

# Outlook

CURRENT NEWS AND VIEWS ON ISSUES AFFECTING LAND & PROPERTY WINTER 2023/24

## Taxing times ahead?

### Agricultural Property Relief

**Agricultural Property Relief (APR)** is a valuable tax relief for farming businesses, allowing them where applicable to reduce their liability for Inheritance Tax by up to 100%.

In the past year or so, APR has been the subject of increased discussion in relation to its interaction with the Environmental Land Management schemes and Biodiversity Net Gain (BNG), as well as speculation in the media that more significant changes to Inheritance Tax may be on the horizon.

#### What is Agricultural Property Relief?

APR provides tax relief on the agricultural value of agricultural property.

Agricultural Property means land or pasture that is used to grow crops or to rear animals. It can also include:

- Growing crops.
- Stud farms for breeding and rearing horses and grazing.



- Trees that are planted and harvested at least every 10 years (short rotation coppice) or woodland ancillary to the farming activities.
- Farm buildings, farm cottages and farmhouses (if “character appropriate” and used for purposes of agriculture—derelict buildings will not be eligible).

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*A round up of planning in 2023.*



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*Update on the Electronic Communications Code (“New Code”).*



#### Successful Focus Event

*November’s event outlining the Sustainable Farming Incentive.*

# AMC

The Agricultural Mortgage Corporation

AMC Agents

**HOBBS • PARKER**

Property Consultants LLP



**Key areas to consider:**

**Minimum ownership:**

The Property must be owned and occupied for the purposes of agriculture for:

- 1 Two years prior to transfer if owner occupied.
- 2 At least 7 years prior to death if occupied by another.

**“Character Appropriate”:**

The farm buildings, farm cottages and farmhouse must be “character appropriate”. Farmhouses in particular have come under scrutiny from HMRC. Farmhouses will be assessed against several tests including but not limited to:

- Their appropriateness in size, layout, content, and style and quality of construction in relation to the associated land and buildings.
- If they are proportionate in size and nature to the requirements of the agricultural activities conducted on the agricultural land.
- How long have the farmhouse and agricultural property been associated and historical connection to agricultural production.

**Agricultural Value:**

APR is given on the agricultural value not the market value.

The agricultural value being the value as if the property was restricted to a sole agricultural use.

There is no standard discount with

each case to be considered on its own circumstances.

If the agricultural land has potential development value in excess of the agricultural value, this excess will not attract APR. However, there may be the opportunity for Business Property Relief which may be applied to any hope value.

**Proposed Reforms to APR**

In the run up to a general election in 2024 we have seen greater discussions in the media on the main political parties’ potential reforms on tax. Some reports have suggested the current government may be considering reducing the rate of IHT or even abolishing the tax altogether. This remains speculation at this point, although we await the contents of the Autumn Statement.

Less speculatively however, in the past year, we have seen the government move to work towards some much-needed clarity over the interaction of APR with land in environmental management.

The changes to the government’s financial support schemes for farmers in the Agricultural Transition, away from direct payments towards environmentally focused grants with “public money for public goods”, had raised concerns over the implications for tax relief as land moving out of agricultural use would no longer be considered “agricultural property”.

Environmental Land Management schemes including the Sustainable Farming Incentive are not considered to pose serious risk to eligibility for APR as the schemes aim

to introduce sustainable farming practices alongside existing agricultural activities.

However, for long term, large scale projects, for example biodiversity offsetting and habitat creation, the implications for tax relief have been less certain and there was concern that this would deter uptake of the schemes by landowners/farmers not wishing to undermine their tax position.

To address these concerns, the government announced that it was to run a consultation examining the tax treatment of ecosystem service markets and environmental land management including a review of the current scope of APR and whether expansion to the application of APR is required. We await the outcome of this consultation.

Regardless of the future changes to IHT or APR, careful and early consideration of tax position is vital for farming businesses. We can assist with a range of tax planning services for farming businesses and we undertake comprehensive Red Book valuations for Inheritance Tax and Capital Gains Tax calculations.



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# “New Code” telecoms – it’s been a journey



As many landowners with telecoms masts on their land will already be aware, the introduction in December 2017 of the Electronic Communications Code (initially referred to as the “New Code” and now more simply the “Code”) brought about significant upheaval in the marketplace.

The legislation’s aim is to support deployment of mobile infrastructure across the country and help remove commercial barriers to better connectivity, which in practice involves cutting mobile operators’ costs and granting them increased powers known as “Code rights”.

One of the most controversial aspects of the new Code – together with a new right for operators to apply for new Code agreements to be imposed on uncooperative landowners by the court – is the effect on rents (“consideration” in Code-speak). Under the old regime, landlords of rural masts could expect

to receive £5k-£6k/annum per site, with built-in RPI rent reviews over 15-25 year lease terms taking some annual rents to £10k plus. Landlords could charge extra if the operator wanted to share the site, generating thousands more. New and renewal leases were agreed based upon ample evidence in a stable marketplace.

Unfortunately for landowners, the introduction of a new, compulsory purchase-inspired valuation basis for sites under the New Code – which requires that the use of the site for telecoms is disregarded – has caused rents to tumble. For a significant period after the Code’s introduction, the marketplace was at a virtual standstill as operators offered rents that were up to 95% lower than before, leaving negotiations at an impasse. One bemused client forwarded a letter offering £17/annum on a site previously generating 382 times that.

Almost 5 years on, the situation has progressed and the marketplace has moved on from its paralysis. Sufficient numbers of rent-related cases have been considered by the Upper Tribunal Lands Chamber and superior courts for court decisions to begin to form the basis for negotiations in many cases. Some changes to the Code, including under the Product Security and Telecommunications Infrastructure Act 2022, have helped to clarify some significant grey areas, but these changes have generally

reinforced the rights of operators.

It was hoped in the early days that the Code’s contentious valuation mechanism might be amended to help improve the situation for landowners but this has not happened and at present does not seem likely.

Rents remain significantly below pre-Code levels, but the negotiation of upfront incentive payments and transition rents has helped to progress lease completions by bringing the total amount payable under the lease to a slightly more palatable level. Sites with genuine alternative use value over and above agricultural use can command a premium, but generally this needs to be heavily negotiated. As ever, operator-issued Heads of Terms are weighted heavily in their favour and require significant amendment to produce a more balanced agreement. Costly Tribunal proceedings remain something to be avoided, because as the growing list of decided cases has demonstrated, the outcome will invariably be worse than under a negotiated deal.

Hobbs Parker Property Consultants have years of experience in representing site providers and are well-placed to negotiate the best possible terms for you in this challenging area.



**Sophie Walker**  
Rural Surveyor  
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## Sustainable Farming Incentive - Focus Event



**On Friday 10th November we held our Focus Event on the Sustainable Farming Incentive (SFI) at the Ashford Market.**

Matthew Sawdon, Sophie Walker and Thomas Hamplett talked through the scheme to around 100 delegates on how it could work for our farming clients.

A very successful event with excellent discussion which highlighted the breadth of farming businesses and systems represented in the room.

The team at Hobbs Parker Property Consultants LLP are busy advising clients to maximise the scheme’s potential for their businesses; why not pick up the phone today to discuss your application.



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# 2023 Planning Successes

As the year draws to a close, we can take a moment to reflect on the work undertaken by the Planning Consultants within the Property Consultants team. This year the team have submitted numerous planning applications on behalf of our clients.

Planning permission has been obtained for 125 new residential properties, 9 solar schemes, and a new factory unit for the world's largest manufacturer of roulette wheels. We have removed AOCs and obtained Lawful Development Certificates, varied a S106 Agreement and obtained Scheduled Monument consent for our clients.

In addition, we have successfully obtained planning permission for barn conversions, home offices, annexes, holiday

accommodation, two dog walking fields and 35 stables.

We have put forward multiple sites in response to calls for sites and made representations on a number of local plans as well as submitting a high number of pre-application enquiries to local authorities across the South East.

Looking forward to 2024, there is likely to be a period of change in the planning world, potentially in the aftermath of a General Election and any changes to the national planning position.

In the midst of this, Local Authorities will be considering whether their adopted plans remain up to date and some are likely to follow Ashford's footsteps with calls for sites, whereby land is put forward for consideration for development in

order to inform a review of the local plan. Folkestone and Hythe may be one of those authorities, so look out for a communication from us next year.

Our planning knowledge and skills are broad and should you need assistance with any planning matter, we are most able to assist, so please do get in touch.



## Meet the Team

In this issue we meet our planners...



### Elizabeth Welch

BSc(Hons) MSc MRTPI

Lizzie joined us in 2018, having worked in a local authority for just shy of a decade acquiring both Planning Policy and Development Management experience through representing the Council at Examination in Public, providing pre-application advice and determining applications of varying scales.

She has a Masters from Oxford Brookes University, a first class degree from the University

of Reading, and has been a Chartered Member of the RTPI since 2007.

Lizzie has wide experience of all aspects of the planning system, and before her stint at Local Government worked for two housebuilders and a national planning consultancy where she also obtained experience in retail planning.

Lizzie has spent her entire career working for firms located in Kent. She recently moved into East Sussex. Lizzie would be keen to hear from you, particularly if you have any projects in East Sussex, although she hasn't forgotten those Kentish roots!



### Steve Davies

BA(Hons) Dip UP MRTPI

Steve joined us in 2016, having worked for the previous 28 years in Local Government.

He has a postgraduate planning qualification from Oxford Brookes University and has been a Chartered Member of the RTPI International since 1992.

Steve has wide experience of all aspects of the planning system, assisting clients with residential and commercial schemes and anything else you may need to apply for planning permission for.

He can also assist with local plan representations and provide general planning advice on the best approach to your planning woes.

The articles in this edition should not be relied upon or regarded as a substitute for advice. Hobbs Parker Property Consultants LLP would be pleased to provide further information or advice on any particular issue.

**Hobbs Parker Property Consultants LLP**  
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Outlook is brought to you by Hobbs Parker Property Consultants - a team of experienced Rural Chartered Surveyors and Planning Consultants dedicated to providing professional advice and services to farmers and property owners. Part of the Hobbs Parker Group of companies proudly serving the people of the south east since 1850.

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