

## A WINDOW OF OPPORTUNITY FOR DEVELOPMENT IN VILLAGES

The concept of Local Authorities being able to show a rolling 5 year housing land supply was first introduced by Margaret Thatcher's government in 1980, and was reintroduced in PPS3 Housing in 2006. Now, it is gaining a resurgence of significance. With many Local Authorities concentrating all their housing land supply for the next LDF period on one or two significant urban extensions, but with such large developments taking a long time to come to fruition, there is a shortage of land in the short term. This means that there is a small window of opportunity, until these large schemes come on-line, when a good planning consultant may be able to demonstrate that although the Local Authority has sufficient long-term supply, it cannot currently show 5 year's supply of 'available, suitable and achievable' land.

Paragraph 71 of PPS3 states that 'if LPA's cannot demonstrate an up to date 5 year supply of deliverable sites', 'they should consider favourably planning applications for housing' in accordance with certain criteria.



Over the last 10-20 years, Policy has dictated that the concept of housing development other than small scale in-fill in anything but the highest tier of villages has become virtually unheard of. However, following 3 recent Appeal decisions in South Northants District (at Old Stratford, Pottersbury and Cosgrove), whereby permission was granted in village locations due to the LPA being unable to demonstrate a 5 year supply, precedent has been set for challenging the presumption against development in villages.

South Northants has now taken a more proactive approach and classified village into tier's where development will be allowed – in 3 key villages development of up to 10% of the current number of dwellings will be allowed, and in a further 13 villages, 5%.

Other Districts where we have already identified less than a 5 year supply include Daventry, Kettering, Wellingborough, East Northants, Corby and Northampton. Some districts within Bedfordshire and other surrounding Counties are also likely to offer opportunities. Harborough, Rutland and Melton all claim to meet or exceed a 5 year supply, although these figures may be open to challenge.

To grasp this opportunity, please contact us if you have a site within, adjoining or adjacent to a village, that is well-located to the village. The village itself should offer sufficient services such as a shop, primary school and public transport.

The current situation offers a one-off window of opportunity, which could close as early as the General Election in May/June 2010 – grasp it now!

To discuss a potential site please contact Nicola Beers on 01604 782700 or email [nicolabeers@samuelrose.co.uk](mailto:nicolabeers@samuelrose.co.uk).

## Comment

Mark Twain once said "buy land, they're not making it anymore". That was a hundred years ago when the world population was 1.6 billion. Now it is 6.8 billion and by 2050 it is expected to be 9.1 billion. In addition, since 1900 we have dug up and used a good proportion of energy reserves and other reserves such as phosphates which are so vital to crop production. Therefore the challenges and opportunities for agriculture are greater than ever.

Whilst crop prices may be disappointing there are plenty of signals that the long term prognosis is bullish for agriculture. In the meantime opportunities abound in all areas whether it be hedging exchange rate risk with single payments by locking into Euro rates of about 90p/€ or by making use of Feed in Tariffs to guarantee income for a renewable power project at an achievable scale.

Closer to home and more immediately we see the chance of a few small windfalls by making the most of a window of opportunity for development in villages. There is still risk in pursuing development and careful initial thought about the objectives and the tax planning is always required. On a very local basis we have the new North Northants Regional Action Partnership – RDPE funding for smaller projects is unfortunately a bit of a postcode lottery but at least some of the county now has a delivery vehicle for grants.

At Samuel Rose we are pleased to welcome Nikki Beers back from maternity leave and two new APC students, Judy Pearson and Jack Merry. This strengthens our team and puts us in a better place to help with the wide range of rural property and business related matters that we get involved with. As always, we offer no obligation initial consultations so please don't hesitate to get in touch!

**William Tongue**  
Managing Director



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## SIMPLIFIED SYSTEM FOR MAKING CHANGES TO PLANNING PERMISSIONS

New regulations came into effect on 1 October 2009, introducing a simplified procedure to apply to extend the period for commencement of development on a planning permission, or to make non-material amendments to a planning permission. The planning permission must still have been 'live' at 1st October 2009 and at the date of application, and development must not have commenced. Fees to extend the time period of a permission will be £500 for major developments, £50 for household developments and £170 for any other size, subject to parliamentary approval. To apply for non-material changes, no fee will be payable.

Although small, these changes should make a considerable difference to developers and landowners.

## WILL LITTLE USED BUILDINGS QUALIFY FOR AGRICULTURAL PROPERTY RELIEF?

HM Revenue & Customs is increasingly scrutinising whether buildings that have had no significant agricultural purpose, been unoccupied or only used as a sundry store in the two years prior to the occupier's death should qualify for APR. If they fail, and happen to have some value for conversion, then the Inheritance Tax bill could increase significantly.

To ward against the loss of the allowance it is imperative that agricultural use of the building is maintained and can be proved. This can be exercised in many ways, including formal notification of the buildings use on insurance documentation, certification of a chemical store, photographic records and proof of repair through accounts.



Alternatively, why not consider making an opportunity out of the threat by accepting the potential tax position and moving ahead with gifting between generations and subsequent conversion?

To discuss, please speak to Lennox Thomson on 01604 782715.

## FEED IN TARIFFS – GOOD NEWS FOR MICROGENERATION

Recent consultations on Feed in Tariffs give an insight into the structure of support for renewable energy generation as from April 2010. Feed in Tariffs (FiTs) are a guaranteed minimum pricing structure for electricity generated - exported to the grid or used on site – by small scale installations (<5MW rated power output).

At time of writing the proposals are still to be finalised but the basic idea is to give 20 year certainty of income for those who elect for FiTs rather than the existing Renewable Obligation Certificates (ROC's) system, and therefore a greater simplicity for budgeting. ROC's are traded on a European exchange therefore a producer has to make assumptions on the market price and on proportions of 'home used' and exported energy whereas FiTs are guaranteed minimums (although note some rates are depressive – i.e. reduce over time).

FiTs certainly appear to provide good incentives for small generators and a compelling argument for individual on wind farm turbines. For example, a 12m

high 11kW turbine might cost £45,000 or so to install and generate about 31,300kW/yr at a typical 5 m/s windspeed site (about the going rate in middle England). Without FiTs, this would be used on farm and sold into the grid (the farmhouse might use 6-8,000kWh/yr). The home used electricity would displace purchases at say 10-12p/unit, and the exported would earn wholesale prices (say 5p) plus ROC's (a further 5p), thus you would budget the overall income at 10p or so. With FiTs, the same electricity would earn the minimum FiT of 23p/unit in the first year, reducing by 3% per year until the point the market takes over. Thus the investment would make a fairly reasonable 14% return on capital per year (7 year payback).

FiTs also apply to Anaerobic Digestion, Biomass, Micro Hydro and Photo Voltaics (solar), thus creating significant opportunities and extra incentive for landowners. The consultation process has just closed and we expect to see full details in advance of the April 2010 budget.

For further information, please speak to William Tongue on 01604 782719

## RURAL GRANTS UPDATE

### New body for smaller scale RDPE grants in North Northants

The North Northamptonshire Regional Action Partnership (NNRAP) is the new local action group delivering grant funding under the LEADER arm of the Rural Development Program for England. Their aim is to improve the economic well being of rural North Northamptonshire by encouraging tourism, micro enterprises and the diversification of land based businesses.

Arguably this is a tough challenge and is probably not going to be completely achieved in the lifetime of the RDPE as we know it, but what it does offer is the opportunity to apply for grant funding for smaller one off projects that fit the strap line.

The group is committed to achieving the following investment targets:

- 40 farm diversification projects
- 12 new tourism targets
- 60 small rural enterprises
- 9 rural heritage projects

There is a £1.5 million approved grant fund available and expressions of interest are already being considered. Samuel Rose is one of the partners in NNRAP and so is ideally placed to assist you with a project that you would like to put forward. If you think you have a project that might be suitable please ring Guy Banham to discuss your options.

### EMDA U Turn for larger projects outside North Northants?

A recent grant funding decision in Northamptonshire suggests that single business beneficiary RDPE projects may now be being considered more favourably by East Midlands Development Agency (EMDA) than before. This would be a turn around from the original guidance, and could mean that barn conversions and other bigger projects may now be eligible for grant funding. Worth a thought...?

Contact Guy Banham to discuss further on 01604 782727.

# GLOBAL FOOD SUPPLY ISSUES

## Whither wheat prices?

The UN Food & Agriculture Organisation estimates that the world needs 70% more food by 2050, yet ex farm wheat prices have dropped 50% from the highs of early 2008. Current levels are well below average cost of production for the crop being sold, and futures prices and costs for next year suggest a margin of perhaps £10 /t over direct costs and overheads – not a sustainable level for a commercial and developing agricultural sector with global problems to respond to.

## Why are they where they are?

Current lower prices are driven by higher stocks following a combination of good yields and higher planted areas around the world. Analysts suggest that this is evidence of the global agricultural sectors ability to respond to better price signals by bringing more land into production – two years of supply/demand deficit in 06/07 and 07/08 gave the price signals which led to a record 45 million tonne global surplus in 08/09. There remains much untapped land in South America and central Russia – in the latter for example there is massive production capacity if the market price signals the cost of haulage to port is worthwhile.

## What is the outlook – short term and long term?

The ability to turn on supply therefore tempers the outlook for the short to medium term (i.e. the current marketing year and perhaps the next few). Nonetheless the feed grain market is still much tighter than the wheat market and volatility may yet lead to wide swings.

However, if some of the headlines are to be believed the fundamentals of supply and demand should give a rising medium to longer term average, with even greater potential for even higher levels of volatility. A 34% growth in population by 2050 will give rise to a projected 43% growth in demands for cereals (FAO). At the same time a projected 4°C rise in temperature (Met Office) could severely affect water supply and availability for agriculture and limit the areas of the globe available for agriculture. These are huge challenges and, for many of our readers, within our lifetimes. Looking further ahead one could muse on whether the human race is clever enough to solve these problems and prove Malthus wrong, but coming back to earth what we must consider is whether we believe in a projected long term bull run for commodity prices – which certainly seems likely.

## Whither business strategy?

At a farm level, every business is different, not only in terms of capitalisation and demands on profits, but also in age and generational position of the driving force /proprietor. This is as important to the setting of strategy as price prospects – for example if the business needs to produce cash now, something more may need to be done than hope for better prices next year.

**To discuss your business, strategies for the future and risk management for now, please speak to William Tongue on 01604 782719.**

## BUSINESS RATES – THE 2010 REVALUATION KEY FACTS

Those of you who let and/or occupy business premises may be aware that new rateable values will apply as of 1st April 2010, referred to as the “2010 revaluation”. The Valuation Office Agency (VOA) will have contacted rate payers in October about the revaluation and provided them with draft valuations and a business rates bill forecast. These draft documents are also available to view on the VOA website ([www.voa.gov.uk/2010](http://www.voa.gov.uk/2010)) and give tenants and owners of business properties an estimation of rates bills for next year as well as the opportunity to challenge the draft valuations.

The purpose of these five-yearly revaluations is to ensure that business rates are levied in line with changes in the property market. The new rateable values will be based on rental values as at 1 April 2008. Depending on how your property's rental value differs from the national average, the rates bill payable by you or your tenant will increase, decrease or not alter at all.

If you are concerned about the effect of the revaluation on your or your tenants' ability to pay their rates bills, transitional relief will be available for those businesses facing the largest rates increases. Other reliefs, such as small business rate relief, will still be available following the revaluation in 2010.

If you need advice on the revaluation, its effect on your business or how you can challenge the draft valuations, please call Lennox Thomson on 01604 782715.

## OFFICE LETTINGS UPDATE

The commercial lettings market is still slow. Landlords are agreeing to incentives such as no-deposit, rent free periods, short leases etc in order to let properties. The good news is that, providing Landlords are flexible on rents and incentives, most space is still being let rather than left empty.

Rents for rural office space are being agreed at between £8 and £12 per square foot plus service charge and rates at an average lease term of 18 months.



## FORCING EASEMENTS FOR SERVICES?

A recent High Court case overturns a long held co-operative understanding of adjoining landowners where one landowner has reserved easements to lay services and utilities across the land of the other. There is now the prospect of un-neighbourly exploitation or upright commercialism depending upon your point of view.

Historically a landowner would usually accept a request to lay services over his land without question if easements were reserved by title deeds or sale contracts. Even if the landowner objected, the energy companies would install the pipes and cables relying upon the reserved easements knowing that they could use retrospective statutory powers if required. In today's litigation culture, energy providers now frequently want everything spelt out exactly in advance of installation. Energy companies will require a deed of grant to lay their services as evidence that the adjoining landowner consents to the services being installed across his land.

William Old International Ltd v Arya and another [2009] 17 EG 103 (CS) arose as the relevant conveyance provided no supplementary power to require the adjoining landowner to enter into a deed of easement. The energy provider was loathe to use compulsory powers and there was also insufficient time to do so. In reviewing the relevant conveyance, the judge decided that the objecting landowner was not obliged to enter into a deed of easement.

The result is an opportunity of ransom for the adjoining owner. To avoid this situation, new conveyances may wish to include a covenant by the adjoining landowner that he will, when requested, enter into express deeds of grant with service providers. In existing situations, legal wording needs re-assessment and possibly re-negotiated. If development is a possibility, the landowner needing services will wish to determine his service requirements at an early stage and investigate the ability and stomach of relevant service providers to exercise statutory powers in the absence of neighbourly co-operation.

## COMMUNITY INFRASTRUCTURE LEVY

Draft regulations for the Community Infrastructure Levy (CIL) have been published. This is the Government's current attempt to recoup funds from development revenue released by the grant of planning consent. If the regulations are enacted, direct site impacts from a proposed development will continue to be mitigated by planning conditions attached to the planning permission but contributions, usually financial, via Section 106 agreements will be replaced by the new levy. Under CIL it is proposed:

- charges will be a cost per square metre of floor space, index linked;
- charges will be calculated at the date of grant of planning permission and fall on most forms of development - residential, commercial and industrial buildings;
- payment will be triggered by commencement of development, payable within 28 days;
- Section 106 agreements will still exist to document affordable housing.

Strangely though, it is proposed that individual local planning authorities will be under no obligation to introduce CIL Funds raised by CIL are to be directed towards the provision of local and regional infrastructure. For CIL to work, developers will wish assurance that essential infrastructure required to enable developments is constructed in good time.

The new levy should bring greater certainty of "contribution" for landowners in return for releasing land for development. However as professional advisers and public servants wrestle with the intricacies of the new rules there will likely be delays in achieving planning permissions. Also, if the levy is set at an unrealistic level, releasing land for development will become unexciting!

## STAFF NEWS

We welcomed two new graduates to Samuel Rose in October – Judy Pearson and Jack Merry. Judy graduated from Harper Adams University College with a degree in Rural Enterprise and Land Management and Jack from Reading University with a degree in Land Management. Both are assisting practitioners in all aspects of rural surveying and rural business management as part of their training towards their RICS Assessment of Professional Competence (APC).



We also welcomed back Nicola Beers from maternity leave following the birth of her second child. Nicola is working Tuesday, Thursday and Friday mornings. Sadly we recently said goodbye to Sophie Oliver, who has taken up a new position in London. We wish her well for the future.

### and finally...

Guy Banham, Rural Business Consultant, has been busy raising money for MacMillan Cancer Charity this year, having completed both the London and Northamptonshire 10K Runs. Guy's challenge for 2010 is to cycle from John O'Groats to Lands End in 10 days during May. We'll keep you up-to-date on progress in our next Newsletter.

## ATTENTION OWNERS OF FURNISHED HOLIDAY LETS

Next tax year (so from April 2010 – 6 months time) the rules surrounding furnished holiday lets are changing.

**Income Tax:** Income will no longer be treated as earned income, thus it can't be offset against farming losses. Therefore you may want to consider who in the farm business takes the income according to the different tax position of the individuals involved.

**Inheritance Tax:** Currently holiday property can qualify for 100% Business Property Relief on death. This will no longer apply. Therefore depending what other inheritance tax chargeable assets fall into an estate it is possible that the property could be subject to tax on 40% of the value on inheritance. Some forward planning may be required

**Capital Gains Tax:** Currently if a capital gain is created by gifting a holiday let property to the next generation they can try to claim holdover relief, thus avoiding the 18% capital gains tax. This relief will also be lost. Therefore if a gift between generations is on the cards, perhaps as an answer to (1) & (2) above, you need to get on with it!

**To discuss, please speak to William Tongue or Lennox Thomson.**

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