



WELCOME

Welcome to the New Year and to the first Sworders newsletter of 2010. With a difficult year behind us, we are hopeful that we may get some brighter forecasts both for the economy and the weather!

The end of last year saw a great deal happening in the worlds of tax, law and strategic planning so you will find this newsletter packed with updates. The

Government's vision for "Food 2030" kicks off this year's news with a 20 year timescale. This seems quite ambitious for a Government who may just have a few months left! Our agency article suggests that green shoots are indeed appearing and we provide some commentary on new Government guidance on affordable homes policies, which could provide an opportunity to build new farm workers' dwellings to free up tenanted property.

You will also find articles on the Campaign for the Farmed Environment, phone masts, Community Infrastructure Levy and rural broadband.



Please call us if you would like to discuss anything contained in this newsletter in more detail. ■

RACHEL PADFIELD

Rural Affordable Housing

The Government has just published *"Guidance for local authorities on incentivising landowners to bring forward additional land for rural affordable housing on rural exception sites"* for consultation until 18th February 2010.

If the new guidance is adopted in its current format, this could potentially provide farmers with the opportunity to build new farm workers' dwellings on land that wouldn't otherwise be granted permission for housing. Key proposals in the new guidance include landowners being allowed to nominate family members or employees through a referrals system for a percentage of the affordable homes provided on their land. Where the development is either grant funded or funded solely by a housing association, the percentage proposed is 33% but where the landowner funds the development they could potentially have full referral rights.

In a situation where existing farm cottages are occupied under secure tenancies, this could provide an opportunity to move farm workers into new suitable alternative accommodation leaving existing cottages to be sold

unencumbered or renovated for family members. Each LPA has its own affordable housing eligibility criteria, some more restrictive than others, but in

most instances a farm worker, an ex-farm worker, their widow or anyone with a Rent Act Tenancy could potentially qualify. ■





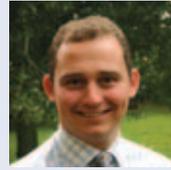
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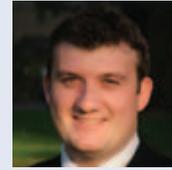
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Rural Broadband and Wireless Connectivity

Rural businesses are in danger of being left behind as improved internet communication and technology upgrades are concentrated in urban areas.

Whilst the cost of overcoming the problem by upgrading BT lines is usually prohibitive, an alternative solution is to transmit broadband wirelessly. This doesn't use the mobile phone network but is a separate standalone network set up on masts, water towers, etc. throughout a given area. Costs

vary but are not prohibitive and we have a number of clients now using this system.

Given the increased requirement of quality broadband to business, this could provide you with the potential to offer this service for incoming tenants, which is now normally a "must-have", along with improving your own broadband.

If this is of interest or you would like further information, please do not hesitate to call us. ■



Masts

In our last newsletter there was an article regarding the changes within the telecom industry and the effect this could have on many mast installations and landlord's interests. Further developments have come to light since that time and advances in technology potentially allow multiple networks to be operated using the same equipment.

This, together with the amalgamation of telecom operators (or other agreements

between them) makes it likely that the majority of operators will seek to share equipment on existing masts rather than enter traditional site share agreements or build new masts. The effect of this for landlords could be to reduce the income that they may have expected for a multiple operator site, to that of a site with a single operator.

Having the right clauses in new or revised agreements will become more important

than ever as technology further evolves and the industry seeks to further cut costs.

If you are approached with a revised agreement, no matter how inconsequential the changes may seem, it would be prudent to seek advice. We can provide an initial opinion without cost as and when such arises or can review exiting agreements and seek opportunities to maximise revenue. ■

Food 2030

On 5th January the Government's food strategy 'Food 2030' was unveiled by Hilary Benn at the Oxford Farming Conference.

This food strategy sets out the challenges and the Government's aims to maintain a secure food supply at a

time of rapid population growth and climate change. The priorities for achieving this are:

- Enable and encourage people to eat a healthy, sustainable diet
- Ensure a resilient, profitable and competitive food system
- Increase the sustainability of food production
- Reduce the food system's greenhouse gas emissions
- Reduce, reuse and reprocess waste

- Increase the impact of skills, knowledge, research and technology.

It will be interesting to see how a 20 year policy aim evolves with a potentially imminent change in Government! ■

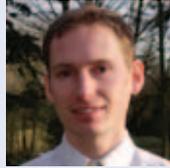




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Sustainable Economic Growth

Further to our Autumn 2009 newsletter article 'Planning to Prosper', the Government has now published the new Planning Policy Statement (PPS) 4 under the new name 'Planning for Sustainable Economic Growth'. This replaces PPG4 and, more significantly, all the economic development sections of PPS7: Sustainable Development in Rural Areas. Therefore, Government policy relating to development in rural areas is no longer all contained within one document.

There is very little change in emphasis with

the majority of text being moved, rather than deleted; though there has been a slight tightening of policy, save for one or two areas. For example, there is greater focus on directing development towards existing settlements and away from open countryside, however, there is recognition that within existing settlements, a site may be an acceptable location for development even though it may not be readily accessible by public transport.

We would hope that PPS7 will be reviewed in the near future since over half

of the document has been either wholly or partially deleted leaving it with no objectives and very few principles! There may well be some confusion with planning applications until this document is reviewed as it now retains elements which cross reference deleted paragraphs. Annex A, which relates to functional needs requirements for occupational dwellings still stands as do the policies on farm diversification and rural housing. ■

Credit Crunch Tax Planning

Due to the massive Budget Deficit, there is a significant risk that the current rate of 18% Capital Gains Tax will increase following the election no matter which party gains power.

Whilst there are plenty of agents recommending landowners think about selling assets ahead of an anticipated rise in Capital Gains Tax, there are many other tax planning opportunities that are less well publicised that are worthy of consideration such as Inheritance Tax planning.

Many property owners are familiar with Potentially Exempt Transfer rules on gifts made where the donor survives 7 years, but often the problem with these gifts can be that they trigger a Capital Gains Tax liability. Holdover Relief may apply in some circumstances but in others, the current depressed state of the property market can be used to the taxpayers advantage with much lower capital gains being taxed.

There is also a little known Extra Statutory

Concession D26 that allows swaps in certain undivided shares of assets.

Where assets are already jointly owned across two or more generations, a Capital Gains Tax bill can potentially be avoided in a number of circumstances when owners are swapping undivided shares of jointly owned assets in order to end up with 100% control of certain assets individually.

The usual aim is to get those assets that qualify for 100% Agricultural Property Relief such as "in hand" farmland, to the older generation, in exchange for those that do not, such as commercial and residential property and stocks and shares.

Working closely in conjunction with your accountants and solicitor, we are able to provide a comprehensive review of assets and tax planning opportunities for land and property owners. ■



Community Infrastructure Levy (CIL) Update

Whilst we have covered this topic before, the gradual emergence of details of the Levy in terms of how it is anticipated to operate in practice when introduced in April justifies further comment.

The CIL, in summary, is a charge on development whereby the proceeds generated will be invested on



infrastructure to support the development of an area. Local Planning Authorities will be responsible for collecting the Levy, which is to be calculated at the point when planning permission is granted and payable at the point when the development is commenced.

However it would appear from Section 209 that the 'net has been cast wide' and developments that were not anticipated to be subject to CIL charges may well be liable. For example, it currently appears that proposals for new farm buildings and for changes of use of existing farm buildings will also be caught by the CIL.

The regulatory impact assessment has been prepared on the assumption of CIL for housing schemes being set at a rate

of £5,000 per residential dwelling but we still don't know how much might be charged on farm buildings.

The CIL is due to be implemented on 6th April 2010, just around the time that we likely to have a general election. Whilst a Labour Government would presumably implement CIL as proposed, the Conservatives indicate that it will be retained and 'improved' where considered necessary.

Either way, advance mitigation may be beneficial including where possible bringing forward projects such as implementation of exiting change of use schemes and even 28 day Prior Notification applications for farm buildings ahead of the April deadline. ■

Campaign for the Farmed Environment

In brief it is an industry led initiative to encourage farmers to adopt land management practices that will benefit the environment. It is designed to fend off the threat of the re introduction of Compulsory Set Aside.

The main management themes are:

- Resource protection.
- Farmland birds.
- Farm wildlife.

Farmers are being asked to join Entry Level

Stewardship (ELS) and undertake voluntary measures to maintain un-cropped land. It is likely that some farmers are already doing this where land was originally in Set Aside and has not been returned to the cropping plan for economic reasons. Other ways to achieve the required management standard is to retain un-cropped land and record it as GAEC12 or OT2 on the SP5 forms.

ELS can achieve £30 per hectare per annum. If the campaign does not succeed then the industry could face fresh regulations. ■



Agency Update

We have been busy dealing with a number of both public and private sales and launching fresh properties to the market, which include a range of barns south of Hertford and a block of land in Cambridgeshire.

We have completed the sale of Valley

Farm, a substantial Grade II* Listed farmhouse and barns set in 72 acres. By negotiation we were able to obtain vacant possession prior to exchange and achieve an overall result significantly in excess of the guide price.

There remains strong interest in rural

property and we have a number of launches planned for the Spring.

If you are considering selling residential, commercial or agricultural property, we are always willing to provide preliminary advice on both adding value and marketing, without obligation or cost. ■

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.