

LANDPLAN



SPRING/SUMMER 2013

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FLOODING

Is flood insurance about to become prohibitively expensive?

PG 8

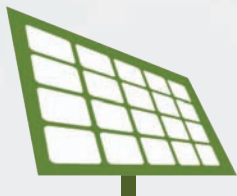


RURAL OPPORTUNITIES

This could be an opportune time to invest in rural office development.

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LANDPLAN



GREEN DEAL

The government has launched a new scheme aimed at improving energy efficiency across the country's property stock.

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INTRODUCTION

David Hebditch, Head of Rural Division

In my introduction to the last edition of Landplan, I wrote about the impact of the disastrous 2012 harvest and the effects that the wet summer had had on the industry following two years of previously good results. Sadly, since that time the position has only got worse.

Unfortunately, the result of one of the wettest autumns and winters on record has added pressure to all sectors, resulting in a shortfall of autumn cropping and the livestock sector struggling with winter forage. To date the late spring has simply compounded the problems of the autumn and winter. In the north of the country the extreme late March snowfall has brought about the loss of many tens of thousands of stock and the continued low temperatures have meant that spring crops that were drilled in late February have yet to emerge.

It is no wonder then that farm borrowing has risen by 10% year on year across the sector. We therefore look forward to a break in this cycle over the next month or so, allowing for businesses to gain some confidence that 2013 will be manageable, although sadly most businesses are already predicting a below average result. The industry is however, if nothing else, highly resilient and whilst conditions have been extreme, farming is used to the challenges of unpredictable weather.

In total contrast to the above, land values and land ownership continues to bloom and grow vigorously. The fiscal advantages of land ownership and the security that it provides compared to other investments still remains. According to our research department, average farmland values have reached a new record level of £8,520/acre. As outlined in our Farmland Market Review, the growth in land values has demonstrated that land outperforms numerous other assets and thus has attracted a wide range of prospective purchasers and investors. In the current economic climate this growth and security provides a bedrock to the industry and comfort to concerned farmers and their banks alike.

The ongoing saga over CAP reform continues, with it looking highly likely that any changes will be delayed until 2015. Over the past months, negotiations appear to be resolving various outstanding issues helped by a recent agreement on the overall EU budget for 2014 – 2020. Defra secretary Owen Paterson promises that he has secured the right for countries to introduce their own greening scheme rather than being tied to environmental measures devised by Brussels. Whilst such proposals appear helpful and encouraging, pressure needs to be applied to Defra to ensure that such schemes are not gold plated in return for payments. As ever, farmers and land owners should maintain a keen interest in the ongoing discussions to ensure that come the introduction businesses have planned appropriately.

As anticipated, the recent budget offered few surprises and little help to the industry. It was always clear that the Chancellor had little flexibility available to him and those small cuts that were introduced are likely to be delayed until 2014 or beyond. The Government is, however, attempting to assist in other ways and changes to the planning regime, including permitted development rights, may well provide opportunities for land owners and farmers to draw on new income sources from their assets.

At the time of writing, I am awaiting a forecast of a prolonged period of warm weather with occasional rain to not only rescue the winter cropping and spring forage, but also the dented spirit of our countryside.

FARMLAND MARKET REVIEW

Although 2012 was one of the wettest years on record and the weather failed to improve much during the first few months of 2013, this has not had a dampening effect on the prices being achieved for farmland in the UK

In fact, according to Chesterton Humberts' Research Department and the latest RICS Rural Land Market Survey, average farmland values have reached a new record level of £8,520/acre.

As an asset class, agricultural land values have quadrupled since 1995, outpacing national house prices, the FTSE100 and 10 year gilt yields. This performance has not escaped the attention of investors, who are increasingly showing a greater appetite for assets which are tax efficient and exhibit good growth potential.

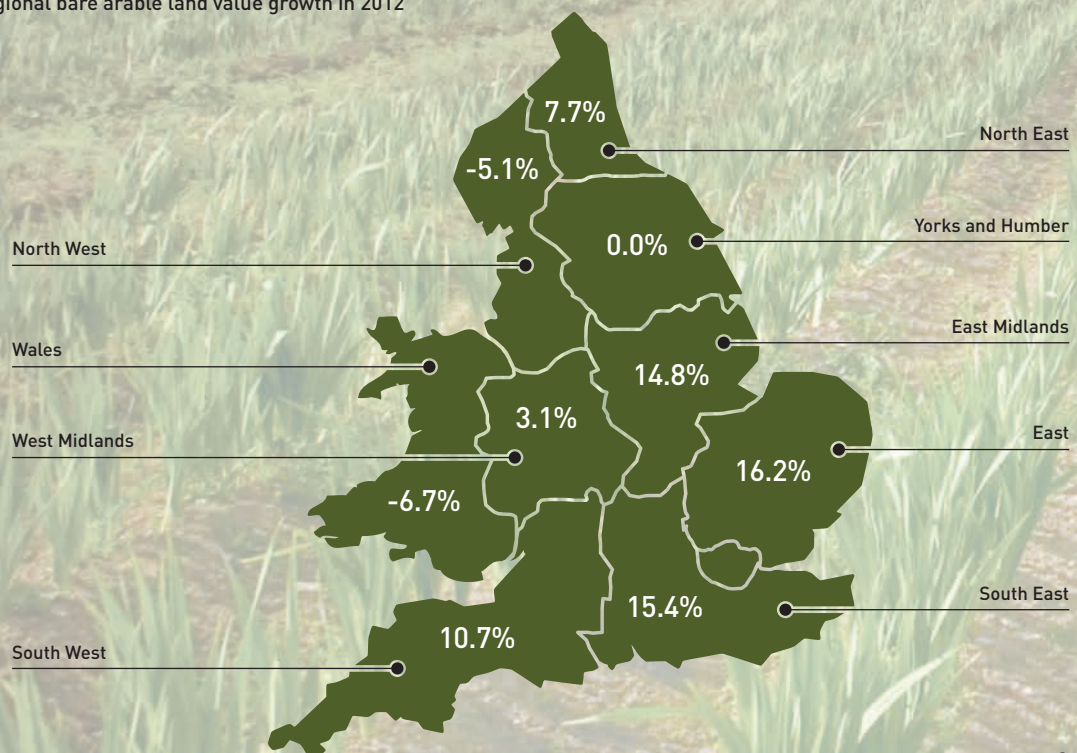
There is certainly a compelling long term case for investing in farmland as the main advantages to this asset, which include scarcity value, rising food demand and tax advantages, are set to continue for the foreseeable future. Additionally, the changing global weather patterns are likely to exert upwards pressure on food commodity prices, whilst technology will create longer term cost savings and efficiencies.

The majority of investor interest is in the arable sector and is aimed at good sized commercial blocks of arable land or fully

equipped holdings in particular. However, supply of these types of holdings have been few and far between over the last few months and those that have come onto the market have been snapped up - in some cases at extraordinary prices in excess of £10,000/acre.

Of course, not all commercial arable land is worth £10,000/acre, and values vary dramatically between the regions and also on a very local scale from parish to parish. Land quality, location and size are the main determining factors, and the range for bare

Fig 1: Regional bare arable land value growth in 2012



Source: RICS

Grade 3 arable land is between £7,500 and £10,000/acre. Despite what many commentators and agents are reporting, there are still parcels of arable land that are selling at the lower end of this scale.

Although the unusually wet weather has created unfavourable farming conditions, farmers still account for the majority of buyers, followed by private individuals looking for a tax shelter and investors who are attracted by the sector's overall performance.

2012 was certainly the year of the private deal, with Chesterton Humberts reporting in its recent Farmland Market Snapshot that off-market sales accounted for up to 25% of the overall market. This trend has continued into the first quarter of 2013 and, given the level of investment interest in the

sector and a shortage of open market sales, it is predicted that this percentage could further increase this year.

Lifestyle buyers are still active in the market, although the price increases in the residential sector are not as dazzling as those achieved in the arable/commercial farmland sector. The market throughout the regions is very patchy, with residential values continuing to plateau or decline in some areas whilst other areas, generally those which are closer to the main communication routes, have shown signs of recovery and have increased.

Despite the state of the general economy, Chesterton Humberts' Rural Agency department experienced one of its best ever years, having completed a number of substantial private and public sales and

acquisitions. 2013 has got off to a good start too and, due to the economies of limited supply and enhanced demand, we predict that land values will increase by 6% per annum over the next five years with those well located good quality commercial arable holdings benefitting most.

If you are considering taking advantage of the current market conditions and marketing any farmland that you hold, Chesterton Humberts offers free market appraisals so please contact any of our expert staff located in our 11 Rural offices for an in confidence discussion.

For further information please contact:

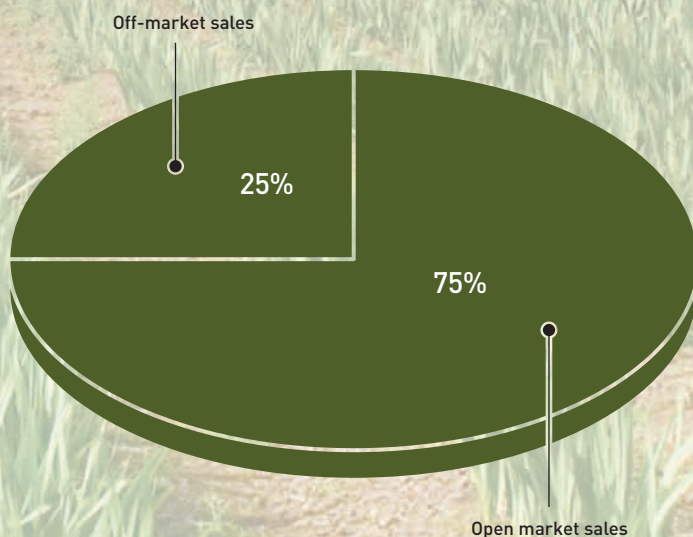
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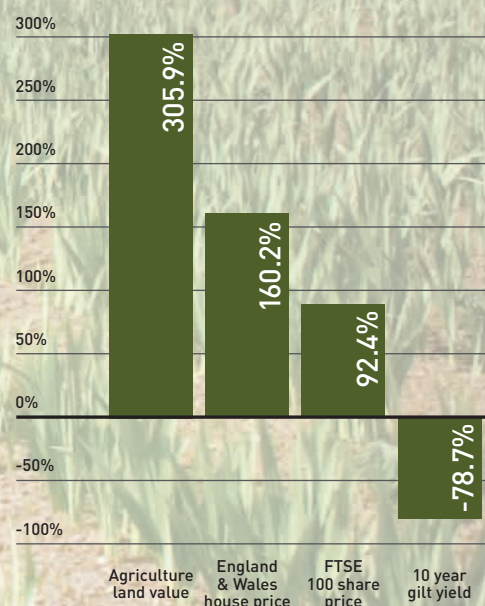
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Fig 2: Open market vs off-market farmland sales in 2012



Source: Chesterton Humberts Research

Fig 3: Agricultural land values growth vs other assets: January 1995-December 2012



Source: RICS; Land Registry; London Stock Exchange; Bank of England

REGIONAL ROUND-UP

The strong growth in farmland values has caught the eye of investors and continues to drive up prices and intensify competition in many areas, according to Chesterton Humberts' regional experts



CENTRAL SOUTH

Charles Lucas
Director – Marlborough

Demand still remains strong for bare land despite the difficult harvest last year and the elongated winter experienced all over the country. Whilst there has not been much open market activity, there has been a number of off-market sales including the private disposal of the Savernake Estate near Marlborough by The Crown Estate to a local landowner/businessman.

Although average arable land values are around the £8,000-£10,000/acre level, there is still pent up demand from both active farmers and non-farming investors. The former are generally looking to expand and spread costs whereas the latter are considering the tax advantages of owning farmland. Pasture land values are less, averaging around £5,500 to £7,000, but smaller parcels will still surprise, particularly with an amenity angle. Currently there is no tail off in demand and whilst there is a continuing shortage of supply we consider the trend will continue.

By and large, landlords took a realistic approach to autumn 2012 rent reviews following a difficult and disappointing harvest and with improving commodity prices. From our experience with AHA tenancies, we have seen rent increases of around 25-30%.



SOUTH EAST

David Pardoe
Director – Salisbury

Lack of supply remains the dominant feature in the farmland market in this area. 2013 has seen only a handful of commercial units brought to the market, though there have been several auctions and various sales of paddocks and individual fields.

Much of the recent trading activity of larger acreages or units has taken place privately, off the market. This is leading to a degree of frustration amongst the (many) potential buyers and this imbalance between weak supply and strong demand is having its customary effect on prices.

Whispered talk of larger units being brought forward during 2013 is causing considerable speculation, and it will be interesting to see how this affects bidding in due course. We do not expect to see supply matching demand and anticipate that the recent increases in prices will continue throughout the year.

Supply of land to rent is even more constrained, and though the demand remains strong, rents paid are limited by the short term financial implications it has for tenants, particularly in the light of the effects of the weather last year and the ongoing effects that it will have over the next season or two.

EAST MIDLANDS

Harry Baines
Director – Stamford



Ongoing unease in financial and non-agricultural property markets continues to fuel demand for farmland. There is, however, a noticeable gap emerging between pasture and arable land values, particularly where the pasture cannot be ploughed either physically or due to its status as permanent pasture.

There also seems to be a difference in opinion of value between working farmers looking to justify the purchase and investors eyeing high rental returns. At the time of writing, no evidence of current rental levels for either spring rent reviews or new lettings has been seen. It will be interesting to see whether two consecutive poor harvests will affect these, in particular FBT tender rents and investor activity/bidding levels.

Land values are now very location specific – where two or more acquisitive farmers or investors are competing, prices can be as much as 20% higher.

Local values are typically £8,000 to £8,500/acre for good arable land with competitive bidding and around £2,000/acre lower for grass, particularly if permanent pasture.

Finally, there is no change to the market for estates with large mansions; this remains weak as buyers do not want a large house with high running costs.



COTSWOLDS

Christopher Jerram
Director – Chippenham



Landowners with rural offices are finding the current climate difficult for re-letting. Unless they are located close to business centres or provide good transport links, the rents are likely to see a significant drop at renewal or upon a new letting.

There is the added pressure of empty rates to be paid after the three month exemption period. It is a tenant's market and rent frees, break options and stepped rents are becoming the norm.

One solution is to offer space on a flexible serviced office basis. This remains popular as it provides tenants with known monthly outgoings and regular options to terminate.

SOUTH WEST

Caroline Lawrence
Director – Cornwall



Farmland values in the South West continue to grow with demand generally still outstripping supply. It is anticipated that this trend will continue throughout 2013, although a split market is beginning to develop leading to some wide-ranging price differentials.

Parcels of well located versatile accommodation land, which can be easily added to a neighbouring farm, are experiencing record prices. An example of this is a parcel of land that we sold just outside Taunton, which despite a development uplift clause, sold to a neighbour well in excess of the usual £10,000/acre for land in the area. However, more marginal land is generating less interest with significantly lower prices being achieved.

Although a significant proportion of land has been sold to farmers, private investors are still active as are lifestyle purchasers, particularly when farms have the added advantage of sporting or equestrian potential.

Underdown Farm at Yarcombe, recently brought to the market guided at £1,500,000, ticks all the right boxes in this respect. Comprising 54 acres, it has the benefit of excellent equestrian facilities as well as a listed thatched farmhouse and additional groom's accommodation.

The West Country has undoubtedly been affected by the wet weather but initial signs are that this does not seem to be leading to a withdrawal of farmers from the market. Long term expansion plans, together with the ability to borrow at low interest rates, still seem to be driving the market forward.

FLOODING

A potential reduction in the provision of flood insurance from July 2013 onwards could have serious consequences for some property owners, writes Neil Gladwin

In recent years, insurance for homes and small businesses at risk of flooding has remained widely available and affordable thanks to an agreement between Government and the Association of British Insurers (ABI).

Under the Flood Insurance Statement of Principles, insurers have been obliged to offer flood insurance to domestic property owners and small businesses, including those at significant flood risk, provided the Environment Agency (EA) has plans in place to reduce that risk within five years.

However, when this statement was last renewed in 2008, it was agreed that it should be replaced by a new scheme, without the need for Government intervention. This would continue to underpin flood insurance availability for the 5.2 million homes and businesses the EA estimates are at risk from river, coastal and surface flooding.

In July 2012, the Government announced it was “considering, with industry support, a way of formalising existing pricing arrangements and maintaining the current cross-subsidy between policyholders by means of an internal industry levy”. This would ensure that support was targeted at the most needy.

The new scheme is due to start on 1st July 2013 but despite the above announcement and almost three years of talks, it appears we are little closer to a solution than when the plan was hatched five years ago.

There is now real concern that flood insurance could become prohibitively expensive in many areas and in some cases buildings could be uninsurable unless a new deal is struck soon.

This will undoubtedly bring even greater focus on the issue of flooding at a time when we have seen more extreme flooding events, and in particular will impact on future planning and development. While the recent National Planning Framework

effectively puts an end to unnecessary building on flood plains – something to be welcomed – landowners considering development in areas near floodplains or other low-lying areas subject to flooding will need to do their research very carefully.

Close examination of the Environment Agency’s flood risk maps would be a good starting point. However, these are fairly broad brush so for sites where any doubt exists a specific flood risk assessment of the individual site is likely to be necessary, which will also address the risk of flash flooding from other sources. Risks associated with surface run-off and groundwater are not reflected in the EA flood risk maps and are often underestimated.

In all cases, it is worth bearing in mind that periods of heavy rainfall are predicted to become more common as climate change accelerates, something to consider when building in safety margins. Indeed, the ABI now specifically states that new buildings must be located and designed to ensure that they are able to withstand climate change – particularly increased flood risk. In addition, insurers will only insure new development if a flood risk management plan is implemented.

These insurance issues will also have consequences when it comes to valuation and suitability as mortgage security. The fact that buildings are problematical or expensive to insure due to flood risk, assuming they can be insured at all, will have a knock-on effect on their marketability. This is particularly the case where potential purchasers might have relied on mortgage funds, and that in turn will have a direct impact on the market value of the property.

While I suspect a new deal will be agreed, any resolution is likely to put more responsibility onto owners. They will very probably have to take steps to reduce the

risk of flooding to their property and to minimise claims if it does occur, in the same way that home contents insurance costs may be mitigated by providing additional security measures.

The EA website provides some useful tips in this respect, including:

- Assess flooding risk – not just rivers and sea but from surface and groundwater flooding too
- Try to keep floodwater out – adapt doors, walls and floors and fit non-return valves to drains and pipes
- Minimise damage if water enters – dry-line walls, use water-resistant materials on skirting, flooring, doors, windows and fittings. Raise electrical sockets. Fit an underfloor pump
- Protecting against shallow flash floods can cost as little as £2,000–6,000 according to the ABI, but £20,000–40,000 to keep out prolonged flooding.

Be sure to contact your insurers as soon as the work is completed as premiums are likely to be considerably lower once such work has been carried out. Alternatively, consider specialist brokers who may be able to offer better terms than general insurers, a point worth bearing in mind for any property still deemed at risk.

For more information on flooding, including risk assessment, protecting property and dealing with a flood event, the RICS Consumer Guide to Flooding can be downloaded at www.rics.org/flooding

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Many councils will be putting more focus on flood prevention over the next few years in a bid to cut the huge cost that such events cause.

There may be opportunities for landowners with suitable land close to built-up areas at risk from flooding to provide floodwater retention facilities upstream or flood relief areas downstream to enable water levels to be managed.

Farmers could consider forming a consortium and approaching local authorities, on the basis of providing a more cost-effective option than more traditional forms of flood defence.



Colin Tebb MRTPI and Judy Pearson MRICS FAAV

Proposed new permitted development rights could make it much easier for landowners to breathe new life into old farm buildings

Development controls on agricultural buildings are set to be relaxed this spring as part of the Government's plan to widen permitted development rights.

Under the new legislation landowners will be able to convert redundant farm buildings to business uses without the need for full planning permission. How much this will help the Government's aim to promote rural prosperity remains uncertain, but simplifying change of use as permitted development will certainly make the process more straightforward.

This could provide useful opportunities for some farmers and landowners to generate new income by converting redundant farm buildings into a range of business uses. According to the Government's announcement earlier this year, this could include shops, restaurants, small hotels, leisure facilities and offices. It is also hoped that holiday lets and B&Bs will be included, although this needs to be clarified.

In addition, the changes could help reduce maintenance liabilities on redundant buildings and improve the holding's overall capital value.

There are of course conditions attached. Details remain somewhat unclear, but

agricultural buildings over a certain size will still require prior approval, similar to that currently needed for new agricultural buildings, to protect against undesirable side-effects such as traffic, noise and flooding. However, this process will still be considerably quicker, easier and cheaper than getting full planning permission. A prior approval application currently costs £80, with the council having to respond within 28 days, compared to £385 for a normal planning application, which has an open-ended timescale for determination.

These new permitted development rights cover change of use only. Additional development such as access, drainage and external alterations to the building are likely to need planning permission, though again this will be less onerous than if the whole project had needed planning permission.

The fundamental difference is that prior approval generates a simple yes/no decision on whether a development legally requires planning permission, whereas a formal planning application involves consultations with local residents, councillors and the parish council, who will respond subjectively, outlining what they like or dislike about an application, and can ultimately refuse it altogether.

A further change under the introduction of new permitted development rights will allow change of use from offices to residential. Indeed, this is a key plank of the strategy, aimed primarily at regenerating urban areas, but it could have a useful spin-off for rural landowners who have already converted farm buildings to offices.

How long a building needs to have been used as an office remains to be seen, but it is likely that there will be some rules to prevent a "stepping stone" conversion to commercial use and then onto residential. It should be noted that no provision has been made to convert directly from farm building to residential - that would still require full planning permission.

Another point worth noting is that local authorities can seek exemption from the new permitted development rights, provided that they can demonstrate substantial adverse economic consequences, such as the scale of change being such that it would have a substantial adverse impact on a rural locality. This could result in something of a postcode lottery.

At Chesterton Humberts, we can advise on the finer detail of these reforms and help put your business plans into place.

Planning policy update

Planning policy is one of the more controversial shake-ups of the coalition government, and was created to provide a simpler policy with people at the heart of the process. Here's a brief look at how some aspects of the new system are working:

Sustainability

The National Planning Policy Framework (NPPF) reduced the amount of planning guidance to a bare minimum with a presumption in favour of sustainability - economic, social and environmental. This presumption is now key to the success of any application.

With regard to particular applications, how sustainability is assessed may be read differently. Traditionally, a development would only be sustainable in an area where there were plenty of services. The reverse argument could now be made - that the area would not be sustainable without an increase in population to bring about more services.

Local Plans

Legislation demands that Local Planning Authorities (LPA) produce a Local Plan that is compliant with the new framework. They also need to prove that they have a deliverable five-year land supply.

An independent inspector will examine these plans and will look for objectively assessed development, a positive reaction to the perceived need for greater housing provision.

Land Supply

The five-year supply is not new, but Government has added an additional 5% buffer to ensure choice and competition in the land market.

If an LPA does not have a five-year supply there may be an opportunity for a successful application for housing development. Even if the site is not preferred by the LPA, provided it satisfies the sustainability test the chances of obtaining permission are increased.

Agricultural Planning

Annex A of PPS7, which contained guidance on agricultural dwellings, has been replaced by the NPPF. Specifically, Annex A detailed the functional and financial tests for agricultural dwelling need.

The new guidance is very limited and not as detailed, and the content of Annex A may yet reappear as advisory documents. In practice, we see many LPAs continuing to use the detail from Annex A as a material consideration.



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RURAL OPPORTUNITIES

Despite the lack of activity in the current market, this could be an opportune time to invest in rural office development, argues David Pardoe, BSc (Hons) MRICS

There is no escaping the fact that demand for rural office buildings is, at best, flat. Since the economic downturn, the number of empty offices has been rising and some generous discounts are being offered in some areas, both to tempt tenants back and to keep those that remain.

The rush of a few years ago to convert redundant farm buildings to office accommodation has, not surprisingly, slowed to a trickle. The sector no longer looks like a good investment.

However, logic says the market should be a lot more buoyant than it is. Rural office rents are typically just half those seen in market towns around the country, perhaps £7-12 per square foot compared with £15-20, yet most professional service providers – banks, solicitors, accountants and estate agents – continue to pay high street prices for floor space that is largely occupied by back-room staff. Many of these buildings are also underused – they were designed for large numbers of clerical workers rather than today's streamlined workforces.

How much more sensible it would be to relocate these back-room workers to cheaper, more modern and more pleasant rural surroundings that offer all the infrastructure these businesses need, with free parking to boot, while retaining a much smaller and cheaper high street presence for customer-facing staff. Arguably, with online

business increasing all the time, some may not need to retain any physical high street presence at all, but could move their entire office to the countryside.

Logic tends to become reality. If you agree that this is a good idea, it is likely that most professional service providers who stand to gain from it will think the same. It may take several years, but the outcome should be that today's lacklustre rural office market will become one of pent-up demand.

This must present an opportunity for landowners. Committing funds to a rural office project starts to make sense, especially when you consider the added benefit of protecting valuable assets that might otherwise fall further into decay. Such a plan looks even more attractive given the new permitted development rights being introduced by government. These will allow agricultural buildings to be converted to business use without the need for full planning permission, saving time and money.

In addition, the cost of borrowing remains at historically low levels. Provided the investment offers a reasonable return at currently available rents, securing such funds should not present much of a problem to a well-run rural business.

Another factor that is changing for the better is the availability of broadband.



High speed internet access is absolutely key for any rural office project and, with private investment and the Government's Broadband Delivery roll-out, access is improving all the time.

The best way to guarantee occupancy is to establish a pre-let agreement with a tenant, with premises tailored to meet a client's specification. However, such agreements are few and far between these days, so for most it is location that will determine the chances of success.

Obviously, offices that remain accessible to centres of population stand a much better chance of retaining full occupancy. In addition, they need to have good road links, plenty of parking and, as already discussed, a good broadband connection.

I would also advise would-be landlords who are serious about maximising their return on investment to put themselves and their plans in front of every manager at each professional service provider in their nearest town.



Initially, until the market does pick up landlords may also need to offer incentives in the form of lower rents. If that is the case, it will pay to hedge the risk by retaining the ability to re-examine levels at relatively short intervals.

When it comes to advising clients as to whether they should invest, every case needs to be examined closely but, provided it is feasible at current rents and predicted occupancy and the market goes where logic suggests, then projects that tick all the right boxes should attract a wave of commercial agreements in the near future.

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Driving Rural Broadband

Broadband is fundamental to rural growth and yet, according to the CLA, some parts of rural England have less than 0.5 Megabits per second (Mbps).

The CLA wants to ensure that rural areas have access to a minimum of 2 Mbps to enable businesses situated in the countryside to compete equally with urban counterparts, writes Pippa Turner, CLA south east communications manager.

The CLA is calling on Government to provide an appropriate framework allowing rural communities to “piggy-back” onto public sector broadband which already exists in many rural locations such as schools and libraries.

Until a fixed-line broadband infrastructure is put in place, other technologies must be used to bridge the rural/urban digital divide. The CLA advocates a ‘patchwork-quilt’ model whereby technologies such as wi-fi and satellite become widely available and used by rural businesses. However, the Government must create the right conditions for this to happen.

The CLA wants local authorities to ensure contracts awarded to infrastructure providers include fair compensation provisions for any failure to meet time and coverage requirements.

The Green Deal

A new scheme designed to improve the energy efficiency of property could prove attractive to estates and other landlords, writes Hannah Twells, BSc (Hons) MRICS

When it comes to energy efficiency, the UK's property stock is among the worst in the EU. It accounts for one third of all the country's carbon emissions, an alarming figure in this world of rising energy costs and growing concern over energy sustainability.

In recent years, we have seen several Government schemes aimed at slowing down the rate of climate change by reducing these emissions and preserving fossil fuel stocks.

Two key schemes were launched in 2011: the Feed-in Tariff, designed to encourage uptake of renewable energy technologies by those generating their own electricity; and the Renewable Heat Incentive, introduced to encourage the uptake of non-domestic renewable heating projects.

To date, demand for energy efficient measures has been low and sadly, Government schemes have had little consumer "pull", generally due to the high costs involved and the time taken to reap the benefits.

To address this, under the Energy Act 2011 the Government made provision for the Green Deal, which was fully launched on 28th January 2013. This new initiative provides a funding mechanism aimed directly at home owners and businesses to employ more green measures to improve the energy efficiency of both domestic and non-domestic properties.

The Green Deal is likely to be of special interest to landlords as the Government seems determined to encourage them to take steps to improve the energy efficiency of their properties, having stated that it intends to

introduce legislation to prohibit the renting of properties that have F or G band ratings on their EPCs by 2018.

Unlike other schemes, the Green Deal is not a grant, but a loan taken out from an accredited Green Deal provider. This loan is then repaid through the savings on the electricity bill over an agreed term (up to 25 years) meaning that landlords are able to benefit from an improved property without any upfront costs.

The "Golden Rule" of the Green Deal is that the cost of installed measures plus the loan interest rate must not exceed the total reduction in energy bills over the loan period.

The process begins with an appraisal by an approved Green Deal assessor, who generates a report that includes an up-to-date Energy Performance Certificate (EPC) and recommendations on appropriate improvements. The report also contains an indication of whether these improvements will pay for themselves through reduced energy bills.

The client can also obtain quotes for improvements from other Green Deal providers. Once one is chosen a contract will be drawn up to include the work, the loan amount and interest rate.

The scheme is on a first-come, first-served basis and includes a total of 45 qualifying energy-saving measures. These include double glazing, draught-proofing around windows and doors, insulation of cavity walls/external walls/internal walls and lofts, and renewable energy installation.

There are several key points to consider:

- Loan repayments are fixed to the property and the bill payer is responsible for the Green Deal repayments. If a let property becomes vacant that responsibility transfers to the owner.
- Tenants must obtain their landlord's permission before taking up a Green Deal because of potential alterations to the property and to address the financial matters.
- Landlords must also obtain tenant's permission as generally the tenant is the bill payer and therefore they are obliged to repay the loan.
- All improvements are quality assured.
- Warranties and guarantees are a fundamental part of consumer protection.
- Green Deal improvements, repayment terms and lengths plus provider must be stated on the EPC of any property let or sold.
- Planning consents may have to be agreed and professional advice sought; for example solar panels or heat pumps may fall within the category of permitted development, and listed properties may need additional permissions.

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ECO

Running alongside the Green Deal scheme is another new scheme, the Energy Company Obligation (ECO). Unlike the Green Deal, projects funded by the ECO do not require repayment and are effectively a grant. However, the availability of ECO funding is far lower than that of the Green Deal.

The ECO scheme provides targeted additional financial assistance via energy providers to low-income households or to hard-to-treat (usually older) properties that cannot achieve the necessary savings to cover Green Deal repayments – i.e. cannot meet the “Golden Rule”.

CAP REFORM

Charlotte Smithson outlines some of the recent developments providing further clarification relating to the CAP Reform, which is due to commence in 2014 but is likely to be delayed until 2015.

The EU Budget for 2014-2020, which is known as Multi-Annual Financial Framework (MFF), has now been set by EU leaders at 3%. This is a compromise to partially satisfy the contributor countries e.g. UK and Germany.

Transferring of Payments – member states have been allowed to move up to 15% of funds from Pillar 1 (direct support payments) to Pillar 2 (rural development/ agri-environment payments). This transfer will replace voluntary modulation which currently runs in England at 9%. This will greatly boost Pillar 2 funds but is likely to cause a lack of equality across Europe. Transferred funds are to be matched by member states which will provide a large pot for better funding in rural development.



Capping – it has been decided that member states can voluntarily introduce capping of large farms, but this is very unlikely to happen in the UK.

Greening is to be fixed at 30% and to permit agri-environment schemes. However, if an impact assessment backs the move, there will also be a requirement for each agricultural holding to set aside a potential 3% of its land for Ecological Focus Areas (EFAs), a figure that could increase to 5% from 2016 and 7% from 2017. This EFA is to be implemented in a way that will not require land to be taken out of agriculture and that avoids unjustified losses to farmer's incomes. Exactly how this will be done is yet to be clarified.

There have been amendments to Crop Diversification which allows for more flexibility: on arable areas covering between 10-30ha, farmers will need to cultivate at least two crops as opposed to the three originally proposed; and no crop should cover more than 80%, instead of the original 70% proposed. Farms of over 30ha will still need to cultivate three different crops and the principle crop should not cover more than 75% of arable with two main crops together accounting for less than 95%.

Despite heavy criticism, the continuation of both the **Single Farm Payment** and **Environmental Payments subsidies** (dubbed as “Double Funding”) has been allowed, although whether it survives the next plenary session is debatable.

Active Farmer – member states are to draw up lists of ‘Non-Agricultural Entities’ (e.g. transport and real estate companies) to exclude them from Direct Payments unless they can prove farming is “significant” to their business. Countries will be able to add or remove entities from their lists but only after notifying the Commission. This will be based on “objective and non-discriminatory” criteria.

Small Farmers – it has been suggested that member states should have the power to choose whether to implement the Small Farmers scheme. In the countries that do implement it, farmers earning less than €1,500 should automatically be included and annual payments are to be no lower than €500 and no higher than €1,500 (instead of the €1,000 originally proposed). These farmers will also be automatically exempt from the new greening rules.

Young Farmers – it has been suggested that this has to be a compulsory scheme and member states should allocate to it 2% of the national envelope. 25% top-ups in payments per hectare should be up to a limit of 100ha. Some MEPs want to allow member states to grant a complementary annual payment to farmers on the first hectares of their land and any funding for this scheme is not to exceed a maximum of 30% of their annual ceiling which is to be shared equally across eligible farm hectares and should not exceed 50ha for each farm. This scheme has taken some criticism and is believed it should be voluntary.

Entitlements – it has been agreed that the payment entitlements previously allocated can be maintained, which should result in avoiding any delays that were potentially going to be caused. It has now been confirmed that in the event of a sale, merger scission, or lease of a holding, the farmer may transfer the right to receive payments to the farmer or farmers receiving the holding or parts of it.

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RURAL NEWS BOARD

Life after the AWB

Richard Saville, MRICS

The Agricultural Wages Board (AWB) currently sets the minimum wage and other terms and conditions of employment (e.g. holidays and sick pay) for workers employed in agriculture, protecting not only farm workers but also those in related employment such as forestry or field work at garden centres. The AWB produces a legally binding 'Order' in October each year which details minimum wage rates that are usually higher than the national minimum wage.

The Government recently confirmed plans to abolish the AWB and bring agricultural workers under the National Minimum Wage Act and the Working Time Regulations, in-line with workers in other sectors of the economy. These changes are part of a package of reforms set out in the Enterprise and Regulatory Reform Bill which is proposed to come into force in October 2013.

However, the proposed abolition has come under heavy criticism, especially by trade unions, which fear that some employers may try to reduce wages. More recently, the House of Lords voted against the bill, concerned that an "essential safeguard" was being removed. This does not mean that abolition will not now go ahead but it does mean a further vote on the issue is needed.

Both the Scottish Parliament and the Northern Ireland Assembly have decided to retain their respective AWBs, and the Welsh Assembly has announced that it is to "explore all the options to ensure that the functions of the AWB are maintained in Wales."

In advance of the possible changes in legislation, employers may wish to familiarise themselves with the basic principles of the National Minimum Wage Act and the Working Time Regulations and review existing and future contract documentation and employment practises, but in the meantime, agricultural workers should be paid in-line with the current Agricultural Wages Order 2012.

With a highly experienced and qualified team, Chesterton Humberts is able to offer its clients help and advice on how the abolition of the AWB may affect them.

Review of Wildlife Legislation

Tom David, MRICS

On 30th November 2012, the Law Commission completed a consultation on the review of the current wildlife legislation. The current law is enshrined in a collection of Acts, some of which date back as far as 1831. The original purpose of much of the law was to govern activities such as hunting and fishing, including poaching, but over the years this has expanded to conserve certain species, ensure the welfare of wildlife and protect local biodiversity from invasive species.

The result of this is a series of legislation that is out of date, confused and often contradictory. For example, the hunting, management and welfare of pheasants is governed by four separate statutes. Much of the older legislation is no longer in keeping with modern requirements and the principal modern Act – the Wildlife and Countryside Act 1981 – has been amended so many times that it is difficult for any non-specialists to use.

The proposals put forward by the Law Commission following its consultation aim to simplify the existing complex framework, placing wildlife law into a single statute. The new regime would reduce the current dependency on criminal law by allowing an appropriate mix of regulatory measures such as guidance, advice and a varied and flexible system of civil sanctions – including fines and bans.

The Law Commission's recommendation was that there should be a single statute which covers the species-specific law on the conservation, protection and exploitation of wildlife. As much of the finer detail will be unknown until work on drafting the bill commences, we will have to wait and see exactly how this affects the rural landscape. On current timescales, the Law Commission intends to publish a final report with recommendations and a draft Bill by 2014.



Wildlife and Countryside Act 1981

1981 CHAPTER 69

An Act to repeal and re-enact with amendments the Protection of Birds Act 1954 to 1968 and the Conservation of Wild Creatures and Wild Plants Act 1980.

Enacted by the Queen's most Excellent Majesty in Council, with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same.

Beaters - Employed or Self Employed

Christopher Jerram, FRICS

The introduction of HMRC's new Real Time Information (RTI) system, which means that employers must submit PAYE information to HMRC online every time they pay employees (i.e. in 'real time') rather than just once a year at Payroll Year End, presents something of a bureaucratic headache for shoots next season.

Currently, there is an agreement in place with HMRC that if beaters are employed for a period of up to one day, and providing there is no agreement for further employment and they are paid cash at the end of that individual day, PAYE does not apply.

If beaters are paid through RTI, this indicates that they are an employee and if they are not, then the implication is they are self-employed. Although a gamekeeper is sometimes regarded as self-employed it is rarely the case for beaters.

Therefore, even if PAYE does not have to be operated from April 2013, shoots will still be required to keep records of earnings to include names and addresses of beaters and the total amount of their earnings during the tax year. An employer may be required to report on an annual return P35 at the end of the tax year details of any person who has received payments in excess of £100.

It is therefore advisable that beaters should be treated as 'daily casuals' and paid cash at the end of the day and engaged for one day only at a time. Shoot organisers should be aware that even something as simple as saying "see you next week" could tip the arrangement over into a contract of employment with onerous obligations for both PAYE and National Insurance.

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