residential property, commercial property and farmland. Not only can this give rise to certain rights accruing and the risk of security of tenure but it could in turn, affect the value of the asset and affect the tax treatment as well, not to mention the professional costs that often arise when seeking to deal with the problem! It is always worth seeking advice before agreeing any such arrangements. ■

GREEN ENERGY – Are you in a windy location?

Sworders have successfully obtained planning consent for the first wind turbine in the Uttlesford District.

With a pole height of 12m, the total height of the turbine stands at less than 14.5m which is lower than most telecoms masts. The pole is fixed with guy ropes which require the turbine site to have an area of 26m². The turbine has an output of 5kW which generates electricity for the farmhouse and has the facility to sell any surplus generation back to the grid.

This particular wind turbine has been specifically designed for low noise operation and minimal visual impact so is ideal for the more rural location. This may be worth bearing in mind as, under the 2007 budget, it is proposed that any income from surplus power sold to the District Network Operator will be free of tax. ■



Land market strong

We continue to see strong demand for land both from agricultural and non agricultural buyers. In addition to the various open market sales we handled (ranging from 1 acre to 115 acres) in 2006, we have also advised clients on the successful purchase of two farms, one being a substantial commercial farm in the area. Land values vary according to location, quality and local competition but agricultural land values have risen to in the region of £3,250 – £3,750 per acre with smaller areas attracting premiums of, in some cases, ten times these figures. As ever, tactics and preparation are the key to maximising the value of land. ■



Home Information Packs

The Government's new Home Information Packs (HIPS) were due to be introduced on 1 June 2007 and designed to streamline the home buying process. Early spin sought to argue the merits of fewer sales falling through with the result being reduced costs and greater clarity for all. The mainstays of the HIPS were to be the Home Condition Report (HCR) which would enable buyers to know the property "warts 'n all" and the Energy Performance Certificate (EPC). The Government then announced that the HCR would not be mandatory with effect from 1 June 2007 and have subsequently announced (at the time of going to press) the delay of the introduction of HIPS to

1 August 2007. Further, the introduction will be phased and certain property will not require a HIP even at that stage – this as a result of action by various industry bodies including our own (Royal Institution of Chartered Surveyors) and the fact that there are not enough Energy Assessors to produce the EPC! Watch this space...

As Chartered Surveyors and Estate Agents, Sworders already meet the high standards of professional conduct demanded by our Institution, however we have now also joined the Ombudsman for Estate Agents Scheme which is approved by the Office of Fair Trading. ■





Quick guide to the new Planning System

We would like to have called this a simple guide to the planning system but sadly anything to do with the planning system, these days is far from simple.

In its basic form an applicant deals in most cases with their Local Planning Authority (usually District Council or Unitary Development Authority).

Up until the recent review to the entire planning system these Planning Authorities would prepare their Local Plans in a Public Consultation process, usually lasting several years. They would be guided on a number of key policies by National Planning Policy Guidance Notes (PPGs) and the number of houses they would have to cater for and amount and type of commercial development, etc. would be dictated by the County's Structure Plan.

In the new system, with the exception of waste and minerals which continue to be dealt with at County level, all other planning functions have been removed from County and now Local Planning Authorities look to their Regional Plans for their housing and commercial allocations. They still have to take into account Government Guidance and there are still some Adopted PPGs (Policy Guidance Notes) but, in addition, the Government are gradually replacing these with Planning Policy Statements (PPSs).

HOW DOES IT AFFECT ME?

Changes to the planning system impact on farmers and landowners across the country but the degree of influence depends very much upon their circumstances.

For somebody who may have some land within or adjacent to a town or village that is not already identified as within the village development limits, and does not already have an existing allocation for housing, the key to securing planning is likely to be promotion through the next Local Development Framework Plan.

Unfortunately, although the Government claim that their intention was to simplify the planning process, because Local Development Framework Plans now include a number of semi interdependent local development documents, promotion of land for

housing around towns and villages no longer just involves a straight forward promotion of the site but actually careful monitoring of other elements of the Local Plan Framework such as the Core Strategy, which deals with the principal of housing and how it is to be distributed throughout the District.

For example, there is little point spending time and money promoting your site next to a small village at the Site Allocation stage if at the earlier Core Strategy stage the District have already decided that this village is inappropriate for any further development.

For those landowners who are lucky enough to have large blocks of land next to existing towns or cities, it is important to also consider the Regional Planning process and indeed it may be worth promoting the land as part of a major allocation for the relevant Regional Plan.

Regional Plan promotion is a specialist subject in its own right and the goal posts have been subtly moved by the Government and, in some case, so subtly that even a number of professionals are still promoting sites in the earlier stages of Regional Plans as if such were under the old system rather than promoting principles of sustainable urban extensions in a non site specific manner, which, through our experience in the Milton Keynes South Sub Region and M11 Corridor, has been one of the key influences in the success of some sites over others.

SO WHAT WILL IT COST ME?

Professional advice can be invaluable but it is important for Landowners to be aware of when to seek advice and how much they can do themselves to identify opportunities.

We work with Landowners to promote sites on their behalf and more often than not we are able to offer partially or entirely no-win no-fee based terms. ■

Gamekeeper turned Poacher!



We are delighted to announce that Martin Ranner joined Sworders at the end of May to further strengthen

the already successful planning practice within Sworders. Martin is a Chartered Town Planner and has been working for the last 15 years at both East Herts District Council and latterly Uttlesford District Council where he was a Senior Planner. Martin will be reinforcing the existing planning team and will bring with him solid planning experience and a new perspective. ■

SWORDERS 100% SUCCESS RATE!



We are delighted to announce that James Watchorn has successfully passed his Assessment of

Professional Competence with the RICS to become a Chartered Surveyor.

James joined Sworders in 2005 and following his degree in Estate Management has spent the last 2 years gaining experience before being assessed by a panel of experienced surveyors. He is the latest in a long line of Sworders graduates to achieve their APC at the first attempt. ■

Surely villages never get houses?

This has often been the case historically but the Government has finally recognised the need to deliver houses in villages within PPS3 (Planning Policy Statement No 3) which came into force in April 2007.

Unfortunately, most Districts who are part way into their LDF reviews have not properly taken PPS3 into account and in many cases this has given us legitimate grounds for seeking to influence policies on village development. We have already commenced this process in Uttlesford and Braintree and will be doing so in many other districts over the coming months We are always willing to promote sites and policies for any District so long as these do not conflict with existing instructions. ■

Commercial Update

Sworders continue to actively market in excess of 150,000 square feet of rural business space in the East Herts / West Essex area. There remains strong demand for well placed commercial space and our Commercial Feature adverts in the Observer and Guardian newspapers and our website www.sworders.ag generate many enquiries. We have let in excess of 20,000 square feet in the last 3 months. If you have surplus buildings with or without planning consent, please contact Richard Couling for an assessment of their commercial potential without obligation. ■



Asbestos Regulations

The Control of Asbestos Regulations 2006 came into force on 13th November 2006. These regulations bring together the three previous sets of Regulations covering the prohibition of asbestos, the control of asbestos at work and asbestos licensing.

The Regulations prohibit the importation, supply and use of all forms of asbestos. It is important to remember that the ban applies to the new use of asbestos. Materials containing asbestos already in position are covered by the 'duty to manage'.

The 'duty to manage asbestos' in non-domestic premises covers all industrial, commercial or public buildings such as factories, warehouses, offices and shops. Also included are the common areas of certain domestic premises, such as the foyers, corridors and garages of purpose built flats or houses converted into flats.

Dutyholders (those with clear responsibility for the

maintenance or repair of the premises through an explicit agreement such as a tenancy or licence) must:

1. Find out whether the premises contain asbestos, and, if so, what it is and what condition it is in.
2. Assess the risk; and
3. Make a plan to manage that risk and act on it.

The new regulations also change the approach to determining whether work with asbestos is licensable or not. There are no absolute exemptions from licensing, the decisions as to whether particular work is licensable is now based on risk.

In addition, the regulations require mandatory training for anyone liable to be exposed to asbestos fibres at work. This covers the work methods and controls that should be used to prevent exposure to, and the spread of, asbestos. ■

Timetables for local plan reviews

Under the new local development framework system

Definition	Core Strategy	Site specific allocations
	Public participation on preferred options	Public participation on preferred options
Braintree	September 2007	September 2008
Broxbourne	Until 27th June 2007	June-July 2008
Chelmsford	Pre-examination meeting for 5th June 2007	June 2007
East Herts	September-October 2007	September-October 2008
Epping Forest	December 2007	September 2008
Harlow	March-April 2008	March-April 2008
Havering	Ready for submission to Secretary of State	Ready for submission to Secretary of State
North Herts	September-October 2007	January-February 2008
Redbridge	Inspector examination June-July 2007	Submitted November 2006
South Cambs	Adopted January 2007	Pre-examination meeting 31st July 2007
Uttlesford	January-March 2007	November-December 2008
Welwyn & Hatfield	September-October 2007	June-July 2008

Core Strategy – Sets out strategic objectives and spatial strategy for the area. Contains core strategic policies. e.g. green belt boundaries and rural strategy.

Site Allocations – Identifies site-specific allocations for a range of land uses such as housing, employment, retail, leisure and community uses.

"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."

A Final Thought

He's a man of trust
He has told us so
And that is all
We need to know

With intelligence
Too good to share
He's been running the world
On a wing & a prayer

Always someone to knock him
A sly remark
They think his job
Is a walk in the park

But it can't be easy
At Number Ten
To sentence to death
At the stroke of a pen

There will always be losses
But "Justified"
A sister, an aunt
A groom & a bride

Casualties
Of war he'd say
But fingers point
While mothers pray

And so unfair
For some clever hack
To compare field sports
With the war in Iraq

The banning of hunting
Was just being humane
And not – so not
For political gain

It had nothing to do
With diverting the press
Away from the war
And the unholy mess

And nothing to do
With saving face
In the "Finding the
Weapons of M. D. race"

Now it's time for Tony
To move up and on
But Gordon might miss him
When he's (finally!) gone

Unless of course
Gordon steadies it right
With a carefully focused
telescope sight

Anon