

HOBBS • PARKER

Property Consultants LLP

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Features

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CAMPAIGN FOR THE FARMED ENVIRONMENT – YET MORE RED TAPE??

One of the boldest farming initiatives for many years has been launched: The Campaign for the Farmed Environment.

The initiative was designed as an alternative to a compulsory set-aside replacement and it will seek to persuade farmers to implement additional environmental measures upon their farms.

In a bid to boost farmland bird and wildlife numbers and protect water and soil resources, an extra 30,000 hectares of farmland must be managed voluntarily – and this must be done by June 2012! If this target is not met then the voluntary approach could be replaced by a regulatory one – which would be far more onerous, forcing growers to place a percentage of arable land under environmental management.



So how can this target be met? Well the good news is that options under the Entry Level and Higher Level Stewardship Scheme can contribute towards the target, although the majority are limited to arable in-field options.

Any farmers already in Environmental Stewardship must decide whether they can choose more suitable options when renewing agreements and farmers not already in stewardship should consider joining. And everyone should ensure they manage some land voluntarily.

Hillary Benn took a lot of convincing to abandon compulsory measures and all farmers will have a role to play in ensuring that more red tape is avoided.

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SHOULD LANDOWNERS BRACE THEMSELVES FOR THE LOSS OF RENTAL INCOME?

In September the headline read “5000 fewer mobile masts needed”. This of course refers to the latest story emerging from the mobile phone market with the announcement that T-Mobile and Orange are planning to create the UK’s largest mobile phone company with 28 million customers. The proposed joint venture will reduce the number of required sites by up to 5000, this being achieved by the proposed sharing of

infrastructure. This news follows the decision by T-Mobile and Hutchison 3g (“3”) to consolidate their networks and this consolidation will be included in the latest venture. To complete the picture, we also need to consider the potential impact of any possible “venture” between o2 and Vodafone after they announced they were in discussion in March.

Why should this impact you? Well there is a drive by all the operators to reduce costs and these new arrangements will significantly reduce the number of mobile phone masts across the county. Unfortunately for some this will mean that sites will be decommissioned. In these circumstances the lease should be reviewed to check the tenants break clauses and notice requirements. Operators may consider paying significant premiums to break early or to avoid complying with reinstatement obligations.

The restructuring that we are seeing in the industry is already influencing negotiations between landowners and operators, particularly in relation to rents and site sharing arrangements. The network consolidation between T-mobile and 3 is such an example where the operators have usually sought to assign leases and in many cases this has enabled us to negotiate favourable terms on behalf of clients to reflect these changes.

All of the changes that we have described above will present opportunities for some landowners but obviously caution is also needed to ensure that sites are retained. Operators will need the ability to share sites or equipment or assign leases and this could allow landowners to improve rents and unfavourable terms or generate additional rental income through new site sharing arrangements. We are aware that operators are now approaching landowners and warning them that sites face being decommissioned unless the rent is reduced and we would encourage landowners to take advice to ensure their interest is protected.

It goes without saying that care should also be taken



when entering into discussions about lease renewals to ensure that your interests are protected and terms reflect the emerging consolidated networks. A balanced approach is needed to ensure the future of individual sites is secured whilst also ensuring that the strategy facilitates a successful and timely result.

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EARLY AGRICULTURAL OCCUPANCY CONDITIONS MAY BE UNLAWFUL

A recent case concerning Agricultural Occupancy Conditions imposed on a planning permission granted for two agricultural workers cottages in the early 1950's has raised an interesting point. It seems that, for a limited period between October 1948 and March 1951, Agricultural Occupancy Conditions were imposed at the request of the applicant, for the specific purpose of avoiding liability for payment of a development charge.



In these circumstances, Agricultural Occupancy Conditions were imposed for a financial purpose, unrelated to a planning purpose, at a time where no such condition would have been imposed in other circumstances.

It seems likely that such conditions will be found to be invalid, subject to consideration of the detailed considerations applicable in each instance.

It is possible that conditions imposed up to the end of 1954 may also be affected, this being the date when the obligation to pay development charge on a change of occupation from agricultural to general residential was cancelled.

Hobbs Parker will be very pleased to carry out an initial appraisal, of planning permissions subject to Agricultural Occupancy Conditions granted over this period (1948 to 1954), to assess whether this recent case has applicability; if successful, this approach could lead to confirmation that occupation of an agricultural workers dwelling not in accordance with the occupancy condition, where found to be invalid, would be lawful.

Hobbs Parker can also advise generally on the effect of Agricultural Occupancy Conditions, and circumstances where, through failure to comply with a condition for a period of 10 years or more, a Certificate of Lawfulness allowing continued non-agricultural occupation can be obtained.

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CHANGE OF HEART ON SITES IN BETHERSDEN AND TENTERDEN

The Tenterden and Rural Sites Development Plan Document was published in June 2009 for public consultation. Following public consultation, a meeting of the Executive of Ashford Borough Council on 19th November 2009 agreed that further consultation should take place, on two changes to site allocations at Bethersden and Tenterden; and the detailed wording of a number of the policies in the plan. As a result, the timetable for the later stages of the plan is likely to be delayed; a period of public consultation has now commenced, running until January 2010.

Following public consultation the Council will publish a revised version of the plan in Spring 2010, which will go forward to the Secretary of State, and will then subsequently be the subject of a public examination, now probably scheduled to be held in summer 2010.

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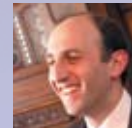
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