



## WELCOME

Welcome to our new look newsletter.

It is always a good moment when they start cutting the grass up at Hadham Hall and, with the smell of the freshly cut grass, we felt that it must be time for the summer edition of our Newsletter. As the combines start rolling, perhaps you may find time between loads to have a browse through our 'new look' Summer 2011 newsletter.

I am also delighted to confirm that Heidi Venn has passed her Assessment of Professional Competence.

This newsletter includes a range of articles including

the long awaited draft National Planning Policy Framework which could make some significant changes to planning on 'the ground'. We also include an article on the Community Infrastructure Levy, Funding and Re Financing, Renewable Heat Incentive and a recent Green Belt planning success for a Residential and Commercial scheme. Further to this there is an article outlining the opportunities and constraints of the 1986 Agricultural Holdings Act Tenancy. I hope you will find the articles informative and if you would like to discuss any aspect in further detail please do contact us. ■

**JAMES WATCHORN**



## Renewable Heat Incentive

The Renewable Heat Incentive (RHI) is a new Government environmental programme designed to increase the uptake of renewable heat technologies by providing incentive payments to eligible generators of renewable heat for commercial, industrial, not for profit and public sector purposes and to producers of biomethane. This will contribute towards the Government's target (as set under the 2009 EU Renewable Energy Directive) of 15 percent of total UK energy consumption being generated from renewable sources by 2020. There are many opportunities available to Rural Estates to increase efficiencies and create new revenue streams through supplying fuel to tenants.

If you are interested in discussing your opportunities with us then please call. ■

**JAMES WATCHORN**



# Funding & Re-Financing

With the general upturn in farming prospects (albeit an expectation that prices will remain volatile for some time), many farm and estate owners are now better placed to invest in diversification projects both in terms of cash flow as a buffer to cover interest and from the increased capital value of their asset base.

Funding a new project used to involve picking up the phone to a bank manager and was really just a question of negotiation over interest rates. Now, however, with stress testing of the banks throughout Europe and nervousness about a further financial failure on a national scale (with international consequences), many banks (including the high street banks used by the majority of our clients) find it increasingly difficult to compete with less familiar sources of finance when it comes to diversification projects.

In particular, lending for developing commercial or residential units or even acquiring commercial or residential property off site as an investment (or for redevelopment) is a struggle for some banks in the current climate.

A small investment in some impartial professional advice at an early stage can reap substantial dividends and once we have had a chance to consider the client's full financial details, Swords are usually able to offer "no win, no fee" terms related to any saving in interest that we can secure.

Given that someone borrowing £1 million over 20 years for whom we save 1% in interest charges will save a total of £200,000



over the life of the loan, it is easy to appreciate how beneficial this advice might be! ■

**ANGUS HUDSON**



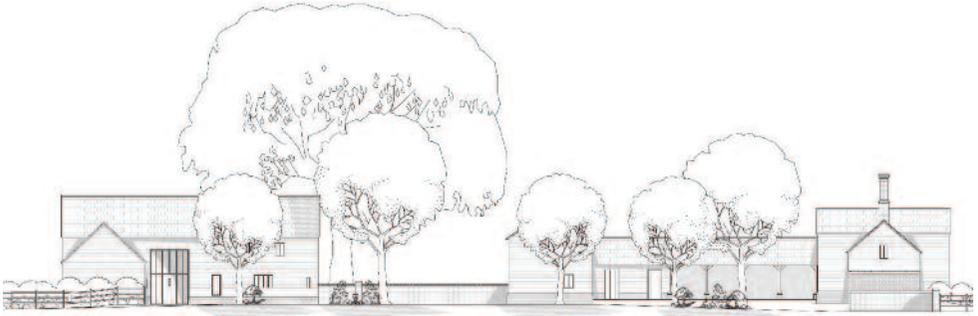
## APC Success

We are delighted to announce that Heidi Venn has successfully passed her Assessment of Professional Competence with the RICS to qualify as a Chartered Surveyor.



Heidi joined Swords in 2008 following completion of a Masters in Rural Estate Management at the Royal Agricultural College, Cirencester. ■

# Planning for Greenbelt Residential & Commercial Scheme Secured



Sworders have secured planning consent for five new houses, a residential barn conversion and 16,000 sq ft of office space in the Greenbelt in order to support the preservation of a Grade II Listed barn in an advanced state of decay in East Hertfordshire. Detailed pre-application consultation was undertaken with the Local Authority on a complex planning application that included extensive financial viability analysis undertaken by Sworders and negotiated with East Herts external consultants. The final consented

scheme included the construction of five new houses, the conversion of a further barn to residential and the conversion of four further barns (including the dilapidated barn) to office accommodation. The proposal included the submission of a Section 106 Agreement to secure the repair of the historic barn, which was signed only two weeks after the Resolution to Grant was achieved. ■

**CLARE HUTCHINSON**



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## Adoption of Private Sewers Legislation

From 1 October 2011, sewerage companies in England and Wales will become automatically responsible for private sewers, which are currently the responsibility of property owners. Only shared foul drain infrastructure will be adopted, any single drain from a dwelling or business will remain the responsibility of the individual.

All companies providing sewerage services are required to serve notice to give sewer

owners a 2 month period to appeal against their assets being included in the transfer and notices are being issued already. In most cases it is likely to be beneficial to have private pipes adopted, but if they follow a route where they may in future need to be diverted then caution should be exercised.

For further advice please contact a member of the Sworders team. ■

# CIL Could Be Used to 'Plug Hole' from Government Cuts

Existing regulations state that the purpose of the Community Infrastructure Levy (CIL) is to “ensure that the costs incurred in providing infrastructure to support the development of an area can be funded (wholly or partly) by owners or developers of land”. The funds raised are used to fund the infrastructure deficit that acts as a constraint on development.

However, a proposed amendment to the Localism Bill seeks to alter the purpose of the CIL and could allow councils to spend cash raised on building improvements and the renovation of housing (i.e. fund general revenue expenditure).

The amendment, which was tabled by two Liberal Democrat peers, says;

“Owners and developers of land (should) make a financial contribution to support

communities in the area in which their development is situated, including the provision of infrastructure and the building, improvement and renovation of housing”.

This undefined obligation to “support communities” will mean councils are not committed to spend the CIL funding on infrastructure and capital items. This is possibly a “tactical amendment”, likely to gain the backing of DCLG, which, when coupled with the controversial clause which makes “any local finance considerations” material to planning applications, means councils could use developer contributions as a way of making up for funding cuts in other areas where they are lacking. Perhaps, under Localism, planning permission can be bought and sold? ■

**MARTIN RANNER**



# 1986 Act Tenancies – An Opportunity or a Constraint?

Because the provisions of the 1986 Agricultural Holdings Act and the earlier Acts that preceded it gave security of tenure to agricultural tenants, they have for many years, created some tension between landlords and tenants. This has in some cases lead to poor landlord/tenant relations and a litigious approach to resolving management issues.

We act for both Landlords and Tenants on different farms and estates. As a result we understand the difficulties experienced by both sides but more importantly we see the opportunities that are often lost and the stand-off that can be created by either side taking entrenched positions.

Whilst the '86 Act does provide a raft of statutory provisions that in theory override any individual agreement to the contrary, in reality, where a positive landlord/tenant relationship can be built, it is possible with a little lateral thinking

to create an alignment of interests between the two parties.

We have done this in many cases involving a variety of diversification projects where both landlord and tenant have gained. In some cases the landlords have benefitted from extra rent generated and in some cases landlords have had cash to invest in projects run by tenants. In other cases tenants have been willing to surrender for a lump sum or a share of extra rent generated from a development and on occasion, it is possible to also provide a better set of farm buildings funded by the scheme.

We are always willing to give an impartial overview of farm and estate opportunities to existing and future clients without obligation. ■

**RICHARD COULING**



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## Changes to Planning Control Over Demolition

A recent decision by the Court of Appeal (SAVE Britain's Heritage v SSCLG) has brought into question the Government's regulations surrounding the demolition of buildings. As a direct result, the Court of Appeal has quashed paragraphs 2 (1) (a) to (d) of the Town & Country Planning (Demolition-Description of Buildings) Direction 1995.

These changes mean that demolition of a Listed building, buildings in conservation areas, buildings which are scheduled monuments or buildings that are not a dwelling house (including agricultural buildings) or adjoining a dwelling house are now classed as 'development'. Permitted development rights for such

development apply, however applicants will be required to submit an application to their Local Planning Authority to check whether they require prior approval of the method of demolition.

Further, this judgment may leave many developments which have been consented, or which are still in the consenting process, having to seek a screening opinion for Environmental Impact Assessment under the permitted development order process and obtain planning permission if the demolition is likely to have significant environmental effects. ■

**MARK FORBES**



# Government Unveils Draft National Planning Policy Framework Legislation

Following much hype over a 'leaked' version, the Draft National Planning Policy Framework (NPPF) was finally published by Government on 25th July.

The NPPF condenses over 1,000 pages of planning policy into a single document of 52 pages with the intention of making the planning system less complex and more accessible, and to promote sustainable growth. The document is open for a 12-week consultation period which will close on 17 October 2011 after which it is due to be adopted in April next year.

However, it is more than a mere précis of existing policy; it includes some radical new ideas as well as subtle changes to the wording of existing policy that could amount to significant changes 'on the ground'.

Key policy changes include:

## **PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT**

This presumption means that development in accordance with an up to date development plan should be permitted unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits. Currently it is up to the applicant to prove that development proposals should be approved but the new presumption is a shift in emphasis which has the effect of placing the burden of proof onto the local planning authority to prove that the development should **not** be permitted.

## **HOUSING LAND SUPPLY**

Following our success in Leicestershire (reported in our Spring 2011 newsletter) the draft NPPF brings further opportunity to secure planning consent for housing schemes

on sites which would not otherwise be granted consent. Currently, local authorities must demonstrate a five year supply of deliverable housing sites, otherwise planning applications should be considered favorably. The draft NPPF still requires a five year supply but also states that the supply should include *'an additional allowance of at least 20 per cent to ensure choice and competition in the market for land'*, meaning local authorities may soon have to demonstrate 120% of each year's supply.

## **GREEN BELT**

There has been considerable debate concerning the changes to Green Belt policy, particularly surrounding the issue of infilling in villages.

The draft NPPF still contains the general principle that development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. A subtle but key change is the omission of the requirement for the applicant to show why permission should be granted.

The draft NPPF contains a list of development which is appropriate in the Green Belt, such as buildings for agriculture and forestry but there are some significant changes. For example, current policy only allows for the extension or replacement of 'dwellings'; the draft NPPF extends this to 'buildings'. Current policy allows limited infilling or the partial or complete redevelopment of major developed sites whereas the draft NPPF allows this on

previously developed sites whether redundant or in continuing use.

It also provides for the re-use of buildings where the buildings are of permanent and substantial construction; current policy includes a raft of additional constraints regarding design, bulk and strict controls over extension which are omitted from the draft NPPF.

## THE COUNTRYSIDE

The draft NPPF completely lacks a section on rural areas beyond the Green Belt and there is no longer a policy of protecting the countryside per se. Rural areas are only specifically addressed in the Housing section which requires local authorities to be responsive to, and plan housing development to reflect, local requirements, particularly for affordable housing. Current policy allows for Rural Exceptions Sites (which allows affordable only schemes in the countryside) and replaces this with a requirement for local authorities to consider whether allowing some market

housing would facilitate the provision of significant additional affordable housing to meet local needs. It does still, however, contain the caveat that new development should not be remote from local services.

The draft NPPF also allows isolated new dwellings under certain special circumstances which are largely the same as existing but with some significant changes. For example, allowing homes for rural workers without the current needs test and the re-use of redundant or disused buildings which would lead to an enhancement to the immediate setting.

Whilst the NPPF is published as a draft for consultation and, therefore, subject to potential amendment, nevertheless it gives a clear indication of the Government's 'direction of travel' in planning policy. The Planning Inspectorate has issued guidance stating that it can be a material consideration in planning decisions. ■

**RACHEL PADFIELD**



As rural property professionals we advise across the agricultural, equestrian, commercial and residential sectors on all aspects of rural property.

We pride our selves in actively managing the sale process and will always look for ways to maximise value including through planning opportunities or lotting.

To be sure you are maximising the value of your asset please contact us to discuss your opportunities.



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