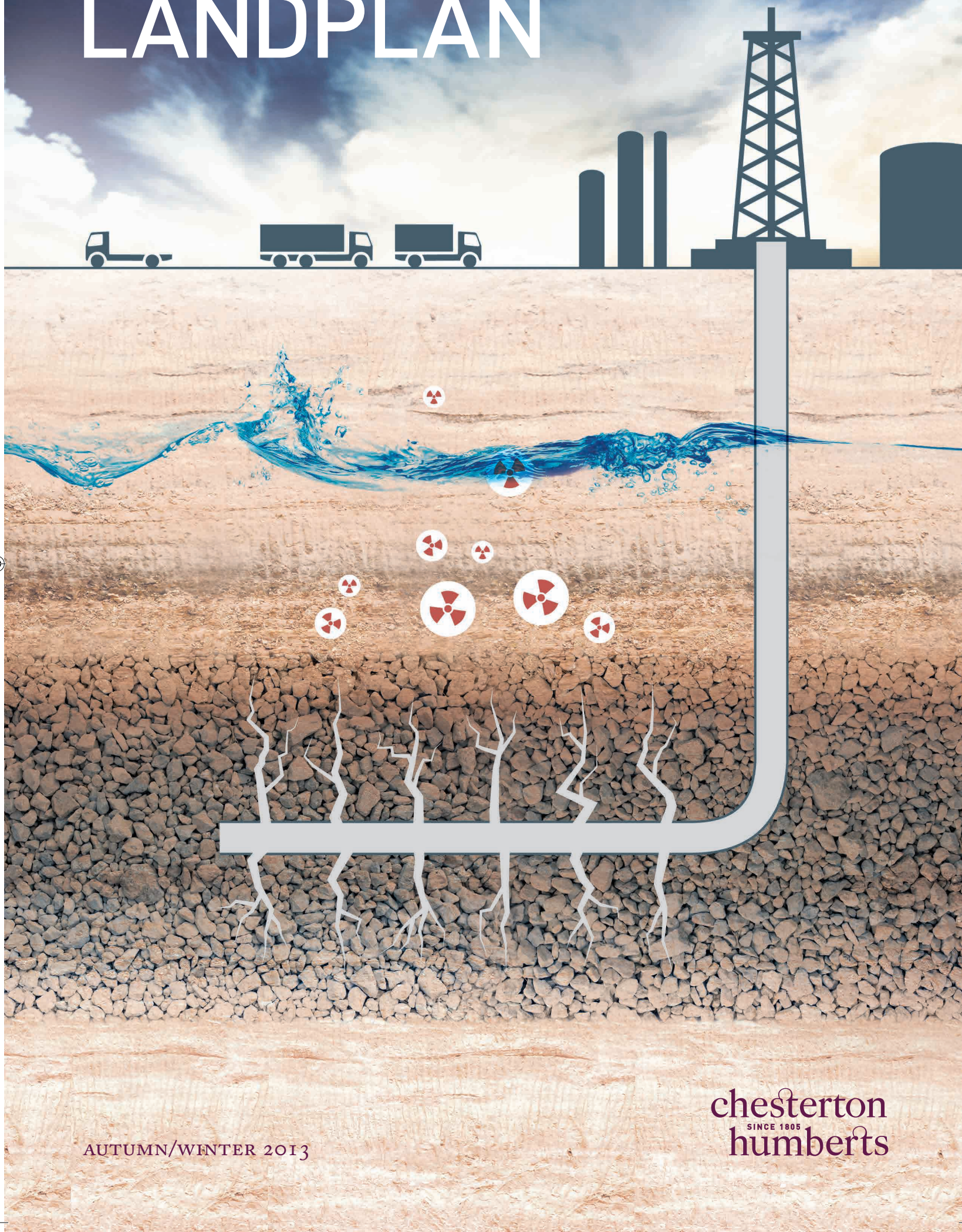


LANDPLAN



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FRACKING

Fracking could offer a windfall to landowners who can lay claim to gas-rich shale deposits.

PG 8



ESTATE MANAGEMENT

Formalising the decision-making process is crucial if today's estates are to be managed to their full potential.

PG 10

LANDPLAN



FUTURE OFFSETTING OPPORTUNITIES

A range of new environmental offsetting schemes being examined by government will, if adopted, have significant implications for land management decisions.

PG 12



Also inside this issue

- 4 Farmland Market Review
- 6 Regional Round-up
- 14 Neighbourhood Plans
- 16 CAP Reform
- 18 Rural News Board

INTRODUCTION

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In the recent editions of our Landplan bulletin, my introductions have referred to disastrous harvests, severe weather conditions and falling farm income.

It is therefore encouraging to be able to write this introduction in a much more positive mood.

Whilst there is no doubt that the first half of the year was taxing, the return of the traditional English summer came in time to rescue the harvest from being another disaster and produce a result that was at least acceptable and in some cases very good. The warm period also reduced harvesting costs and generally, winter cropping has been drilled in the best conditions for some time. The overall effect has been that of a mood swing across the industry, with an air of optimism returning for the first time in two years. The improved results and reduced costs have also eased some of the cash flow issues that have developed over the recent past.

In the wider rural economy, business confidence has also increased with the CLA reporting greater optimism in the second quarter than the first and both farming and non-farming businesses planning to employ more people in the next 12 months. Investment by non-farming businesses in the rural community stands at its highest level for a year. With the IMF having recently upgraded its projection of growth in the UK for 2013 to 1.4% and the political parties beginning to focus on the 2015 election, the government, and the Chancellor in particular, will be keen to maintain the momentum that appears to have at long last begun.

Across the sector, investors still believe that land ownership offers fiscal advantages and security that warrants consideration. According to Chesterton Humberts' Agricultural Rural Land Estates Survey (CHARLES), average farming values reached a new record level of £10,523 per acre at the end of June. Growth in agricultural estate values accelerated by

2.1% in the second quarter and our five-year forecast predicts annual growth of 5%.

Whilst buyer demand for farmland remains firm, a divergence appears to be developing focussed on size, quality and location with the strongest demand for large scale units.

Whilst we continue to report on CAP reform, it is pleasing to see that at long last the end is in sight. Although it will be well into 2014 before some farm-level effects become clear, it is helpful to know that some of the principal issues are resolved concerning the basic payment scheme and the familiar 2 pillar model. DEFRA secretary Owen Paterson is yet to provide the details concerning agri-environment schemes but it is very much hoped that should 15% of direct payments be diverted, the benefit of the main schemes will outweigh the competitive disadvantage that this will cause to the farming community.

Elsewhere, politics is causing both encouragement and concern: changes to the planning regime are offering potential advantages and opportunities for land owners and farmers whilst the threat of a mansion tax could prove disastrous to much of our heritage. The Historic Homes Association (HHA) recently reported that the backlog of urgent repairs has risen by 96% in less than four years, whilst the amount owners are able to spend on their repairs has fallen by 27% since 2009.

At the time of writing however, it is encouraging to be able to report on an optimistic economic mood and at a time when much of the autumn drilling has already taken place. A much better position than this time last year.

FARMLAND MARKET REVIEW

The farmland market remains characterised by a shortage of available land for sale and the after-effects of the extremely volatile weather conditions of the past few years.

The cumulative effect of the poor weather has persuaded a number of farmers to rethink their operational strategy in order to reduce debt. In some cases this has resulted in farmers selling up, or seriously contemplating doing so, whilst land values are strong.

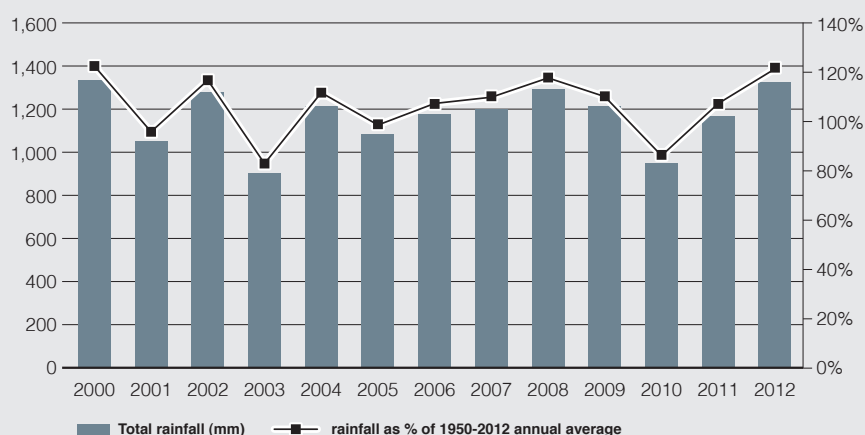
Going forward, much depends on the attitude of the banks, which has so far been generally supportive. However, there are signs that some lenders are taking a closer

look at the quality of their loan books. Whilst there is seldom an issue with the underlying value of the assets, there appears to be a tougher line being taken with regard to debt servicing. In fact, seasonally adjusted data from the Bank of England suggests net lending to the sector has been trending downwards in each of the first two quarters of 2013.

Whilst buyer demand for farmland remains firm, it is very much focussed on size, quality

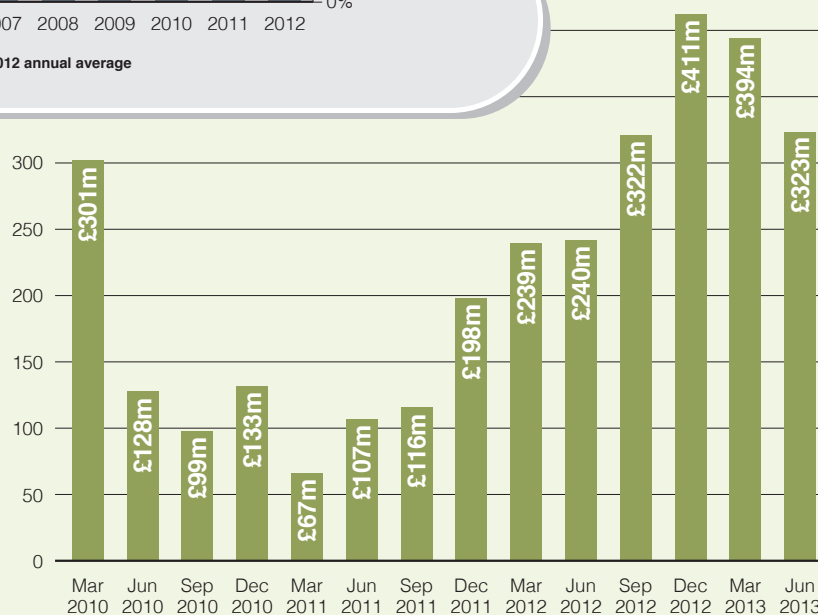
and location. The strongest demand is for large-scale commercial units offering high quality buildings and facilities, and bare land in locations with good access. Units which are contiguous with buyers' existing operations are especially attractive and allow for some compromise on size. Units with a large residential element are less in demand.

Farmers remain the main buyer category in terms of transaction numbers, but private investors – including foreign investors who



Quarterly net lending to agriculture, forestry and fishing (seasonally adjusted)

SOURCE: BANK OF ENGLAND



are benefiting from the current weakness of sterling – account for the majority of high-value deals. Institutional investors remain reluctant to invest in UK farmland.

Land values have continued to rise over the first half of the year, largely driven by sustained demand for larger units, in particular commercial farms. The Chesterton Humberts Agricultural Estates Index (which tracks Grades 1-3 land values and incorporates the value of the estate within which the land is contained) recorded growth of 2.5% in H1 of this year to stand at £10,523 per acre at the end of June. Regional variation is apparent

and in our experience, growth in values is strongly linked to availability at the higher quality end of the market, in particular for commercial blocks and bare land.

Looking ahead, the market is likely to become increasingly polarised, at least over the shorter term, as sustained growth in land values over recent years has made purchasers more selective with regard to the quality and pricing of assets. Larger parcels of good quality, well-located land should continue to attract sustained demand and experience further growth in capital values, especially those offering modern commercial facilities. Secondary units may hold their value or

see a slight uplift in values, however lesser quality land is likely to experience falls in value and may struggle to find buyers. We forecast growth of 5% per annum for estates over the next five years, again with regional variation apparent according to local supply and demand characteristics.

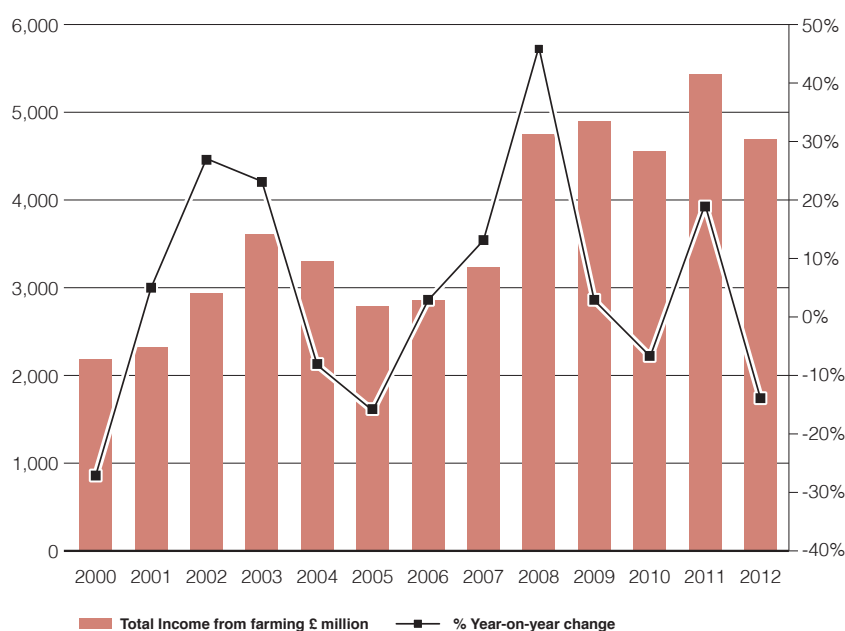
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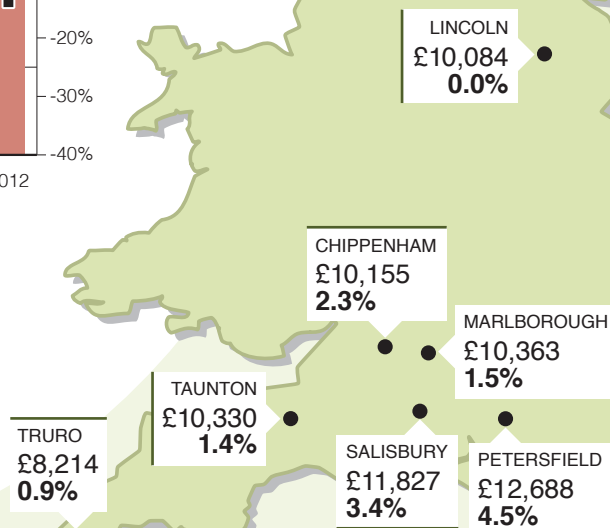


Real total income from farming

SOURCE: DEFRA

Average regional agricultural estate values as at end-June 2013 and 3-month growth

SOURCE: CHESTERTON HUMBERTS RESEARCH



REGIONAL ROUND-UP

With a better-than-expected harvest in 2013, demand for commercial farmland remains high. This, together with the lack of supply in many areas, continues to drive prices up. Chesterton Humberts' experts explain



CENTRAL SOUTH

Charles Lucas
Director – Marlborough

The rural land market is still being driven by commercial farmers who are keen to expand their existing enterprises but are increasingly discriminating in their demands. Ideally, any residential element should be as small as possible and good quality bare land is ideal. We are certainly seeing some price differential with smaller blocks and land of lower soil quality attracting much less interest and consequently achieving lower average sale prices. Demand from the investment market sector continues to be supported by favourable tax treatment and its perceived safe haven status, provided of course these investors can prove that they are "active farmers".

Good quality arable land in reasonable sized blocks is continually achieving £10,000 per acre or more and secondary quality will go down from there. Pasture land is generally £2,500 per acre below that of arable.

There is still a shortage of land coming to the market in our central southern region and it is our opinion that prices will continue at their current level or harden further into 2014. The CAP proposals from 2015 onwards are not having any impact on land sales unlike previous uncertainty of CAP reforms.



SOUTH EAST

David Pardoe
Director – Salisbury

It is difficult to define any fundamental changes to the market since I last wrote in this column in the spring: supply remains constrained relative to demand and pressure has been maintained on prices.

A considerable proportion of transactions continue to take place privately, reflecting, perhaps, confidence on the part of sellers, who believe that the limited supply will force private buyers to perform at least as well under exclusive conditions as they might under competitive tendering.

There have been a number of commercial units and country estates on the market over the course of the summer. Though interest has been reassuringly healthy across the board, it would seem that, on the whole, buyers of agricultural units are in the market in greater numbers and are more forward than buyers of estates. It is, perhaps, this emerging layering of the market that is driving an increasing gap between values of bare, high quality land, and prices per acre for poorer land or residential units (beyond any area with "marriage value" to the house).

Many of the same comments could be applied to the rental market, where the discrepancies between payments agreed at rent reviews and those for new lettings are surely a cause for increasing concern for all involved.

EAST MIDLANDS

Charlotte Smithson
Associate – Lincoln



Demand for large commercial units in the East Midlands continues to outstrip supply with many sales continuing to be private off-market deals. We are, however, starting to see smaller blocks of between 300-600 acres coming to the market. These are varying between vacant possession land and investment land parcels.

Values continue to remain high, in the region of £8,000-£10,000 per acre depending on varying factors such as size, location, topography etc.

Rental values remain high for larger acreages – in the region of £200-£280/an acre for a Farm Business Tenancy – however, smaller blocks and individual fields can be found in the region of £140-£180/an acre. Under an Agricultural Holdings Act Tenancy, rents continue to be in the region of £65-£90/an acre for arable land.

Following on from what appears to have been a better harvest in 2013, with higher yields than were initially anticipated by many farmers, it is likely that rental values will not be affected as first thought.

While the trend of investors purchasing bare agricultural land remains strong, the market for estates with a large residential dwelling and cottages remains weak in the East Midlands.



COTSWOLDS

Christopher Jerram
Director – Chippenham



Throughout the Cotswolds and across all property types, 2013 has been a busy year with an underlying sense of pragmatic optimism. The market for residential farms and large country houses has remained strong with increasing prices whilst, in the South Cotswolds in particular, the supply of property coming to the market has increased by over 50%. The number of farmland sales reported has been low but the flow of paddocks and woodland coming to the market through the year has been consistent with strong prices being achieved including over £10,000 an acre for a number of medium sized amenity woodlands.

Changes in the planning regulations are having an impact on farm business units, especially offices, but not as

one might expect. Few schemes have started to convert farm buildings to commercial uses but new lettings of existing space have increased. This has been driven by the reduction in the availability of office space in market towns as the conversion of offices above shops is now much easier and being pursued by many landlords. This effect, combined with a general uplift in the economy, means we see demand for rural business units in the Cotswolds increasing as we move into the new year. All in all a steady but positive outlook across all sectors in the region.

SOUTH WEST

Caroline Lawrence
Director – Cornwall

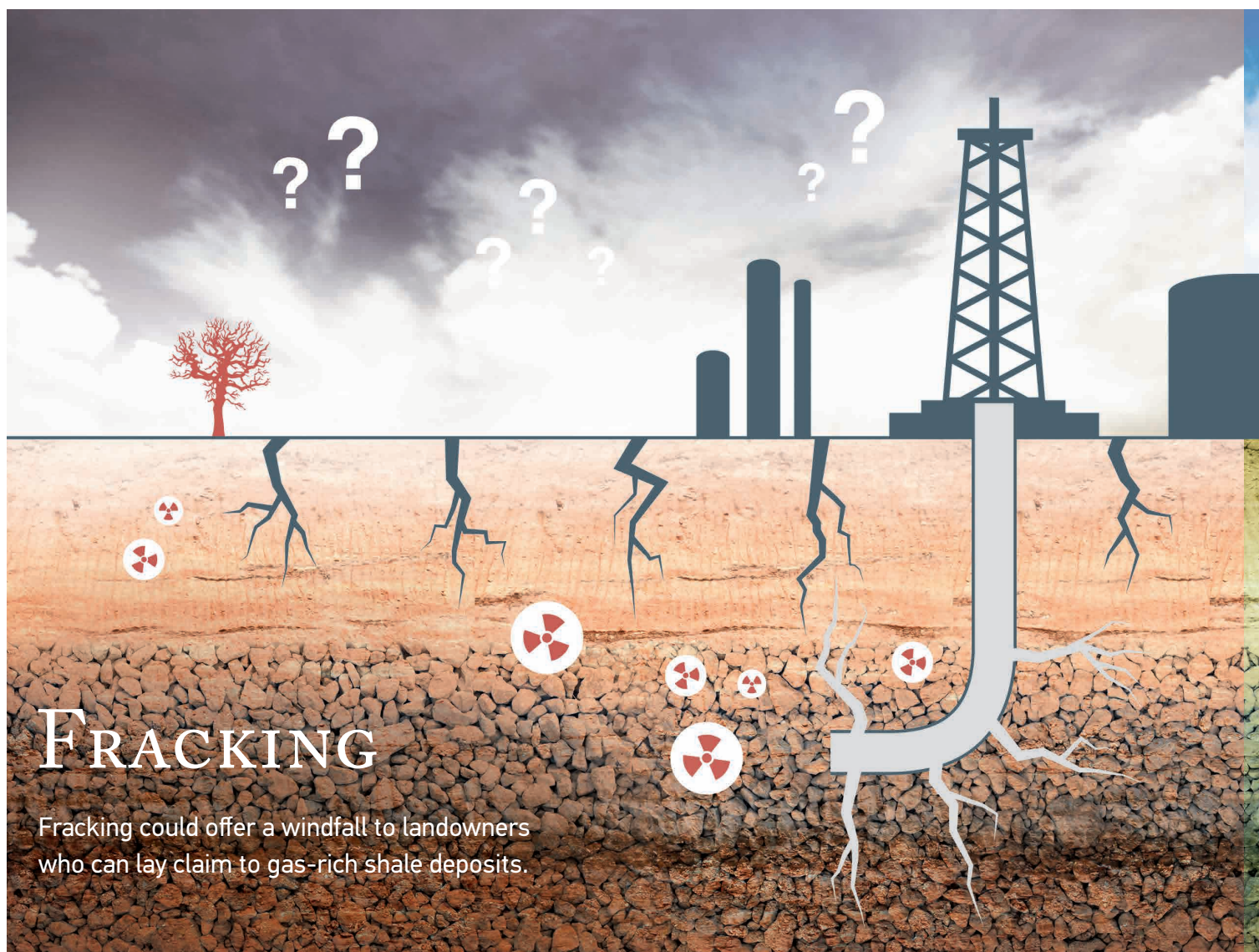


Recent months have seen a strong return to the market of the lifestyle buyer, particularly in the eastern part of the region.

Privacy, together with accommodation which either is of a good quality or has potential, is key. Reflecting this trend was Conigar Farm on the Devon/ Somerset border which sold recently with an asking price of £940,000. The main lot comprised 30 acres which offered complete privacy to the house.

In other sectors of the market, prices for commercial units remain buoyant with demand generally outstripping supply. The split market for bare land reported in the previous Landplan has become more evident as this is both location- and quality-sensitive. Accessible blocks that are versatile in terms of cropping continue to sell well and at prices in excess of 2012 levels.

In all sectors of the market, correct lotting has been essential to achieve the best results. An example of this is Pepperhill Farm on the Quantocks which we recently auctioned. Offered in 12 lots and guided at £1,240,000, it achieved just over £1,700,000 at auction – nearly 40% over the guide.



Fracking could offer a windfall to landowners who can lay claim to gas-rich shale deposits.

Controversial it may be, but fracking could eventually offer a useful income stream to landowners fortunate enough to be sitting atop Britain's significant reserves of shale gas.

However, judging by this summer's headlines, there is still a way to go before the public accept fracking, or hydraulic fracturing, as a mainstream energy source. The technique involves drilling into the earth and injecting a high-pressure water mix to open natural fissures in the gas-bearing rock, then adding a sand and chemical mix to maintain the openings, allowing gas to flow to the wellhead.

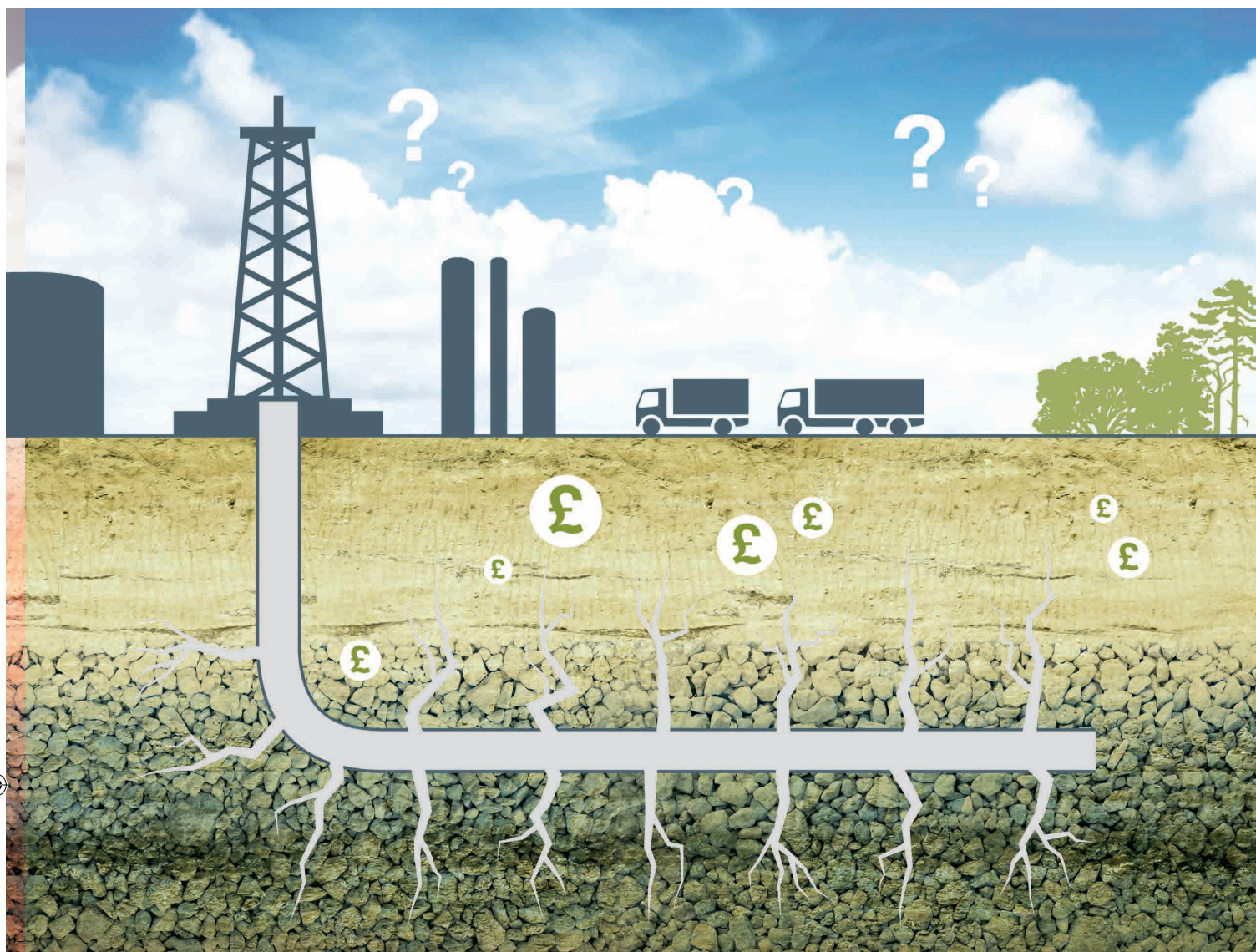
Fracking has been extensively used in the USA for decades, where it can involve drilling vertically and horizontally for several kilometres. Less well known is the fact that it has also often been used, albeit on a smaller scale, in oilfields in

this country. Despite this, the technology has more recently prompted widespread environmental concern. The process involves huge amounts of water that have to be transported to the site and there are concerns that the chemicals, some of which are potential carcinogens, could escape and pollute groundwater.

Another worry is that the process can destabilise rock formations, leading to small earthquakes. Two tremors measuring 1.5 and 2.2 on the Richter scale hit Blackpool in 2011 after fracking activities were conducted in the area. This resulted in a ban on fracking as the government undertook various risk assessments, although the suspension was lifted at the end of that year. There is also an argument that fracking will add to the global reliance on fossil fuels and associated global warming.

The industry naturally defends the practice, saying that contamination is the result of poor procedure and earthquakes arising from the technique are unlikely to be noticed or cause damage. It points out that all fracking in the UK, including exploratory activities, has to be carried out under licence. Nevertheless, judging by this summer's demonstrations at Balcombe, Sussex, which became the focus for anti-fracking protestors when energy firm Cuadrilla started test drilling (for oil), there is much PR to do to convince a sceptical public of the technique's potential merits.

A lot of operators have suspended operations due to the negative attention. Assuming fracking restarts and makes commercial headway, and with more companies showing an interest in Britain's potential for shale gas that may only be a matter of time, wellheads could become common across Britain's



shale gas deposits. These are concentrated in the north, where there are estimated to be some very significant reserves, notably in Lancashire, with further areas in south Wales and along the south coast.

Landowners hoping to benefit from this potential windfall need to establish who owns the deposits. This is not always as straightforward as it seems – one party may own the surface whilst another owns the underlying mineral rights. Manorial rights, in which the “Lord of the Manor” retains ownership of certain rights on land they have previously sold, may also further complicate matters. Landowners who are not entitled to any direct income from the gas may be eligible for compensation for disruption on the surface and may also be able to charge rent for compounds associated with exploration and drilling activity as well as pipelines and storage tanks.

Now is a good time to start researching ownership and the extent of it, and identifying a reputable operator. The necessary agreements for exploration and operation will need to be drawn up and checked, including payment – will this be a flat rate rent or will royalty payments be payable in addition?

Given the contentious nature of fracking, planning and public consultation issues will almost certainly have to be addressed. Fracking, currently at least, is a contentious issue. If the shale gas reserves are economically viable, a decision then needs to be made on whether now is the right time to exploit them or whether it is worth entering into an exclusivity or option agreement with an operator that will grant them the right to extract at a future date.

Behind this brief checklist lies a great deal of detail. Given all these complexities, and the consequences if things go wrong, we would strongly recommend that anyone considering a fracking operation on their land seeks professional advice.

The diverse expertise of Chesterton Humberts’ professional team will ensure a smooth process from planning the operation through to start-up and beyond, helping landowners achieve the best returns from this potentially valuable resource.

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ESTATE MANAGEMENT

Formalising the decision-making process is crucial if today's estates are to be managed to their full potential, says David Pardoe

The typical modern estate is made up of so many disparate parts, be they assets, enterprises, activities or interested parties, that they often feel like big businesses, even when they are not.

Evaluating all these different “moving parts” can be daunting. The typical estate consists of a multitude of property types – residential property for staff, farmworkers, paying tenants and retired employees, as well as commercial and agricultural property and the main house. In addition, it might run a range of enterprises such as farming, forestry, field sports and other leisure pursuits. Interested parties will include family members, trustees and staff, sometimes lots of them. The whole will be subject to a wide array of rules, regulations and law.

Given this complexity, it is perhaps not surprising that some estates either have no formal decision-making process in place or, more commonly, have let it lapse.

There is so much going on that it is easy to get “analysis paralysis” these businesses just end up doing what is next on the list, stagnating rather than building or protecting their business. For example, a decision may be made on a cottage, the shoot or employment in isolation, with no regard to the effects on the bigger picture. In addition, there may be other aspects of the business from which more benefit could be accrued, but which are currently beyond the decision-making process. Too often, there is so much going on at the coal face that it is hard to look beyond it.

The complex nature of estates means that a structured approach to decision making, short or long term, is vital to ensure that the different parts of the business work together and move in the same direction. This will

minimise the negative impact of change on other areas of the business and maximise the benefits, as well as creating new opportunities.

Simply put, that means making a plan or strategy to facilitate decision-making and ensure that decisions, as far as possible, align to the common good. Deciding an objective or set of objectives that is/are quantifiable and can be measured is important. In the corporate world this would be gathered up in a mission or policy statement, and is a good start for any business.

A typical statement might read: “To enhance the performance of the assets while safeguarding the environment and supporting the local economy”. That covers three distinct areas and indicates how the physical assets, enterprises and people involved in the estate can all be aligned to that ethos.

Given the interconnected way of estate businesses, some clear judgement will be needed on what options to include in the short, medium and long term and what to prioritise. It can be very difficult to spot one that might further the estate's aims. Often external expertise and advice can be helpful at this stage—a professional adviser who is not so close to the ground and who has experience of translating these opportunities into actions that will further the aims of the estate. Very often the process will start with a SWOT (strengths, weaknesses, opportunities and threats) analysis, which helps lay out a list of decisions that the estate will face over the short to long term to meet its aims, whether they be defensive, acquisitive or entirely managerial.

Once that is done, the next step is to weigh up the different options' potential to deliver,

followed by agreement on which ones to pursue. It is important to think of this list as a menu—some things will fit in whilst others will be at odds (and may be threats to be dealt with), so choose those that will complement one another and the overall aims.

The next stage is to implement the plan within an agreed timescale. Although this too requires more decision-making, this time it will be carried out within a tight framework. It needs to be set up so the results can be measured, either in financial terms or the appearance of something new.

Once things are up and running, it is important that they are monitored and reviewed, regularly, impartially and objectively. Once again, this is an area where an outside pair of eyes can be invaluable.

Putting such a strategy into place will, depending on the complexity of the business involved, take varying degrees of time and effort. It may involve a lot of interested parties—not just the family and trustees but staff too—all must agree on the end result and be prepared to implement it for the common good.

However, with the right structure, formality and external input, the process is likely to repay the effort many times over. There is not an estate out there that doesn't have at least one unexplored opportunity.

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FUTURE OFFSETTING OPPORTUNITIES FOR FARMERS & LANDOWNERS

While few farmers or landowners will currently be well acquainted with the terms, over the next few years these will become as familiar as the 'Single Payment Scheme', 'Environmental Stewardship' and 'SSSIs'.

Neil Gladwin provides an overview of the thinking behind these terms and how they might work.

Ecosystem services

Last year, the Government set up an Ecosystem Markets Task Force to examine how natural capital—landscape, water resources and wildlife, for example—could be valued to develop economic markets between such green goods and potential investors.

We are used to the idea that the natural environment can contribute to carbon reduction through investment in sustainable management of forestry or renewable energy sources on farms such as anaerobic digestion. There is now a greater appreciation of the opportunities for a better connection between consumers and the land through investment that delivers real benefits, by enabling farmers and landowners to manage resources to provide food quality, water quality, flood alleviation and enhancement of the landscape.

Accordingly, over recent years we have seen emerging markets for opportunities such as carbon-offsetting, which mitigates the impact of carbon production through investment in, say, forestry. Another example is in the peat uplands, where water utility companies have invested in peat restoration to mitigate climate change while at the same time benefiting water quality and security.

The aim of the Ecosystem Markets Task Force is to examine ways to help both sides develop a market which will provide the confidence to make long-term investment decisions. This is where the concept of biodiversity offsetting comes in.

Biodiversity offsetting

The basis of biodiversity offsetting is that any development on land will result in a loss of habitat or wildlife that needs to be compensated for in some way. With the potential encroachment of development into the green belt this will become increasingly relevant in the context of the National

Planning Policy Framework (NPPF).

Often the developer will not be able to provide adequate habitat provision within the immediate site and will therefore look to invest in offsetting at an alternative site within the locality. The potential for farmers and landowners is clear—this could provide an alternative to agri-environment schemes, allowing them to maintain control over the ownership and management of their land while securing long-term funding for environmental improvements such as tree planting, woodland restoration, hedgerow planting and management undertakings in respect of wetlands or arable restoration.

Furthermore, as this is not a statutory obligation, landowners could agree an appropriate price to ensure it reflects the costs and benefits to their business.

Countries as diverse as Australia, Germany, India and the United States and more than 20 others are already using biodiversity offsetting.

Specific biodiversity offsetting pilot schemes have been running in six areas in England since April 2012. DEFRA has now issued a Green Paper on biodiversity offsetting in England, which sets out proposals on how a system could operate. Views are invited through a consultation document 'Biodiversity Offsetting in England' published in September 2013.

One of the key issues is what mechanisms will be needed to secure biodiversity offsetting for the long term—usually perhaps 30 years, but potentially anything between 10 and 100 years. One such mechanism is conservation covenants, which are secured over a property's deeds.

Conservation covenants

A conservation covenant is a voluntary agreement entered into by a landowner,

who promises to do something or not do something to achieve a conservation objective on his or her land.

This could be an agreement to maintain a woodland and allow public access to it, or to refrain from using certain pesticides on native vegetation. These agreements are long-lasting and continue after the landowner has parted with the land, ensuring that its conservation value is protected for the public benefit.

Conservation covenants are used in many other jurisdictions, but do not exist in the law of England and Wales. The Law Commission is investigating whether there is a case for changing this and, if so, what elements might be needed in a new statutory scheme. We anticipate the project will proceed to a draft Bill, with mechanisms in place by 2015.

It is clear that there is a strong will to see these mechanisms develop over the coming years, and this will have clear implications for land management decisions.

Chesterton Humberts will be keeping abreast of such developments and will be well placed to advise farmers and estate owners on potential new income streams and the impact on the market value of land, including some which might otherwise be considered of limited productive value.

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NEIGHBOURHOOD PLANS

12 months after the introduction of neighbourhood plans, a number of parish and town councils across the country have already embraced them and had their area 'designated', allowing local people to choose where they want, or don't want, new homes, shops and offices to be built.

Neighbourhood plans, introduced as part of the National Planning Policy Framework under the 2012 Localism Bill, are intended to 'devolve' power down from the local council and provide a new way for communities to decide their own future.

For those parish and town councils that do decide to adopt them, two government bodies have been set up to assist in this whole process (see www.locality.org.uk and www.mycommunityrights.org.uk). Grants

of up to £7,000 per neighbourhood are available to assist in the costs of preparing a plan and employing professional advice to develop them. However, the period for grant application funding is intended to finish in April 2015.

Neighbourhood plans represent a radical and potentially very significant change in the planning process. Chesterton Humberts is assisting a number of parish and town councils in getting to grips with them,

helping them agree a neighbourhood plan area and getting that area designated. Once designated we will assist the parish in policy formulation, publicity of the plan and all other aspects needed to get the plan published. For example, several parishes are having to create or update their websites to accommodate the entire publication process, and to engage the community in devising their village plan.

HOW IT WORKS – the five key stages to neighbourhood planning

STAGE 1: Designating the neighbourhood

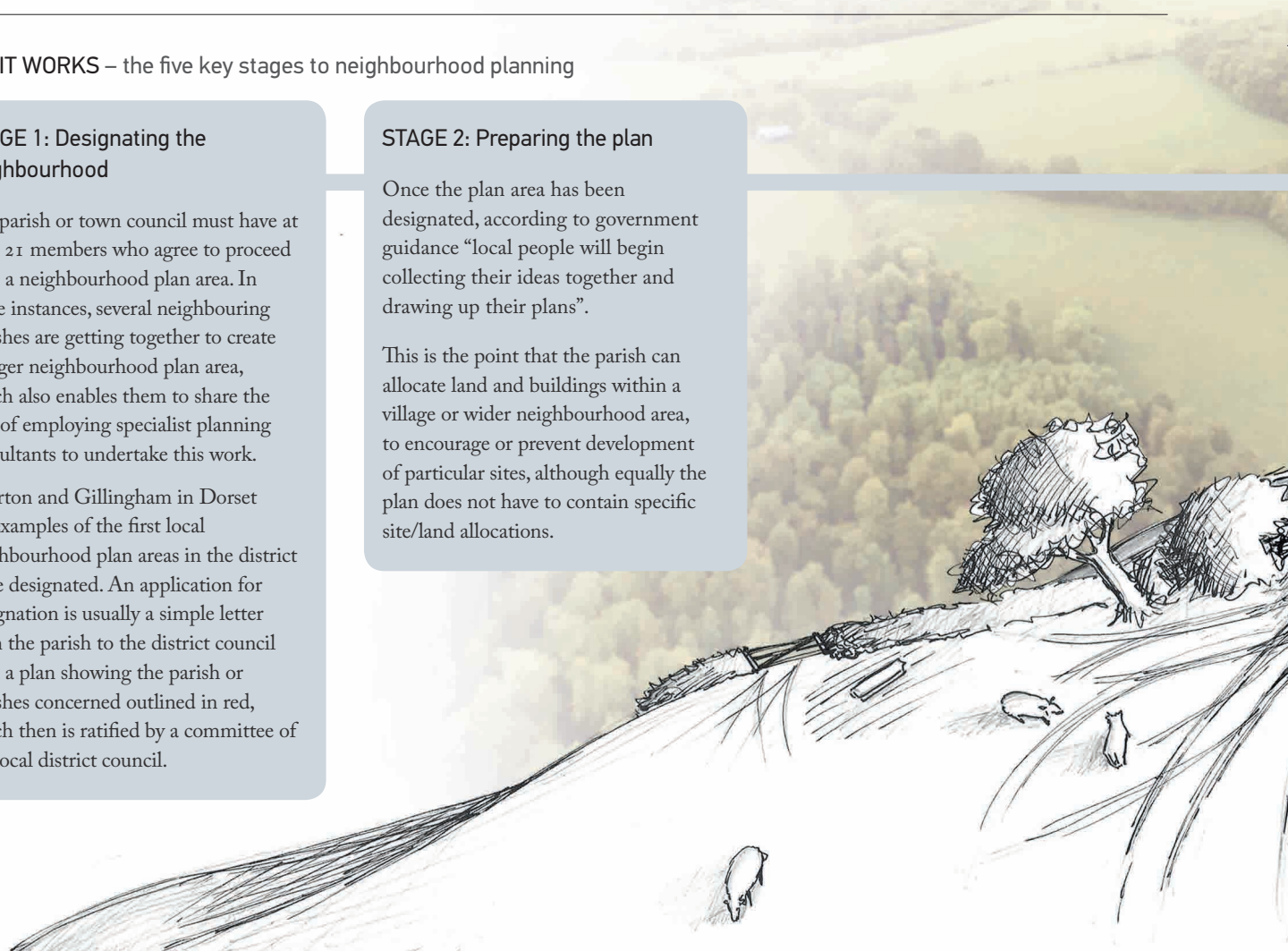
The parish or town council must have at least 21 members who agree to proceed with a neighbourhood plan area. In some instances, several neighbouring parishes are getting together to create a larger neighbourhood plan area, which also enables them to share the cost of employing specialist planning consultants to undertake this work.

Bourton and Gillingham in Dorset are examples of the first local neighbourhood plan areas in the district to be designated. An application for designation is usually a simple letter from the parish to the district council with a plan showing the parish or parishes concerned outlined in red, which then is ratified by a committee of the local district council.

STAGE 2: Preparing the plan

Once the plan area has been designated, according to government guidance "local people will begin collecting their ideas together and drawing up their plans".

This is the point that the parish can allocate land and buildings within a village or wider neighbourhood area, to encourage or prevent development of particular sites, although equally the plan does not have to contain specific site/land allocations.



STAGE 3: Independent check

Government guidance states that: “once a neighbourhood plan or order has been prepared, an independent examiner will check that it meets the right basic standards. The planning authority will then need to consider these views and decide whether to make those changes. If the examiner recommends significant changes, then the parish, town council or neighbourhood forum may decide to consult the local community again before proceeding”.

Only a few neighbourhood plans have been formally approved in the UK by an independent examiner and have become one of the statutory plans for their area. They do not replace the council’s own local plan, core strategy or other plan, but will be one further plan to consider.

STAGE 4: Community referendum

According to guidance, “the local council will organise a referendum on any plan or order that meets the basic standards. This ensures that the community has the final say on whether a neighbourhood plan or order comes into force. People living in the neighbourhood who are registered to vote in local elections will be entitled to vote in the referendum.”

If more than 50 per cent of people voting in the referendum support the plan or order, then the local planning authority must bring it into force.

STAGE 5: Legal force

Once approved by a referendum the plan will become a statutory legal document and therefore a material planning consideration by the local council as and when planning, listed building and all other applications are submitted to the local council in the usual way. If a planning or other such application submitted to the council does not conform to the neighbourhood plan then it should be refused.

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CAP REFORM

Following discussions amongst Parliament, the Commission and Council members, the long-awaited final details of the CAP Reform will soon be announced.

On the 31st October, DEFRA published its consultation on how it intends to implement the CAP reform in England. This consultation confirmed a number of points which had remained unclear up until now.

It has also been confirmed that the new farm payment scheme will come into force in January 2015 with Member States required to inform the Commission of their chosen options by 1st August 2014. This will hopefully not be too painful for England, as the proposed area-based system should enable the roll-over of existing Entitlements; however for Scotland and Wales it will be a different story. A review of the new scheme is already proposed for 2018.

An update following on from the DEFRA consultation is as follows:-

Transitional Year – Direct Payments and Rural Development Payments will commence on 1st January 2015, although a number of elements from the new scheme will be implemented from 1st January 2014.

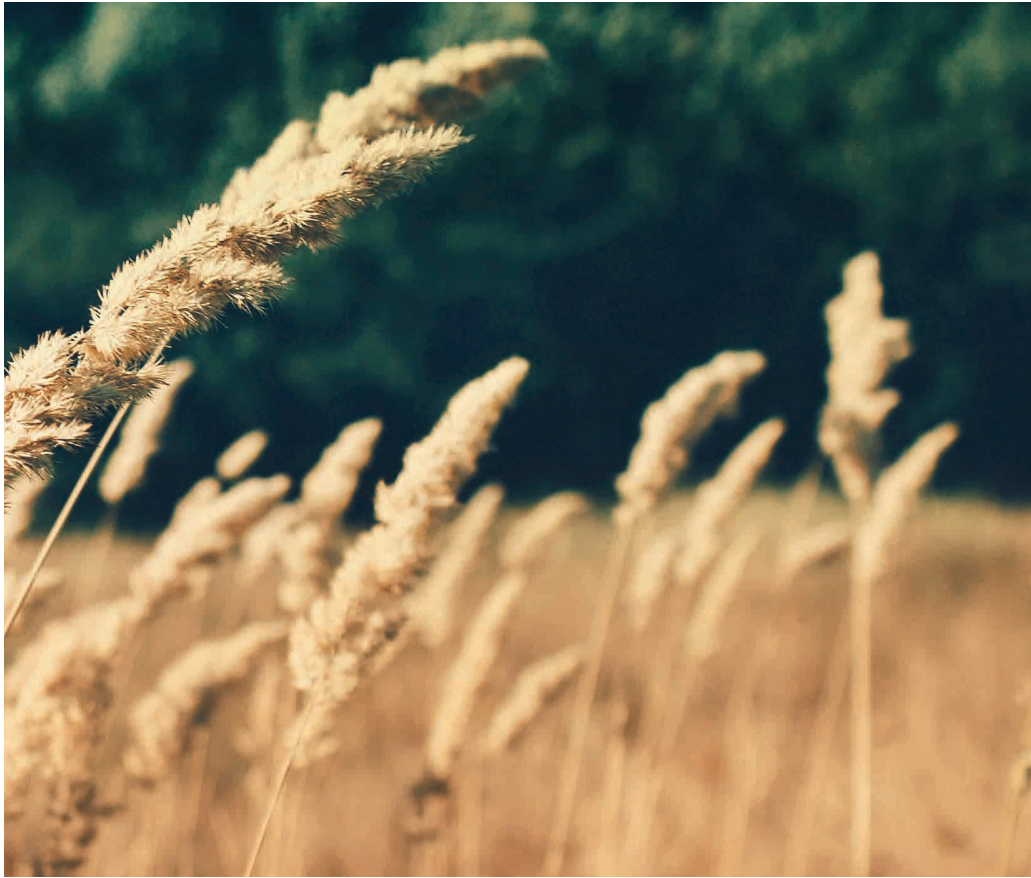
Transferring of Payments – The final agreement in Brussels allows member states to transfer up to 15% of their pillar 1 ceilings to pillar 2 without a requirement for co-financing. DEFRA has indicated its intention to transfer the full 15% from pillar 1 to pillar 2. This element of the reform can commence in 2014.

Capping – It has now been suggested to the EU Parliament that there should be mandatory “degressivity” (reductions) of 5% on payments over €150,000. This will, however, only apply to the basic payment element. The greening payment, which makes up 30% of the total payment, will be excluded

from this calculation. The option remains available to Member States to allow salaries to be deducted from the payment, subject to degressivity, although this option appears unlikely to be adopted in the UK. However, Member States have the option to apply a capping rate of their choice, up to 100%, for payments over €300,000, but again, this appears unlikely to happen in England.

Small Farms – If under 5Ha is owned then no claim will be allowed, and for claims of under 10Ha crop, diversification rules will not apply.

Basic Payment Scheme (BPS) – This consists of the Basic Payment paid to all farmers/landowners. It has been agreed that the current allocation of Single Payment Scheme entitlements will be rolled forward into the BPS instead of carrying out a re-allocation and as a result, the “Golden Ticket” drops away. The number of entitlements held by a farmer as at 31st December 2014 should be rolled forward into the new BPS from 1st January 2015. If there is a surplus of entitlements held by a farmer, these will be irretrievably lost. As a result of this the



farmer would need to find additional land in order to avoid losing the entitlements or transfer the excess entitlements to another farmer in time for them to claim them under the BPS.

Greening Payment to commence 2015 –

It has been suggested that this is delayed until 2016, which will allow for the implementation of rural development programmes and clarification of rules to avoid double funding.

Regional Payments – These are currently in three categories; Non-SDA, SDA and Moorland. These are likely to remain the same, although DEFRA has indicated that it will increase the payment rate to SDA and Moorland entitlement holders.

Horizontal Payments – This is a very similar approach to that currently used, with Statutory Management Requirements (SMRs) remaining but being reduced from 18 to 13. The number of GAEC's will also decrease from 16 to 7 and penalties will still apply with a similar structure to that which is already in place.

Young Farmers Scheme – Farmers have to be younger than 40 years old to qualify and a limit of between 25 and 90Ha can be set so they can only claim on this area.

Agri-Environment Schemes vs Greening

It remains to be seen how greening will affect UK farmers and how will it co-exist with current environmental stewardship agreements. One thing is clear, however, landowners and farmers will be expected to provide significantly more ecological and environmental benefit than is currently being asked of them in order to receive the additional 30% greening payment. The greening payment can only be claimed if more than 15Ha of eligible arable land is held. This increased requirement for greening is likely to lead to a reduced area of cropping and stocked land, which in turn will result in tighter profit margins along with more competitive environmental schemes with higher environmental standards. As part of the CAP Reform the existing suite of agri-environment schemes are undergoing an overhaul and no new agreements will be available until the new look Rural

Development Programme for England is launched, which is anticipated to be in January 2015.

Active Farmer – there will be two tests; 1) Minimum Activity – which will be defined during 2014 and 2) Mandatory Negative List – this excludes certain businesses from claiming under BPS i.e. water works, airports, railway services, permanent sports and recreation grounds and real estate services. The exemption will be if “significant” income comes from farming.

Claiming Post 2015 – It has been suggested that all claims will be submitted online and all agri-environment schemes and BPS schemes will be applied for through one system. The CLA are currently lobbying for hard copy guidance to still be delivered.

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RURAL NEWS BOARD

Inheritance Tax (IHT)

Christopher Jerram, FRICS

Land and residential property prices are rising at their fastest pace in years and the stock market, already up by 85% since its trough in 2009, is predicted to reach an all-time high next year.

What is not rising is the Inheritance Tax threshold at £325,000 per person. Above that limit estates are taxed at 40%. The result? An increasing slice of families' wealth is being taken away by the taxman.

Agricultural Property Relief (APR) is one major factor holding up land values as, subject to certain conditions, land receives 100% relief together with farmhouses that are in character with the holding and are occupied by a working farmer. In addition, any cottages used in conjunction with the farming business also attract relief whether they be service tenancies or let on Assured Shorthold Tenancies to agricultural employees.

It should be noted that the above relief is only available for the agricultural element, and so typically any amenity or non-agricultural value or value attributed to sporting rights will be deducted by the District Valuer.

The second major relief applicable to rural property is Business Property Relief (BPR). Under this heading, commercial woodlands will qualify and the Revenue will usually expect to see a minimum of three years of accounts. Therefore, even if there has been little activity, accounts should be prepared. Historically, let properties, be they residential or commercial, have normally been excluded from a BPR claim. However, the recent Balfour case has set a precedent and so long as the farm or estate is run as one business and the let properties form a minor percentage of the income, there is the opportunity to make a successful claim. It is advisable to manage the business as a whole, including the running of one bank account to cover trading and non-trading income.

The strategy of borrowing against non-relievable property to invest in exempt property now no longer works as a result of the enactment of S. 162B of the IHT Act 1984.

Where listed buildings are involved, a Heritage Exemption Claim can be considered and, if successful, an agreement to give access to properties for a minimum of 28 days per annum will be required. This also relates to let residential property, but the terms and conditions of any tenancies may therefore need to be amended.

The use of lifetime gifts (with the general seven year Survival Provision) to reduce estates is commonly used, including gifting part shares to attract a part share discount, typically 10% – 15%. However, if there is to be a reservation of benefit, a full commercial rent will need to be paid and for the occupation of the principal house a lease-back arrangement entered into. It should be noted that upon death, dilapidations under the lessees' terms and conditions of the lease are a deductible item. With lifetime gifts, Capital Gains Tax (CGT) and the loss of control needs to be considered. This can be avoided by setting up a discretionary trust with holdover relief for CGT although there will be an entry charge to IHT at 20% above the available nil rate band, increasing to 40% if the donor dies within five years. There is also the ten yearly charge to consider for gifts above the threshold.

Other areas of investment to obtain 100% IHT relief to consider are investing in Alternative Investment Market (AIM) portfolios and secondly investment in the Lloyds of London insurance market as an underwriting member either through a Name-Co or LLP whereby all funds that are held at Lloyds for security again will receive full Business Property Relief at 100%.

Britain's ageing population means that some people now inherit very late in their lives and may have no need for a bequest. A Deed of Variation can be utilised within two years of death, passing assets down a generation or even two. As always, specialist advice to cover individual circumstances is recommended.

Bovine Tuberculosis

Kate Thomas, MRICS FAAV

In July, DEFRA published its Draft Strategy for Achieving "Officially Bovine Tuberculosis-Free" Status for England. Under the strategy, which aims to rid England of the disease within 25 years, the country will be divided up into three distinct disease control areas.

The approach to tackling the disease will be adopted in the areas defined as the Low Risk Area, the Edge Area and the High Risk Area to reflect the regional differences in how the disease is spread. For example, in the hotspot areas of the South West and Midlands the focus is on addressing the disease in cattle and wildlife to reverse the upward spread, while enhanced cattle controls, like compulsory post-movement testing, will be introduced in a bid to eradicate the disease in the cleaner areas.

The objective will be to move to a position where counties in the Low Risk Area can achieve Officially TB-Free (OTF) status, easing the TB control burden and facilitating trade, as soon as possible in a phased approach that will create a two-tier cattle trading zone.

The strategy lays out plans to support the development of new tools such as diagnostic tests, including PCR, vaccination and badger population control methods, including a potential investigation into gassing setts.

The draft strategy sets out a whole range of policy options, including the widespread adoption of risk-based trading to reduce the risk of cattle spread across the country, reductions in TB compensation, including ways to incentivise good practice on farms. Farmers have been given the opportunity to comment on the document as part of a consultation that finished in September.

England has struggled to control bTB in cattle for decades, but hope can be taken from the success of other countries and the two decades up to 1979, when the prevalence of bTB in cattle in Great Britain declined steadily to 0.018% of all cattle tested as a result of voluntary and compulsory cattle testing and slaughter schemes.



Superstrike vs. Rodrigues Case

Neil Gladwin, FRICS FAAV

This recent Court of Appeal case has implications for landlords who have long-standing Assured Shorthold Tenancies (ASTs).

The case concerns an AST created prior to the introduction of mandatory Tenancy Deposit Protection on 6 April 2007. The tenancy continued on a statutory periodic basis and the deposit remained unprotected. In 2011 a Section 21 notice was served to end the tenancy.

The ruling confirms that when the tenancy continued on a statutory periodic basis a new tenancy was made and a new deposit was deemed to have been received, which then fell under the requirements of Tenancy Deposit Protection legislation. Having not met those requirements, to protect the deposit and serve Prescribed Information (including serving the scheme leaflet), the landlord was not entitled to serve a s21 notice.

If a deposit is held in relation to an AST from before 6 April 2007 and it remains in place and unprotected

when a statutory periodic tenancy arises, consideration should be given to;

- Protecting this deposit with an authorised scheme now
- Issuing the Prescribed Information now

Records should be retained to show how and when this was done, which should help to show that the legislation as now interpreted by the Court of Appeal has been complied with. However, because the deposit will still have been protected late and the Prescribed Information will have been served late, a section 21 notice can only be issued if the deposit is returned to the tenant in full, subject to agreed deductions, but even then, a Court could issue a financial penalty.

Landlords may wish to consider their exposure in the light of this ruling, particularly if they intend to serve a s21 notice or they feel their tenant may be considering legal action on the basis of this case.

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