

NEWSLETTER – January 2011

2011 – UP CORN, DOWN HORN?



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It is time to circulate a copy of our seasonal notes and I hope you will find something of interest. The range of skills and experience of my office colleagues never ceases to amaze me. We look forward to helping you during the course of the year.

It gives me great pleasure to welcome James Sealy into the partnership. James is well known to many of you having initially joined us as a sandwich student from Harper Adams in 2002. James qualified as an agricultural valuer in 2005 achieving the top mark in the practical exam. James is a very accomplished auctioneer and rural surveyor and brings many strengths to move the firm forward.

“Up corn, down horn” does seem to be the motto at the start of the year. Some elements of farming

appear somewhat more profitable, due to the sudden increase in world cereal prices. Remember however this has not helped the livestock sector. To feed cattle profitably does require a source of alternative feed. The dry summer has made the forage situation difficult.

2011 will bring many challenges with the general economic problems, higher inflation and substantial government debts and cut backs. The profitability of farming will be influenced by the exchange rate, influenced in turn by the relative weakness of the UK economy compared to the weakness of Europe.

Farming has always remained resilient and often performs well when the general economy is not performing. Whatever the year throws at all of us; opportunities or difficulties, good profits or more modest returns, we have a strong team able to assist you and help you and your family make the most of the year and plan for the future.

May I wish you all a very prosperous 2011.

FARM MACHINERY AND DISPERSAL SALES



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2010 has been another successful year for the Auction Team – not only running Livestock Markets three days a week, but outside Sales too.

We have conducted in excess of 10 Farm Dispersal and Collective Sales this year, with in excess of 3,500 Lots. These have ranged from tractors and machinery to game rearing and shooting equipment, to the contents of a Point to Point and Hunting Yard. Farming is changing with many people looking either to down-size or amalgamate with others to benefit from economies of scale. If you

are considering selling anything, Auction is the simplest and easiest way to do so. It is quick, easy and a good way to ensure that everything goes, be it £1 or a £100,000.

2011 will see a number of farm sales in the area, many of which will allow extra lots to be included by invitation. If you are considering a sale of anything, no matter how big or small, please speak to James Sealy or Brian Pile who will be pleased to speak to you on a ‘no obligation’ basis.

ESTATE PLANNING: HOW TO PASS IT ON



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Planning for the transfer of the family farm from one generation to the next is always a difficult decision. Farming is unique and farms often remain in the same family for generations. It is important for the continuation of the business that the farm can be passed on without incurring a significant Inheritance Tax (IHT) liability. Assets can be transferred during lifetime, but farmers need to consider various issues, including the need to ensure that they retain sufficient income to provide for retirement. Many farmers only consider estate planning by what will happen when they die, rather than considering what to do during their lifetime.

Farmers and landowners currently benefit from important reliefs from IHT, including Agricultural Property Relief (APR) and Business Property Relief (BPR). The interpretation of these reliefs is constantly changing as case law develops and, given the potential savings obtained by using them, it will continue to be an area of litigation. Our role as agents is to work with our clients' accountants and solicitors advising on how to improve the chances of obtaining relief from IHT, ensuring a viable business is passed on.

APR applies to agricultural land, buildings, woodland, cottages, and farm buildings occupied with agricultural land and farm houses that are of a 'character appropriate' to the property. The relief extends to the agricultural value only, the value assuming the property is subject to a perpetual covenant restricting its use to agriculture. For agricultural property farmed in hand, or subject to a tenancy commencing after September 1995, the rate of relief is currently 100%.

The Capital Taxes Office is cautious about granting APR on farmhouses and recent case law has focused on the "character appropriate" test. It is important to

generate evidence of use and to keep detailed records to support an application for relief. Often the changes required are minor but the difference in tax on obtaining relief or not can be very significant.

BPR applies to property used in connection with a business which is carried on for the purpose of a trade and will provide either 50% or 100% relief on qualifying assets. The relief is not restricted to the agricultural value only and therefore, for BPR, it is possible to obtain relief not only on the agricultural value of land, but also on "hope value", if the land has development potential, as well as potentially for cottages and let buildings.

Where there is significant let income from cottages or buildings one needs to be careful the business is structured as one primarily of a trade, rather than holding let investments. A simple readjustment of what is included in the farm accounts can make a substantial tax saving.

The best tax planning is usually easily understood, simple and cheap to implement and flexible enough to alter if the tax rules change. It is often relatively simple changes which can help to make a big difference. For further information on tax planning contact David Bletsoe who is able to give clear practical advice to farmers and landowners.

In the words of the Revenue's own advertisements "Tax does not have to be Taxing".

REMINDER – Notices

Please remember to review your tenancy agreements on a regular basis. We are happy to provide advice to clients on when action can be taken; but it is your responsibility to check notice provisions and instruct us well in advance of deadlines. For most agricultural rent reviews notices must be served at least 12 months in advance. For specific advice please speak to any member of the team.

LAND: TIME TO BUY OR SELL?



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You only have to flick through the pages of the farming press, to get a very clear impression of the current land market. Shortage of available land continues to dominate the market, with the result that bare land values are being pushed up bit by bit. There has been approximately 24% more land offered for sale in 2010 than in 2009, but still not sufficient to meet demand and comparatively little land has come to the market in this area.

The 2010 RICS Rural Land Market Survey paints a somewhat mixed picture with respect to prices. The opinion based measure, based on bare land values reported by surveyors increased by 6% but where

transactions included houses the survey showed an overall fall of 6% in farmland prices. While this may look confusing, if you consider the residential element of many farm sales, the wider economy has a significant impact and we have seen the residential market follow a more cautious approach.

In the East Midlands and East Anglia we have seen bare land values remain strong with grade 3 arable land achieving in excess of £6,000 per acre. This belies the market which is very localised with a wide disparity of values. For example in 2010 we acquired land at £4,700 per acre for a client at the same time as the remaining lots offered for sale only 2 miles away sold in excess of £6,500 per acre.

Detailed local knowledge is key whether you are looking to sell or buy. For further advice please speak to David Hicks or any member of the agricultural team.

TELECOMMUNICATIONS

‘A Merry Go Round’ - but who will have to step off?



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Telecommunication masts have been a useful source of additional income on some farms in the last decade. Operators competed to build up separate networks, which would provide them with national coverage. Site sharing provided additional income where additional masts were not possible.

Recent advances in technology now allow one antenna to transmit multiple signals. H3G and T-Mobile, created a joint venture under the name of MBNL. T-Mobile has now purchased Orange and placed their combined holdings under the new company trading name of ‘Everything Everywhere’. These arrangements alone stand to render over

9,000 sites surplus to requirements with O2 and Vodafone to follow suit. Many landowners therefore are now receiving notice from network operators of their intent to review terms.

Leases can be brought to an end but only in accordance with the written terms. We have had several instances where agents for operators have purported to terminate leases without the power to do so. Agents also seek reductions in rent. Sometimes this is correct, but it may be that a site is even more important to the network as a whole and a standstill or better rent can be achieved

As an office, we have dealt with a significant number of re-organisations and whilst rental negotiations can result in a reduction, these are proving to be less painful than initially feared and also providing an opportunity for favourable security and alienation provisions to be agreed.



AGRICULTURAL SUBSIDIES POST 2013



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Following publication of the EU Commission's initial reform proposals, James Sealy comments on the details available so far.

The first point to note is that the current scheme will remain in place until at least 2013. The Commission's proposals refer to payments beyond 2014, although with the CAP budget not being increased and modulation rates not set, it is highly likely that there will be a reduction in the level of payment received over time.

It appears that a regional based flat rate payment is preferred, which would work well for English farmers who will have already moved to a regional only payment by 2012. Current expectations are for a similar scheme to the current single payment scheme, post 2013 but with payment rates declining as we approach 2020.

Whilst there will be much focus on CAP reform, one major factor to future farming profitability will remain exchange rates. The exchange rate in 2009 was 90.93p per euro compared to 67.77p per euro in 2006. This resulted in a 34% increase in SPS payments reducing the impact of declining historic element for English holdings. The exchange rate also greatly influences the competitiveness of UK produce on the global market.



Not all countries will support this approach and it is important to remember that these are initial proposals and legal negotiations are still to take

place. Following the Lisbon Treaty there are now 27 Countries to reach agreement (compared to 15 in 2005) but also the requirement to reach agreement with the European Parliament for the first time. This will add to delay and harder negotiations. On the positive side, it appears we have a government which wants to positively engage in Europe which should be good for the UK.



Environmental protection, the "greening component", is also a clear objective with additional payments proposed for undertaking extra cross compliance measures. Environmental payments under Pillar 2 appear likely to be retained, although there will be a greater focus on schemes such as Higher Level Stewardship.

On a separate note I encourage everyone to support the Campaign for the Farmed Environment either by entering into the ELS or by recording arable options undertaken voluntarily. This is an important opportunity for the farming community to demonstrate that it can act responsibly. The more that the farming community can do to avoid more red tape being imposed the better.

For up to date advice, speak to James Sealy or any member of our Agricultural Team.

REMINDER – Entitlements

The window for transferring Single Payment Scheme entitlements in time for the 2011 claim year will close on the 2nd April 2011. We do have a number of clients with entitlements to sell and others looking for entitlements. We are dealing with transfers now and in order to ensure that all transfers are completed on time if you wish to trade any entitlements please speak to any member of the agricultural team in good time.

THE LOCALISM BILL – POWER TO THE PEOPLE



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The long awaited Localism Bill has now been published, and so begins the task of assessing how this is likely to impact upon Local Government, and in particular their running of the planning system. The headline of returning Power to the People is an attractive one, but how in practice is this going to operate and what are the implications for those wishing to seek planning permission for development projects? Some of the main changes can be summarised as follows:

- Abolition of Regional Spatial Strategies and their associated development targets, which will now be determined at local level.
- Confirmation of the “Community Infrastructure Levy” (Development Charges) but with more of the money raised to be directed to neighbourhood projects.
- Planning Inspectors will no longer be able to change Local Plans, and whilst they will continue to determine whether a plan is sound, Councils will have the ultimate discretion over policy wording.
- Neighbourhood Plans will be encouraged with input from Parish Councils. Such plans may specify certain development which should have automatic consent.



- Local communities will be able to promote development, which will be able to go ahead if there is 50% support in a local referendum.

The Government has suggested that their Bill will help encourage greater levels of new development, and with incentivised grant support for local authorities, they hope that this will turn around recent low levels of new house building across the country. The jury is still out on whether this Bill will have the desired effect! One thing is certain, the role of the Parish Council cannot now be ignored, and anyone contemplating development will need to consider local consultation at an early stage.

Anyone with development projects in mind, who would like advice on how to promote their schemes or land through the planning system should contact Andrew Middleditch or Peter Moore.

ENERGY INITIATIVES



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We are all aware of Wind Turbines, their benefits and their problems; and no doubt some have considered placing Photovoltaic Cells on their barn roofs.

Photovoltaic Cells (PV) have risen in popularity following the feed in tariffs published during 2010. The economic pendulum has been given a push in favour of PV.

Whilst we are too far north for PV Cells to have only a limited return when situated on farm buildings, the economies of scale can make solar parks viable and we are discussing sites with several companies wishing to build Solar Parks, i.e. to rent a field and erect on it an array of PV cells in order to feed the electricity into the grid. Companies are looking for sites of 20 to 30 acres, preferably hidden from public view and close to a 33kv overhead electric line. The rents appear interesting and the lease should provide 25 years of secure income index linked to the price of electricity.

Planning will be an issue and site selection is important. If this is of interest to you, do please contact Peter Moore.

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Land and Farm Agency - Estate Management & Farming Arrangements

Single Payment Scheme - Compulsory Purchase and Compensation - Tax Planning and Valuations

Development Land Sales - Promotion of Residential & Commercial Development Land

Option Agreements - S106 Agreements - Agricultural Dwelling Appraisals

Planning Applications and Appeals - Removal of Occupancy Restrictions

Environmental Management - Renewable Energy - Farm Machinery Sales and Livestock Auctioneers

BIG ENOUGH TO COPE – SMALL ENOUGH TO CARE