

LANDPLAN

bulletin

AUTUMN/WINTER 2010

THE FARMLAND MARKET

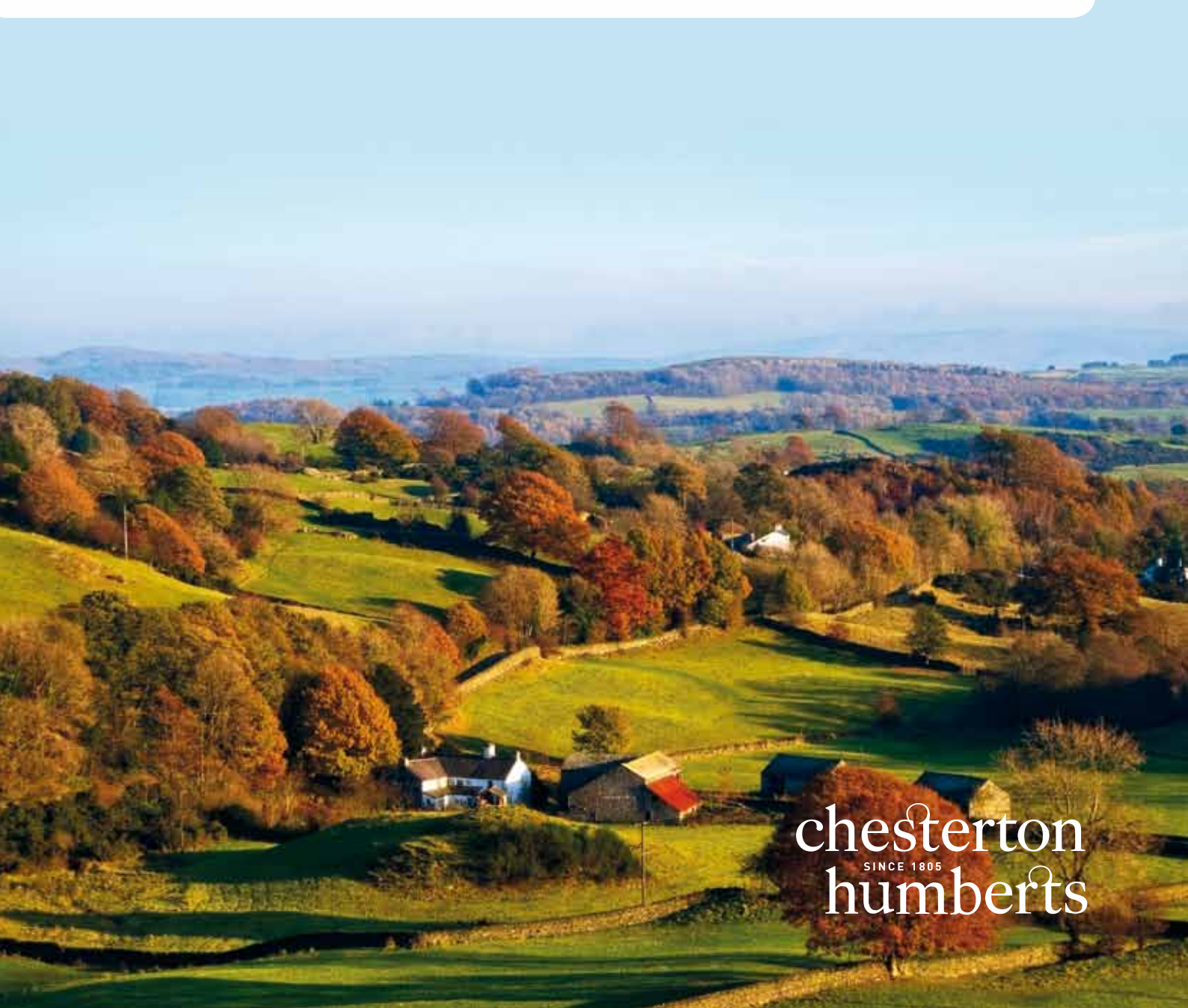
farmland remains a popular way to invest

RENEWABLE SECTOR LANDSCAPE

potential revenue that renewable energy offers could be big

PLANNING SYSTEM CHANGES

prevention of 'garden grabbing' and over development



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Inside this issue...



**The Renewable Sector
Landscape**
pg 7



Planning System Changes
pg 10

The Farmland Market pg 4

Rent Reviews pg 12

Business Property Relief pg 13

**Agricultural and Equestrian
Occupancy Conditions** pg 14

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Introduction

David Hebditch

After all that has happened over the past two years, it's refreshing to see that there is an appetite for agriculture again.

There are good reasons why farmers, landowners and all in the rural economy should feel encouraged. Higher commodity prices have brought with them a new optimism in arable farming and the integrity of agricultural land values has attracted new capital.

The growing enthusiasm for alternative energy sources is now keener as a commercial edge develops and returns can be realised.

After months of wheat prices struggling to better £95/t, it surprised everyone when values rose at their fastest rate for nearly forty years. As the effects of the spring and summer drought in Europe became known and prices strengthened and Russia ruled out grain exports, wheat futures on the London and Chicago exchanges were soaring and farm prices of £150/t and more became reality.

These events are, of course, something that even the most efficient farm businesses just can't plan for. Many had forward-sold as much as 40% of their anticipated 2010 harvest tonnage at £105-£110/t, which allowed room for most to cover their costs. Naturally, those who risked everything are now being rewarded – but it still makes excellent business sense to lock in a proportion of next year's grain at the forward prices currently available.

There is a feeling that, with the severe drought experienced in many key grain-producing regions of the world, prices are unlikely to ease this season, but who can tell where the market will turn in 2011?

What all this proves is that agriculture can still surprise and reward as an investment class, and higher grain prices are already leading to rent

discussions between landlords and tenants. But it's important not to lose sight of the fact that on the back of a welcome rise in commodities prices, we're also seeing oil and fertiliser prices shooting up. Returns from beef production have weakened considerably throughout this year. It's reassuring to be talking about positives again in farming, but it's not all profit.

We should not confuse this season with the events of 2007 and 2008, when we saw an unprecedented rise in commodities prices and land values following suit. Circumstances are different and it's unlikely that capital values will repeat the rapid gains of those seasons. That said, it is reasonable to expect land values to continue to strengthen, and I can see steady growth over the next five-to-ten years.

But there is uncertainty on the horizon. The single farm payment system is due for review, although bigger debates around the Common Agricultural Policy and the amount of EU budget it swallows are likely to dominate. Nevertheless, the single payment remains vitally important to the viability of farming businesses.

But new income streams continue to develop. I'm increasingly struck by how people's attitudes to renewable energy production are changing – there's much more serious interest now, particularly in solar energy. In some parts of the country, farmers and landowners are treating so-called 'solar farms' with the enthusiasm that wind turbines enjoyed a few years ago – as the rent equivalents being offered by renewable energy entrepreneurs make this an increasingly attractive option.

It's proof positive that the rural economy remains vibrant and this issue of the Landplan Bulletin explores more of these issues in more detail.



Farmland prices on the increase

Andrew Pearce

Farms have continued to sell extremely well, both publicly and privately, throughout the south-west, the south and the east in particular.

In the summer edition of Landplan Bulletin we reported that in the first two months of 2010 alone, Chesterton Humberts sold over £30m of farmland. With the agricultural sector performing well and a limited supply of land on the open market, land prices are continuing to rise. The RICS Rural Land Market Survey reported at the end of June that prices had increased during the first half of 2010 by over 6% and that the average price of farmland at that time was £13,530 per hectare (£5,478 per acre), compared to £12,715 per hectare (£5,148 per acre) at the start of 2010. In some cases we have seen land achieving in excess of this.

There is a great deal of land currently being sold, most of which is exchanging hands privately or even before it comes to the market. We are estimating that private sales account for at least 25% of the overall market and this will increase as vendors opt for ultimate discretion when it comes to selling an estate, farm or farmland.

Farmers still represent the majority of buyers, either expanding their acreage or looking to relocate to a different part of the country. Private investors, funds and international buyers are still active in the market. The Danes and Irish are no longer so prevalent, but buyers from the Middle East have begun to enter the market.

The south-west in particular has been a particularly active area of the country where there is still keen demand for rural properties of all shapes and sizes. We are fortunate

to have secured the instruction to sell the Trevarno Estate near Helston in Cornwall, which in all extends to 723 acres and is described as 'an enchanting agricultural, residential and commercial estate situated in an unspoiled part of Cornwall'. The property is guided at £10m and includes a principal house, currently used as offices, a restaurant and shop, exceptional woodland gardens with a large lake, 10 further houses and cottages, traditional buildings with potential for development, 7 mainly arable farms and the potential for an excellent shoot. The property is already an established visitor attraction with around 80,000 visitors per annum.

We expect the Trevarno Estate will attract interest from overseas as well as UK based buyers, as opportunities such as this are very rare.

Our predictions for the remainder of 2010 and into 2011 are that prices will continue to rise and the range of prices per acre of Grade 3 arable land will widen, currently it stands at £5,500, to £9,000 per acre, depending on location. Supply will remain limited throughout 2010 unless interest rates increase causing more land to come to the market and we anticipate that commodity prices will remain stable at their current levels.

If you are thinking of selling, Chesterton Humberts offers an unrivalled service through our rural network of offices and our bespoke Country Department, to service your requirements.









The renewable sector landscape

Farmers and landowners are looking into the potential revenue that renewable energy offers.

Neil Gladwin

The sudden rise in grain prices this harvest will have helped many farm businesses to turn a profit this season – all too welcome after the pressure on income in recent years. But it is precisely this volatility in increasingly global markets that is leading many progressive farms and estates to look seriously at what renewable energy can offer, as traditional revenue streams become more unpredictable.

While incomes from some renewables projects are unlikely to eclipse returns from other enterprises, their regular contribution to overall cashflow is clearly attractive. There is also the significant saving in energy costs to be considered if one is producing the majority of the electricity, heat and power that farm and estate properties need. As well as providing savings now it can also provide some degree of “future-proofing” against the anticipated increase in energy costs.

Generating electricity from wind power has been of primary interest to most rural estates – particularly those at higher elevations with acceptable wind speeds. Certainly wind power is more established and better understood as a marketplace than some other renewable energy sectors. But other technologies, like photovoltaics, are being met with increasing enthusiasm as entrepreneurs seek to develop the market.

FEED-IN TARIFFS

The wider market for on-farm energy production has been boosted by the introduction of Feed-In Tariffs under the last government, popularly known as FITs. These are part of the UK Government’s 2020 obligations under the EU Renewable Energy Directive to increase the share of energy from renewable sources and as the new Coalition Government has pledged to be the greenest ever, it seems unlikely these will be withdrawn.

FITs were intended to stimulate small-scale renewable energy generation by contributing towards the initial capital investment, paid for



IMAGE: A farm in South Wales with a 400kW wind turbine where Chesterton Humberts has recently acted

by the energy companies. They were also designed to help the renewable sector reach “grid parity”, or the point at which alternative energy sources become equal or cheaper than using grid power.

Labour Leader Ed Miliband, when he was Climate Change Secretary, dubbed FITs “green energy cash-back” – which is exactly what they are. There are two elements, one for generating energy and a further tariff for exporting energy to the electricity grid.

FITs support green energy projects up to 5MW, and offer contract terms of 20 years, or 25 for solar photovoltaic projects. The ongoing Feed-In-Tariff programme is scheduled for review in 2013.

Installations producing under 50kW are required to be accredited under the Microgeneration Certification Scheme. Further details are available at:

www.microgenerationcertification.org

RENEWABLE OBLIGATION CERTIFICATES

FITs differ from the Government’s earlier model – ROCS – in that they are designed to encourage small-scale development of energy sources, rather than change the behaviour of the big energy providers. FITs should benefit the householder as well as the landowner.

As technology in renewable energy generation becomes more sophisticated, and the capital cost of setting up

projects eases, FITs income will taper off. However, entering into FITs within the next three years means you lock into that level of income for the life of the contract. Payments are also index-linked to the Retail Prices Index so should be inflation-proof.

SOLAR PHOTO-VOLTAICS

While wind power may be more established, and certainly more familiar in terms of technologies and capital costs, new technologies are beginning to find favour with entrepreneurs.

Solar photo-voltaics differ from traditional solar panels in that they simply produce electricity from the sun’s electro-magnetic radiation – based on the technology used on satellites as opposed to traditional solar panels which simply used the sun’s thermal energy to heat water.

The beauty of PV solar panels is they are comprised of silicon cells with no moving parts and no fluid within them. This technology offers real opportunities for farmers and landowners to make land available for large-scale – 25 acres and more – solar farms, and early rents being offered are encouraging.

However, there are real questions about the effect these “solar farms” will have on the rural landscape, in the same way that the proliferation of polytunnels has become controversial. Although landowners are being approached throughout the south-west, and other parts of the

Generating electricity from wind power has been of primary interest to most rural estates

country, areas like Cornwall are particularly attractive because of the relative number of sunshine hours they enjoy. But it's not difficult to imagine the opposition to turning land in one of our most beautiful counties – and one which relies heavily on its tourism income – over to these hard-to-hide installations.

Perhaps, on sites where there is already significant industrial or farming development, solar farms could be more acceptable.

Solar photo-voltaics also provide a viable opportunity for farmers and landowners to generate electricity for their own consumption with farm scale installations able to utilise the roof area of covered yards. However, it should be borne in mind that buildings may need significant modification to support the extra weight of installations, if not originally built with this in mind.

WIND POWER

Just because solar farms are more in vogue, landowners and farmers shouldn't overlook the potential that wind power still offers. A typical on-farm turbine, with a 13m diameter blade and generating 11KW is probably sufficient to meet the farm's own energy requirements, depending on wind speed, and probably requires an investment of £50,000-£60,000.

Technology and manufacturing quality has improved in recent years, and one can probably expect a turbine of this type to have a useful lifespan of about 20 years.

Really big turbines, on the other hand, of 1MW and more, are likely to require capital investment in excess of £1.5m and are more the preserve of the energy generation companies, though there have been some notable community based projects.

Regardless of set-up cost, wind speed is of course critical, and local data is available for free from the Department for Energy & Climate Change website www.decc.gov.uk

ANAEROBIC DIGESTION

Much of the hype around the potential of this technology is now giving way to hard facts. While there is no doubt that, in the right circumstances and with the right inputs and management, AD can provide significant energy production and therefore generate impressive returns, this is heavily dependent on a number of critical factors.

AD plants are quite capital-intensive to build and will

not, as many assume, run simply on slurry from dairy herds or other wastes. To achieve the right quality of reaction in the digesting vessel, significant technical management is necessary and the reactor must be fed usually with maize if the plant uses dairy waste.

There are all sorts of complications which can affect the output of an AD plant and therefore whether it is able to justify the initially set-up costs. For example, is the operator the same person who will supply the feedstock for the plant? If not, how will operators guarantee the supply of feedstock of the right quality?

It's questions like these that have led many, particularly lenders, to approach AD projects with caution. Coupled with this, the FIT rates are far less attractive for AD and there is currently a question mark over whether they can also attract capital grants under the Rural Development Programme for England at the same time?

Initial investment for even a farm-scale AD plant is likely to be no less than £250,000, and can easily eclipse £1m. However if well funded and expertly managed, there is no doubt AD plants can generate significant incomes.

HYDROELECTRICITY

Although the physical circumstances required make these less common, small-scale hydro-electricity projects can be highly efficient. Usually based on an Archimedes screw, these farm scale projects tend only to generate electricity to replace that drawn from the grid, rather than contribute to it.

PLANNING PERMISSION

As with all these technologies, much hinges on getting the planners on side. The new Government has hinted it might look to ease the planning process, in conjunction with their other planning reforms, in order to facilitate the growth of green energy schemes, but even if that intention is borne out, will it be enough to influence decision-making at a local level? It's here that taking professional advice can make the difference between a stalled project and a successful one.

Neil is also a member of the RICS Sustainability Working Group



Changes in the planning system

Joanna Plant

This summer there have been substantial changes in the planning system, creating uncertainty which will have a direct effect on housing, local communities and planning authorities, as well as landowners.

These changes are the result of new government policy aimed at simplifying the planning system and allowing local communities to be more involved in the future of their local environment.


In June, the government took the first steps towards decentralising the planning system by giving local authorities the opportunity to prevent “garden grabbing” and over development of neighbourhoods. Previously, gardens were in the same brownfield category as derelict factories and disused railway sidings, however, Planning Policy Statement 3: Housing, has now been amended to exclude private residential gardens from the definition of “previously developed land”. Decentralisation Minister Greg Clarke also scrapped the minimum density target of 30 dwellings per hectare which has contributed to the ongoing lack of family housing and encouraged developers to build one or two bedroom flats, despite a high demand for affordable family homes.

In July 2010 regional strategies were revoked, further demonstrating the coalition government’s commitment

to return decision-making powers on housing and planning to local councils. With central targets being replaced with powerful incentives to build new homes, local planning authorities will now be responsible for establishing the right level of local housing provision in their area and identifying a long term supply of housing land without the burden of regional housing targets. Some authorities may choose to stick to these regional targets rather than setting their own and are being urged to quickly signal their intention so that communities, landowners and developers know where they stand.

Housing Minister Grant Shapps confirmed in August that councils who take action now to grant planning consent and support the construction of new homes where they are needed and wanted, will receive direct and substantial benefit for doing so. This New Homes Bonus will ensure that those communities that go for growth will reap the benefits of development, not just the costs.

Under the Community Right To Build Scheme, to be introduced in the forthcoming Decentralisation and Localism Bill, local rural housing projects that secure the support of 75% of voters will go ahead without the need for planning permission. Not only will this give rural communities the power and freedom to deliver the homes they really want, it is also intended to speed the process up, with construction commencing more quickly on housing schemes. Other initiatives include a review of



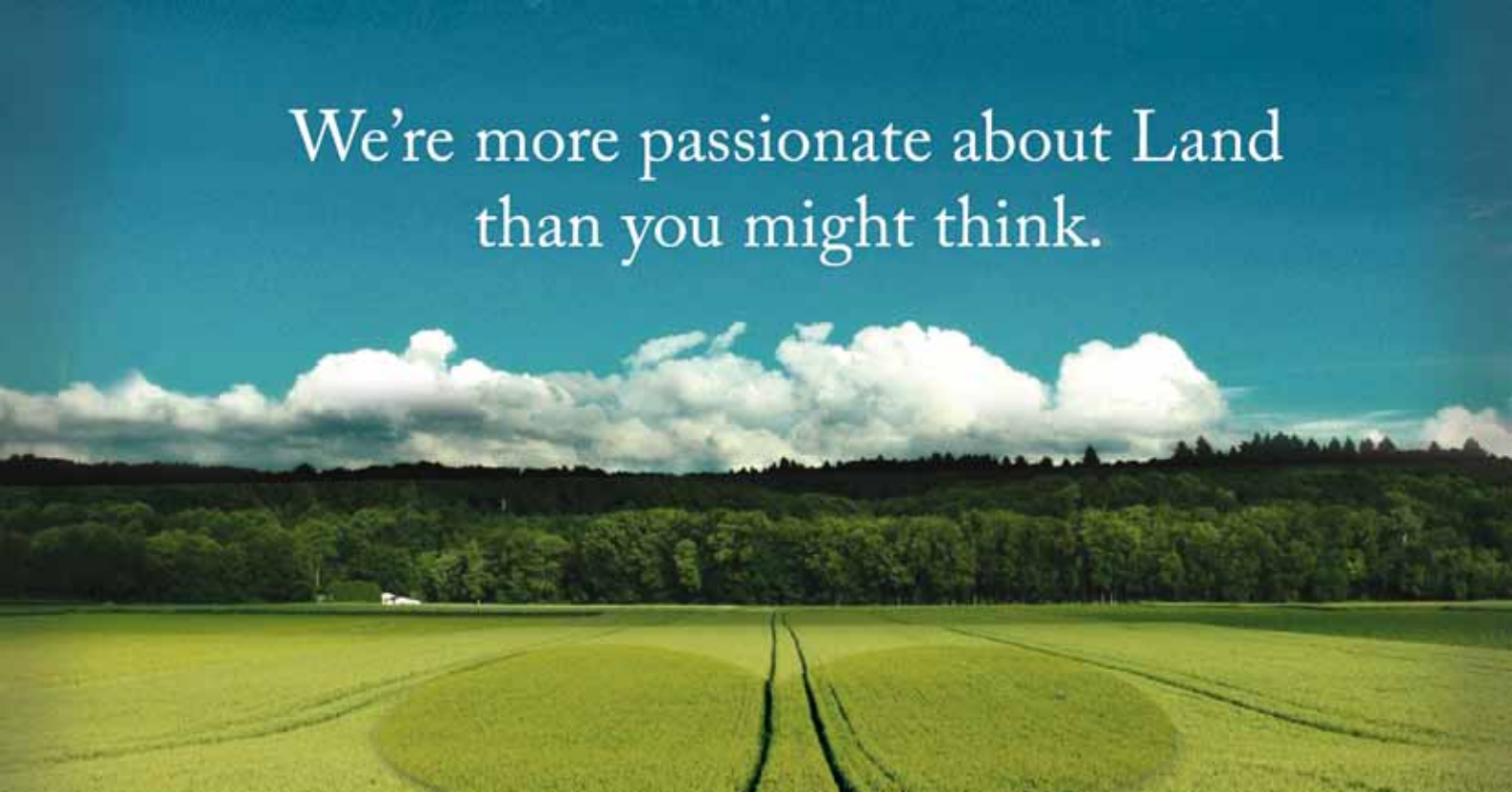
business rates with reforms that will encourage economic development, as well as a reform of the Community Infrastructure Levy to provide a clearer incentive to developers. A consultation paper on final schemes will be published following the recent Spending Review, October 2010.

The overhaul of the planning system and abolition of Regional Strategies is intended to simplify the planning system, encourage local participation and transparency. However many national bodies have expressed concern that Eric Pickles' localism agenda will have no place for strategic planning functions which ordinarily deliver facilities such as hospitals, transport links, waste management and flood protection. These bodies feel that these are national issues which cannot be dealt with solely at a local level. A vision for the wider area with a programme of prioritised investment is essential as it provides certainty for developers, investors and infrastructure providers, and helps secure a prosperous and sustainable future, not just for the locality, but for the country.

Many local planning authorities are in the process of bringing forward development plan documents. In light of the revocation of Regional Strategies, some are revising their emerging Local Development Framework

documents, with the result that housing targets will continue to move and further opportunities will arise to make representations. It is essential therefore to keep a close eye on (moving) timescales, periods of consultation and windows of opportunity for promotion of land for development, in order that landowners have some influence in the emerging policies which relate to their land, and the most suitable, sustainable sites are allocated for development.

Given this period of uncertainty in the planning regime and slow activity in the housing market, there is a healthy appetite amongst developers and house builders for strategic housing sites which have a 3 to 10 year planning journey ie sites that need to be allocated in Local Development Frameworks. Promotion and option agreements essentially enable house builders to defer the capital expenditure of land purchase, whilst enabling them to build their land bank and secure planning consent at a time in the future, when there should be more certainty and when the houses are needed. Now is therefore the right time to engage in discussions with Local Planning Authorities and developers alike, to place land under option or promotion agreements, where the developer is prepared to speculate the costs of promotion to secure the site within the Local Authorities' development plans and obtain planning consent.



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Agricultural Holdings Act Rent Reviews

Craig Horton

The recent volatility in commodity prices has reignited the debate on Agricultural Holdings Act ('AHA') rent reviews.

When farming profitability was in the doldrums, rents remained relatively static.

Recently, improved arable commodity prices have increased the profitability of that farming sector, stirring landlords and agents to reconsider the fair return that a let holding should generate.

When assessing the correct rent for a farm, or land let under an agricultural tenancy, care needs to be taken to determine the type of tenancy in place. Historically, land was let under the Agricultural Holdings Act 1986 ('AHA 1986') but since 1995 farms and land are let under the Agricultural Tenancies Act ('ATA') on tenancies known as Farm Business Tenancies. Rent reviews under the two Acts are undertaken in different ways – rent under the AHA 1986 is assessed taking into account prudent and



willing parties, relevant factors, terms of the tenancy, production and related earnings capacity and the level of rates of comparable holdings. Under Farm Business Tenancies, in the absence of agreement between the parties, rent is reviewed on an open market basis.

Prior to undertaking a rent review, Notices have to be served between the parties giving a minimum of 12 months notice of the intention to review the rent. Over the last two to three years this in itself has generated some difficulties and uncertainty in the market. For example, volatility in the price of wheat which has, in a period of three harvests, risen from £90 per tonne to £180 per tonne, fallen again to £90 per tonne and then rebounded once more to £150 per tonne. At the point of making a decision to review the rent, evidence has shown that

Tribunal Decision in Respect of Business Property Relief

Stuart Paton

Descendants of the late British Prime Minister Arthur Balfour won a notable battle over the HMRC in August, which has repercussions for many agricultural estates.

The Prime Minister's descendants convinced the court that the estate was a business, which qualified for Business Property Relief (BPR), not an investment enterprise. Inheritance tax is not payable when business owners transfer holdings to relatives.

The farming activities had been accepted as business property by the HMRC but the estate was involved in letting 28 farm cottages which the HMRC considered an investment business.

The appeal tribunal agreed with an earlier decision that property relief should be available

on the whole estate even though in this instance, the capital value of the acreage was slightly predominantly investment. As there was no intention to sell the estate, this was considered less relevant. Also, the acreage of the land dedicated to each activity fell equally between investment and non investment. It was agreed that none of these factors was conclusive and that investment and non-investment activities must be looked at in the overall context of the business.

We will need to give consideration to the wider implications of this case, but the decision should give some comfort to landed estates, where the estate activities are run through one business.

by the date of the actual review, i.e. up to 12 months after the original Notice, the commodity prices used to assess the productivity of the holding could have varied enormously from those at the date of the original decision, not to mention the increase in input costs, particularly fertilizer, the price of which strangely seems to be linked to the price of wheat!

In assessing the rent for an AHA holding there are two distinct methods that are commonly adopted, both of which have merits and disadvantages. One is the careful analysis of rents of comparable holdings. In order for these to be of real assistance they should be truly comparable, which is seldom the case. The second method is an assessment of the budgetary evidence for the productive capacity of the farm in question. Both of these assessments are open to interpretation by valuers. However in the last major case on agricultural rent reviews since Childers and Ankers in 1996, analysis of this approach through judicial opinion has now been given by the Scottish Land Court case Morrison-Low –v- Paterson. Although principally a decision on the treatment and consequence of the Single Farm Payment system, and although it is a case under the Agricultural Holdings (Scotland) Act and not AHA 1996,

it gives opinions (based upon the evidence before it) on the following:

- comments on the treatment of comparables and marriage values
- a ruling as to how 'scarcity' is treated in the rental market
- an understanding as to how the economic conditions at the time of the review are to be accounted for
- comments on the treatment of dwellings on the farm
- guidance as to the use of open market lettings (for example Farm Business Tenancy rents) with due regard for different terms and conditions.

How much influence this case will have on AHA reviews in England and Wales will become clearer over the next 12 months as rent reviews are negotiated following the receipt of Notices.

Agricultural and Equestrian occupancy conditions

Edward Dyke

When Planning Policy Statement 7 (PPS7) was published in August 2004, it widened the scope for obtaining planning permission for dwellings in the countryside to agricultural, forestry and other occupational dwellings. This has enabled us to secure planning permission for houses on equestrian units purely based on the equestrian business plan without needing a strictly agricultural business.

The relevant criteria are laid out in Annex A of PPS7 and include the need to demonstrate:

- There is a clearly established functional need
- The need relates to a full time worker
- Unit and activity has been established for at least three years, has been profitable for at least one of them, is currently financially sound and has a clear prospect of remaining
- The functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available
- Other planning requirements are satisfied.

We have recently worked on behalf of a client who runs a livery yard with 11 horses on full livery and a couple of DIY spaces on approximately 20 hectares where a detailed appraisal was required to secure planning for a dwelling on the site. The business model for the 11 full liveries demonstrated that the standard man day requirements equated to an equivalent of 4.75 labour units being required to run the enterprise and that it required a person to be present on site at all times to tend to the livestock, deal with emergencies and provide security for the horses kept on the property. We produced a detailed planning and business appraisal which we submitted with the application and an analysis of the business accounts. On receiving this, the local authority instructed an independent assessor who inspected the property, studied our report and came down in support of the application concluding that all criteria of Annex A PPS7 were met.

As a result of the changes in the planning, it is now easier to obtain variations of existing agricultural occupancy conditions which can be widened to include equestrian enterprises and activities, enhancing the value substantially.

It is important to remember that occupancy conditioned dwellings are there to help with the running of the business being pursued on the property. Anyone looking to purchase a property with an equestrian occupancy condition must look very carefully at the exact wording of the condition which will normally have an obligation to be mainly or principally employed in the equestrian activity. Just keeping a couple of horses for personal enjoyment is unlikely to satisfy the condition and could leave the owner open to enforcement action from the local planning authority.

For further advice on agricultural or equestrian occupancy conditions please contact Edward Dyke FRICS FAAV on 01258 452343.



Thorn Hall 7 bedroom equestrian property in with planning consent originally granted for subject to an agricultural restriction which was subsequently varied to equestrian related use. Located in Cambridgeshire

For sale through Chesterton Humberts Norwich Office: £675,000

Out and About

Chesterton Humberts Rural Team will be attending:

Team Chasing

Official fixture list 2011

Experience the excitement of National Team Chasing as teams of riders compete against the clock, across open country and farmland!

Spring 2011

Sunday 27th February	Worcester
Sunday 6th March	VWH
Sunday 13th March	Taunton Vale *
Sunday 20th March	Berks & Bucks Drag
Sunday 2nd April	Fernie *

* PRIMARY



Shows 2011

Chesterton Humberts Rural Team will be attending:

- 4th to 6th January -
Oxford Farming Conference
- 15th to 16th June -
Cereals at Booth by
Graffoe, Lincolnshire
- 9th to 11th June -
Royal Cornwall Show at
Wadebridge, Cornwall
- 22nd to 24th July -
CLA Game Fair at
Blenheim Palace, Oxfordshire
- 4th August -
Honiton Show at Stockers Farm,
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- 17th August -
Shaftesbury and Gillingham Show
Turnpike Showground, North Dorset

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