

## WHAT NOW FOR PLANNING POLICY?

In a government comprising a coalition between the Conservatives and Liberal Democrats, what is the future for planning policy?

Well, the Liberal Democrats' manifesto contained very little mention of planning policy, and other than a wish to increase the supply of affordable housing, it doesn't appear to be on their agenda.

So, presumably, that leaves us with planning reforms based on the Conservatives' policy, contained in their Green Paper, *Open Source Planning*. As with much of their policy, the focus is on 'localism', giving power to local people through 'collaborative democracy'. Local Plans would replace the current Local Development Frameworks and Regional Planning would be removed completely (which currently determines regional housing targets). Each community would be able to decide local planning policies, rather than being determined from centrally driven targets. However, new Local Plans will have to conform to national environmental, architectural, economic and social standards – is this a contradiction?

Other proposals, including removing the power of the Planning Inspectorate to amend Local Plans (although amendments can be required if the plan does not meet national guidance) and replacing the Community Infrastructure Levy with a single unified local tariff, are meant to transfer power from central government to local people.

These proposals could result in significant differences in policy between different communities, between neighbouring villages even, making lobbying and engagement with your local community at the policy writing stage critical. In addition, the proposals also allow for small-scale development to be allowed in villages, even where not identified in the Local Plan, providing it is desired by the local community. Significantly, where objections could be overcome by financial payments, this will be allowed! In summary, the proposals would mean the following for landowners:

- The importance of engaging with your local community and gaining its support for any proposed development;
- Further, through this engagement, the possibility of bringing forward development which is outside the Local Plan;
- The re-classification of farm buildings, built before a key date (yet to be decided), as brownfield, allowing redevelopment where it may not previously have been possible;
- Increased powers for the quick removal of travellers from private land;
- Flexible zoning could allow the change of use of converted farm buildings within a range allowed by the local community in its local plan;
- The ability to 'buy-off' those who object to proposals, or make a gesture to the local community in consideration of support for a planning proposal.

In spite of all this, these proposals will require a fundamental overhaul of the current planning system, which will be lengthy and costly – in light of the significant financial challenges facing this government, is planning reform likely to be a priority? Personally, I think it unlikely that we will see any significant amendments for some time.

**However, if you think the proposals may offer you opportunities, please contact me (Nicola Beers) or Lennox Thomson, so that we can advise on the best route forward and ensure key consultation dates are not missed.**



## Comment

Albert Einstein reminds us that, 'The important thing is to keep the important thing the important thing!' Tribal politics and the clunking fist of the state appear to have been replaced overnight with consensual politics, policy compromise and rapid decision making. If political opponents can reach agreement when their minds are focused on a common purpose or prize (the levers of power) then can decision-making in a family or business context also be achieved? Often for deep-seated reasons agreement is not possible and stasis sets in. But what might be achieved if a mutual goal can be identified?

We are positive about the individuals appointed as Secretary of State for departments affecting our clients. Chris Huhne at Energy and Climate Change will bring an evangelical zeal to the Green agenda which should cement support for agricultural-sector investment in energy production - wind, AD, biogas. Caroline Spelman's understanding of agriculture and the European scene (in part drawn from a previous role at the International Confederation of European Beet Growers in Paris) should mean she has a solid insight into her brief at Defra. Eric Pickles's suitability for Communities and Local Government, which manages the planning regime, is less clear and a question of 'wait and see'.

Against this background, we look forward to the challenge of supporting clients in making decisions that will increase capital values or investment returns from the landed resources available to them. There are economic, statutory and legal environments to weave through during this process. There is also an overriding duty upon us to ensure clients remember 'The important thing is to keep the important thing the important thing!'

**Lennox Thomson**  
Director



## AFFORDABLE HOUSING

Government policy allows Rural Exception Sites for affordable housing – locations adjoining and well-related to villages but which fall outside the development boundary and on which open market housing would not be permitted. A Local Need must, however, be demonstrated by way of a Housing Needs Survey provided by a local Housing Association.

In the present economic climate, many smaller house builders have transferred their attention to building affordable housing under contract to the Housing Associations. With increased competition, these companies are taking a more commercial and proactive approach than has previously operated in the area. Many are approaching landowners directly, tying up a land deal and then presenting a complete supply chain to the Housing Association from land supply to completed dwellings.

The result for landowners is much more competitive land values, with contractors bidding a proportion of their build profit for the land, on top of the basic government grant (usually £10,000 per plot). With relatively high densities for this type of housing the values can therefore be quite respectable, although still below market housing levels.

**We would be very pleased to put suitable sites to contractors on a speculative basis. To discuss this further, please contact Nicola Beers on 01604 782714 or Judy Pearson on 01604 782716.**

## TELECOMS UPDATE



The telecoms market has shifted dramatically in recent years with increased mergers between major operators. Also, operators are sharing masts to increase coverage without significant capital investment. To further cut network operating costs, operators are blanket letterwriting to their landlords (landowners) proposing a rent reduction on the mast site. Most

letters acknowledge a rent reduction is outside of the tenancy terms but, as the alternative, threaten to decommission the site altogether – the veiled threat!

Whatever the length of term remaining, most tenancies also include a clause requiring the operator to remove all of the equipment if the site is decommissioned. This can be costly.

If you have received a letter of this nature, it is essential that it is looked at alongside your current tenancy agreement. The response to the operator depends on the tenancy's terms and how important the income from the mast is to your business.

**If you would like to discuss your current telecoms situation, please contact Judy Pearson on 01604 782716.**

Photo courtesy of EnviTec Biogas



## DO FEED-IN TARIFFS INCENTIVISE SMALLER SCALE AD PLANTS?

The new Feed-in Tariff (FiT) scheme provides a payment of 9p/kWh for AD plants over 0.5 MW and 11.5p/kWh for plants under 0.5 MW. The 9p FiT rate is the same as 'Double ROCs' which preceded FiTs, whilst the higher rate for smaller plants, is intended to recognise the capital cost of plants, which increases markedly per kWh as plant size reduces (as much of the infrastructure is similar).

Generally, the industry reaction to the FiT rates for AD is lukewarm; there is ongoing lobbying for a steeper increase as plant size reduces. For the economics of the plant itself to be commercially attractive, a higher FiT would indeed help. However, 'on farm' it is important to understand the net benefit to the farming business and this is where AD at the <0.5 MW scale can still look very attractive.

### Imported vs Farm Produced Feedstock

To understand the finances it is first important to understand the options for AD models on farm, which broadly fall into two categories:

**1. Imported (biodegradable) feedstock** – generally food waste sometimes commingled with green waste. This brings the attractions of a gate fee (say £10-50/t), but brings the significant extra complexity of environmental issues, which adds to both the capital and operating costs. Essentially it is a waste management operation and the risk lies in the reduction in gate fee value over time (perhaps as the value of food waste as an energy source is recognised) and the competitive and short-term nature of waste contracts.

**2. Farm-produced feedstock** – usually silage-based with the optional extra of farm-produced wastes such as manures, slurries, vegetable grading/processing/storage waste and so forth. The gas yield from vegetable wastes is typically lower than silage and manures are much lower still.

Focusing on the farm-produced feedstock model at the <0.5 MW scale, the plant may cost around £1.7m and require around 10,000t of silage to operate. Assuming the plant sits in isolation from the farm business in an SPV that pays all its own costs including 'renting' land from the farm business, the profit on the plant alone might be about £230,000 after interest or a return of 16% (EBIT/total Capex).

In a wholly crop driven model (e.g. wheat and maize or grass silage), the partial budget would therefore include profits from the AD plant, savings on combining and grain storage and income forgone from the combinable crops. Assuming some debt gearing in the SPV, the net benefit back to the farm is about £135,000 being 16% on the £840,000 stake required and more interestingly about £220/acre – somewhat more than the marginal gains from switching between different types of cultivation kit.

The return to the farming business can be further improved in a number of situations:

- Where there is a use for the heat output of the plant (say £50,000 worth).
- Where there is a waste that is otherwise costing money to dispose of.
- Where substantial quantities of electricity are used on site – the wholesale / export value of electricity from the plant will be about 4p/kWh less than import costs, therefore providing an equivalent saving for all imports displaced. If 90% of the electricity produced is used on site (say 3,700 MWh), returns can be enhanced by a further £150,000.

**As ever all situations are different, but it seems there are real opportunities in AD of all scales, particularly when the advantage to the farming business is analysed. To understand the rudimentary economics in your situation, please speak to William Tongue on 01604 782719.**

## NEW (DIVERSIFIED) ENTERPRISE CHECKLIST

Thinking of starting up a new enterprise that is away from the main agricultural activity of the business, or have already inadvertently done so? It is important to take time to consider aspects of the business structure that may have long-term VAT, income and capital tax issues:

- **Enterprise establishment:** Market research is important to realise the value of the product and the best marketing strategy. Consider the initial expenses, including planning and infrastructure. Once all areas of the project have been explored, the project needs to be tested for feasibility. A business appraisal and budget will show the bottom line financial return from the idea.
- **Funding:** Grants are available from the Rural Development Programme for England for some types of project on farm and in rural areas. Despite the recession, banks are still lending to farmers, although they are demanding professional projections (budgets and plans) to support the application for the loan and a full explanation of the investment the money will be making.
- **Tax:** When deciding whether to run a diversification project within the current farm business or as a separate enterprise, consider the tax implications and how to make optimum use of the marginal tax rates of each proprietor of the business.
- **VAT:** To keep VAT leakage to a minimum the recently simplified de minimus rule can be used to allow the farm to claim the input tax, if the farm goes on to let the land to the diversification as a separate business. Alternatively, the farm could use option to tax/waiver of exemption to claim input tax and let the land to the diversification. In this instance VAT would be charged on the rent.
- **Inheritance tax:** The diversification may qualify for Business Property Relief at either 50% or 100%. If the farm lets the property to the diversification, the farm may lose inheritance tax reliefs; let property be seen as an investment not a business.
- **Planning permission:** Any material change of use or new building will require planning permission from the local council.
- **Business rates:** Property used for business purposes is subject to business rates; the thresholds for Small Business Rate Relief and Rural Rate Relief changed in April 2010.
- **Farmhouse diversification:** The farmhouse must remain of a character appropriate to the holding to qualify for Agricultural Property Relief from Inheritance Tax. Keeping the amount of land appropriate to the size of the house, holding work meetings and feeding farm workers inside the house all help towards gaining the relief.
- **Tenants:** Tenancy terms, permission for improvements from the landlord and tax implications to both the landlord and tenant need to be factored in to the project plans.

Large-scale diversification may not suit some farms but there are smaller projects that could increase income whilst diversifying from the main agricultural business. Renewable energy projects and Stewardship Schemes, although not strictly a form of farm diversification, can generate a guaranteed income for the next five or ten years.

**If you would like to discuss farm diversification, please contact Judy Pearson on 01604 782716.**



## CHANGE TO SUCCESSION CASE LAW

Succession is a valuable right for Agricultural Holdings Act tenants and has a significant depressing effect on value for landlords. For tenancies granted before 12 July 1984 tenants have lifetime tenure and the right to two further successions of the tenancy if the applicant on death or retirement is deemed eligible and suitable. A landlord might not get possession for 100 years.

A recent court case decision has reversed case law and could change the number of outstanding successions a tenant has. Previously the courts had deemed that transactions prior to 1976 were a succession to a tenancy even though the law introducing the right of succession to agricultural tenancies was not enacted until 1976. This view has always been controversial and industry professionals disputed the correctness of the case law. The recent case of *Kemp v Fisher* (2009) supported the doubters and ruled that any transactions prior to 1976 were NOT deemed as successions. This decision could mean that tenants have more successions remaining on their tenancy than previously thought.

**If you would like to discuss tenancy terms or succession rights, please contact Judy Pearson on 01604 782716.**

## BIGGER WIND TURBINES MEAN BETTER RETURNS



The physics of wind generation means the general rule of thumb is the bigger the turbine the more cost-effective it is. Larger blades capture more wind and taller towers give access to higher wind speeds. The introduction of Feed-in Tariffs (FiTs) from 1st April 2010 which are linked to the Retail Price Index and guaranteed for 20 years, has made these types of investments attractive and there is considerably less risk involved.

A WES 30 turbine is one of the market leaders in this field and has a 30m diameter rotor and is available on towers up to 48m tall. Typically this type of turbine would cost £500,000 with a likely annual production of 425,000 kWh at a wind speed of 5.8m/s. This translates into a total net annual income of £92,650, return on capital of 18.5% and a payback period of five years.

**If you think you have a suitable site and are interested in the possible returns, please contact Jack Merry on 01604 782708.**

# CASE STUDY

Roy Cade farms 340 acres at West Berry Farm, Buckden. The farm supports approximately 220 suckler cows/store animals and the arable enterprise grows cereals and proteins to feed and bed the cattle. Although the base of the cattle operation is West Berry Farm, there are two other sites, Berry Lane and Paddock Farm, that have buildings in various conditions that house the cattle. Roy is the sole worker within the business and there is no residential accommodation for him at any of the sites.

Roy contacted Samuel Rose in October 2007 after the council had recommended and subsequently refused planning for an agricultural dwelling at West Berry Farm for the second time on the grounds that there was not a functional need. After liaising with the planning and agricultural consultants involved during the latter stages of the initial application, Samuel Rose and our planning consultancy SSR Planning were instructed by Roy to re-submit the agricultural appraisal and planning application.



The application was for an agricultural dwelling at West Berry Farm as the most vulnerable cattle (young and in-calf) are

housed on this site and it is essential for Roy to be within sight and sound of his cattle. One of the major issues that caused the refusal of the application twice before was that Roy and his advisers didn't fully understand/interpret correctly the labour requirement and level of enterprise needed to justify the functional requirement for the dwelling.

Finally in March 2009, after much hard work, many months of communication with the planning department and many letters of support for the project, the final planning application and agricultural appraisal were submitted, and planning permission was received in June 2009. The house is currently being built and Roy is looking forward finally to living on his farm. Ironically, just after the application was submitted Roy's teleprinter was stolen from the farm and driven out past the exact site where the house is now being built!

At Samuel Rose, our specialist expertise has led to an excellent record of success when submitting Agricultural Dwelling applications. We will not submit an application until we are sure that we have presented a case that shows full justification for a dwelling from the financial appraisal to the compliance with welfare regulations (where relevant) and functional need in relation to labour requirements and, of course, one that can be confidently argued and proven if questioned.

**If you have a requirement for an agricultural dwelling and need professional advice to take the project forward, please contact either William Tongue on 01604 782719 or Guy Banham on 01604 782727.**

## Point-to-Point

Samuel Rose sponsored the Ladies Open Race at the recent Pytchley Hunt Point-to-Point at Guilsborough. Guy Banham presented the prize to Mr Philip Perkins, the winning owner of Inaro who was ridden by Ms K Smith.

## Staff News

We welcomed back Jo Simpson from maternity leave in February following the birth of Henry her second child.

Guy Banham has been busy raising money for Macmillan Cancer Charity. He has already completed the Bath Half Marathon this year and his next challenge is his biggest so far, cycling from John O'Groats to Lands End. Depending on Royal Mail he may have just finished by the time you receive this – he started on 22nd May and hopes to finish his 1000 mile journey on 4th of June. Guy, together with four good friends, will cycle



Guy Banham - right

across Scotland and down the west of England. We will update you on his journey in the next newsletter when he will have also completed the Great North Run.

## LAMMA Competition Winner

After the success of last year, we were thrilled again with the level of interest shown in our stand at the show. We ran a competition to win a meal out to the value of £100 and the winner was Mr Maycock from Whitchurch, Aylesbury. Mr Maycock and his wife enjoyed their prize at The Five Arrows, Waddesdon.

## BREAKFAST MEETINGS

The most recent breakfast meeting in our series focusing on Land and Business opportunities was held at West Lodge Rural Centre, Desborough in February. The topical micro-hydro and both farm & large-scale wind turbines were included in the presentations in light of introduction of Feed-in tariffs. An excellent full English breakfast preceded the presentations and gave energy for the lively interaction that followed!

This bulletin is intended as a guide and is not to be used as a substitute for full professional advice.

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### William Tongue – Rural Business Consultant

Budgets, Appraisals, Strategic Business Reviews, Single Farm Payment, Joint Ventures, Diversification and Renewable Power Projects.  
Email: williamtongue@samuelrose.co.uk  
Tel: 01604 782719

### Nicola Beers – Chartered Surveyor

Development & Options, Property Management, Lettings & Agency and Diversification & Grants.  
Email: nicolabeers@samuelrose.co.uk  
Tel: 01604 782714

### Guy Banham – Rural Business Consultant

Budgets, Appraisals, Strategic Business Reviews, Single Farm Payment and Landlord & Tenant.  
Email: guybanham@samuelrose.co.uk  
Tel: 01604 782727

### Lennox Thomson – Chartered Surveyor

Valuation, Compensation, Landlord & Tenant, Rating, Development & Options and Windfarms.  
Email: lennoxthomson@samuelrose.co.uk  
Tel: 01604 782715

### James Barker – Farm Consultant

Environmental Stewardship  
Email: jamesbarker@samuelrose.co.uk  
Tel: 07958 768116

### Judy Pearson – Assistant Surveyor

Residential & Rural Lettings, Property Management, Valuation and Telecoms  
Email: judypearson@samuelrose.co.uk  
Tel: 01604 782716

### Jack Merry – Assistant Surveyor

Commercial Lettings, Renewable Power Projects, Estate Management  
Email: jackmerry@samuelrose.co.uk  
Tel: 01604 782708