

Batcheller
Monkhouse

Issue 20

Rural Outlook

Our Corner of England

Carbon lock-up

Farmers on the frontline

Off target

Can Local Authorities manage
their housing plans?

Crossed lines

Poor reception for
telecoms legislation

plus

Looking after
the landowners

Tips to make your
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Threats and opportunities

We chose the theme of threats and opportunities for this year's edition of Rural Outlook last winter. This was in response to the impending departure from the EU and the unexpected announcement of a general election. Little did we know that these events were mere drops in the ocean when compared to the issues that we have all had to cope with through the Covid-19 pandemic.

The shocking loss of life and on-going health issues will have long lasting impacts on us all. Whilst the impact of coronavirus has yet to be fully understood, as we go to press it is clear there has also been a massive impact on many aspects of modern society. It would be very easy to bury one's head and pretend nothing has fundamentally changed and things can go back to normal. However, is that correct? There is real evidence of change and a growing belief that, if anything positive can come from this crisis, it is opportunity to review how we live and work, and yes, even think.

Take agriculture to start with. The constant theme in the press and social media before Covid-19 was the supposed harm that agriculture had on the environment. Similarly, any lobbying of Government on the importance of UK food security mainly fell on deaf ears. Are we now seeing a dawning realisation that UK farming is not the ecological thug that some would say? Also, that British agriculture has a vital role in feeding the nation? We firmly believe so and see a positive future for British farming. Let it be hoped that the rules on immigration will also be changed and farm workers recognised as essential labour.

Another trend that affected the countryside, especially in the south east and home counties, was the dominance of London as a place to both live and work. Are we now seeing a reversal and renewed interest in the myriad advantages of rural life? All our estate agency teams have reported a substantial increase in demand from those looking to relocate out of London. At the same time, enquiries for rural or regional office space have more than doubled. The reason for this is simple. We have all learnt new ways of working using modern technology. The daily commute is increasingly recognised as both unnecessary and inefficient. We believe there is a real opportunity here for the creation of new office/work hub space in the countryside.

For the last few years the Government has pondered the failure of the planning system to deliver housing and economic development at the speed required. Over the lockdown period more progressive Local Authorities quickly moved to implement new measures to interact and make decisions. Some have struggled. Now must be the time to modernise what can be an overly bureaucratic and burdensome machine.

Communication is key. Fortunately we had already implemented a major new IT system across the firm over the winter. This has allowed us to all work with our clients effectively from our homes during the height of lockdown. What this has shown up is the variation in internet speeds across the country. It is essential that the telecom providers supply a modern high-speed service to everyone. We explore some issues in this sector in this publication.

Necessity is the mother of invention as they say. The Covid-19 crisis has created real opportunity for change. Within the following articles we explore how new opportunities can be unlocked and maximised.

Leo Hickish



Leo Hickish

l.hickish@batchellermonkhouse.com

10 points to note

Callum Preece casts his eye over ten key issues currently facing the Batcheller Monkhouse community of property owners, farmers, estate managers and rural business owners.

1

Planning opportunities

Covid-19 hugely affected many businesses, hitting the tourism, leisure and retail sectors extremely hard. It remains to be seen how quickly these businesses can return to normal. It may therefore be prudent to investigate adapting your planning permissions. For example, in many instances there are permitted development rights that allow food outlets to provide take away services. For holiday accommodation, it may be feasible to secure a temporary consent to allow this to be let out under an assured shorthold tenancy. Wedding venues are frequently restricted to operate over specified months. Variations may readily be available, especially given the huge backlog in weddings and parties that were cancelled.



2



Government announces £8 million cash boost for vibrant new communities

A total of £6 million will be allocated to help new locally-led garden towns and villages progress plans to deliver up to 200,000 new homes. An additional £1.9 million will be given to councils in England to support new neighbourhood plans, allowing communities to get involved and have their say on the types of homes to be built and where.

3

Knotweed control

We have seen a huge increase in the prevalence of Japanese knotweed over recent years. It is therefore all the more important to understand your obligations as property owners. Whilst you do not have to remove Japanese knotweed from your land, you could be prosecuted or given a community protection notice for causing a nuisance if you allow it to spread onto anyone else's property. In our management experience the costs involved in eradication can be reasonable if targeted in a timely and effective manner.



4

Countryside Stewardship changes

With the radical changes to the farm support payments system being introduced in the Agriculture Bill as Environmental Land Management schemes replace direct payments from 2024/2025, Countryside Stewardship is a useful programme to bridge the funding gap and to use as a stepping stone to the new ELM Scheme.

There are some concerns that those land managers who already provide environmental benefits prior to the introduction of ELMS will be disadvantaged once they are rolled out if a results-based payment system is used; however the Government has maintained that no one will be disadvantaged if currently entered into an existing environmental scheme.



5

Guaranteed price for carbon credits

The Woodland Carbon Guarantee (WCaG) is a £50 million scheme that aims to help accelerate woodland planting rates and develop the domestic market for woodland carbon for the permanent removal of carbon dioxide from the atmosphere. It is an objective in the 25-year environment plan and was announced in the autumn 2018 Budget.

The Woodland Carbon Guarantee provides you with the option to sell your captured carbon dioxide in the form of verified carbon credits, called Woodland Carbon Units (WCUs), to the Government for a guaranteed price every 5 or 10 years up to 2055/56. This provides an additional long-term income from your woodland.



7

Active farming for tax relief

Planning ahead in terms of inheritance tax is quite rightly seen as being a priority for farmers and landowners. Recent case law in the form of Charnley and another v HMRC (2019) has cemented the importance of the inheritance tax position of 'active farmers' wishing to benefit from Agricultural Property Relief (APR) and Business Property Relief (BPR) on death.

In this case, HMRC argued that, as Mr Gill had allowed others to graze his land under annual grazing licences, he therefore was unable to benefit from APR on the house, buildings and land. Further to this, his estate would not be able to rely upon BPR for the machinery as Mr Gill's interest was simply an investment in land. However, the tribunal ruled that, due to Mr Gill's involvement in the checking of livestock and maintenance of the land, he would indeed qualify as an active farmer and would have operated a farming business and thus was able to qualify for both APR and BPR.

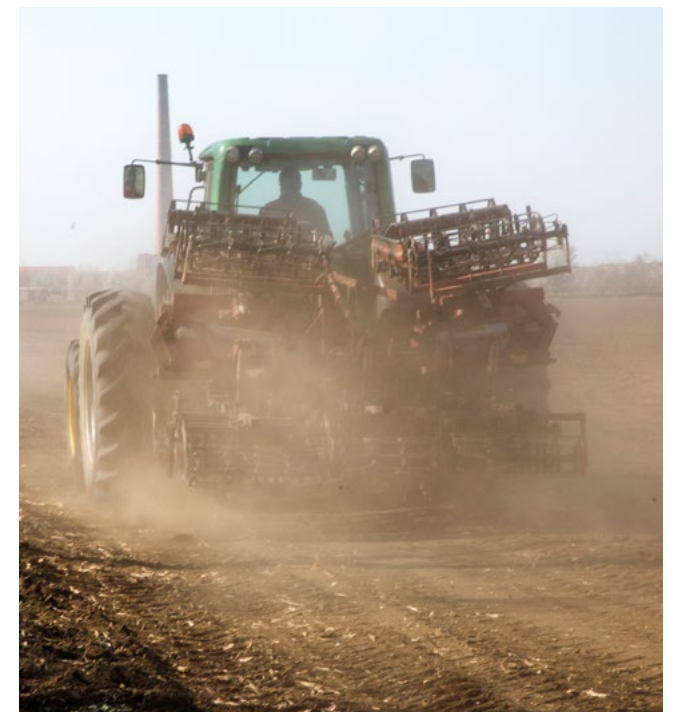
This case demonstrates the importance of the landowner undertaking the husbandry and day-to-day running of the farm if these reliefs are to be relied upon.

6



Seasonal workers dilemma

Environment Secretary George Eustice confirmed the expansion of the seasonal workers pilot to allow farmers to hire up to 10,000 workers in 2020 – an increase from the previous 2,500 workers. The scheme, first announced in 2018, gives farming businesses the opportunity to employ migrant workers for up to six months. The ongoing Covid-19 situation will evidently have significant impacts on the movement of workers from overseas, so the effectiveness of these changes remains to be seen. This may be a good opportunity for British residents to meet the demand for seasonal workers!



8

Tenancy reform proposals

The Tenancy Reform Industry Group (TRIG) has made proposals for radical changes to agricultural tenancy laws in England.

The working group has proposed changes which will give far greater security to tenants of Agricultural Holdings Act 1986 (AHA) tenancies. The proposed reforms seek to address issues with succession, which were felt to be a barrier to productivity.

The key proposals are:

- Assignable AHA tenancies – older tenants with no successor will be able to assign their tenancy for a payment. Landlords may have the right to buy back the tenancy or serve an incontestable notice to quit after 25 years of the assigned tenancy.
- Changing AHA succession rights and eligibility – removal of the commercial unit test in succession applications and replacing this with agricultural business competence to the suitability test. Also removing the minimum age for retirement to allow earlier succession and removing the rights of succession after the age of 72. It is expected this will encourage productivity through new skills and ideas brought in by younger successors.
- Introducing short notices to quit for farm business tenancies for over 10 years – it is hoped this would encourage landlords to grant longer tenancies for over 10 years.

At present, the proposals are only recommendations from the industry group. It is expected these reforms will be included in the Agriculture Bill which at the time of writing is going through the report stage in the House of Commons. It is worth monitoring as this will impact both tenants and landowners.



9



Carbon offsetting/net gain – watch this space!

With a move to meet net zero carbon emissions by 2050 there has been a great deal of policy and legislation focusing on meeting climate change and biodiversity improvement targets.

The Environment Bill will place an onus on developers to ensure that any development has a biodiversity 'net gain' of at least 10%. This means that pre and post developments are assessed for their biodiversity value, and any shortfall in biodiversity units needs to be accounted for elsewhere. We expect this will create another tier of the land market for habitat rich land or land where there is scope for environmental improvements. In addition to this, environmental management contracts can be made between landowners and developers to provide and maintain environmental benefits. It is expected these will be enforced through conservation covenants and for a duration of at least 30 years.



Callum Preece

c.preece@batchellermonkhouse.com



Edward Cheevers

e.cheevers@batchellermonkhouse.com

10

Assured shorthold tenancies to go

The Government has consulted on the proposed removal of section 21 from the Housing Act 1988 which allows for landlords to currently regain possession using the 'no-fault' eviction process. The removal of this procedure would effectively remove assured shorthold tenancies from the Housing Act altogether.

This change is proposed to be for all new residential tenancies and will most likely take effect from late 2020 or early 2021 but is not expected to act retrospectively. Alongside this change, the proposal includes amending the current section 8 route for eviction by adding to the grounds upon which an eviction can be based. Whether these changes prove beneficial to tenants in practice remains to be seen.

"With their friendly approach and professional advice, Batcheller Monkhouse helped us secure AMC funding for a residential conversion of a Dutch Barn at our Sussex farm and garden. Obtaining this mortgage was pivotal – the converted barn is our flagship and embodies much of what we try and portray here."

Paul and Pauline McBride
Sussex Prairie Garden, Henfield, West Sussex



LEAKED E-MAILS: BRITAIN DOESN'T NEED FARMERS

Headline in the *Mail on Sunday* on 1st March 2020

David Blake, partner at Batcheller Monkhouse, responds

The *Mail on Sunday* story reported on a series of e-mails sent by "Treasury adviser" Tim Leunig. Whilst Mr Leunig may hold some eccentric views, the headline added to the sense that farming, and livestock farming in particular, is under intense scrutiny and criticism from a wide range of people. Perhaps more worrying is the concern that it is no longer considered important at the heart of Government. Despite Covid-19 the Agriculture Bill's only nod to food security is an obligation on Ministers to report to Parliament at least once in five years with "a report containing an analysis of statistical data relating to food security in the United Kingdom".

Farming is unimportant

Tim Leunig's argument was that the "food sector is not critically important to the UK and that agriculture and fish certainly isn't".

In broad terms farming uses 72% of UK land and the total labour force on commercial units is around 474,000. The contribution to the economy is less than 1% and its share of employment is 1.48%. The gross output of the industry in 2017 was over £26 billion, but this looks only at commodity values. When the figures for the agri-food sector are looked at as a whole, the Gross Value Added (GVA) is £111 billion, or 6.4% of National GVA compared with agriculture's contribution



The Gross Value Added (GVA) of the agri-food sector is **£111 billion**, or **6.4%** of National GVA.

of £10.3 billion. So the sector measured in employment and financial terms is far more important than it would first appear, and much of the agri-food sector is reliant on home-production for basic ingredients. But economists sometimes forget that what agriculture produces is not just a commodity, it is food. DEFRA figures estimate that home production supplies 60% of all food and 75% of indigenous food consumed in this country.

"Lies, damned lies and statistics"

We are bombarded with statistics (such as those I list in the paragraph above) and in the greenhouse gas debate there are plenty to choose from. Some seem obviously misleading, such as the extraordinarily high figures for the amount of water needed to produce a kilo of beef, when you learn that it

includes the rain that fell on the grazing area used in that kilo's production. Many of the statistics are being used as a club to beat people over the head with rather than a tool to inform. Even authoritative sources like the Intergovernmental Panel on Climate Change (IPCC) tend to ignore carbon sequestration (see previous article) and inevitably produce figures for global production systems which may have little relevance to a pastoral island like Britain, which has a multitude of different systems and is mostly reliant on forage.

There is an urgent need to provide some reliable and credible figures for the UK so that a sensible debate can be had.

Carbon sequestration

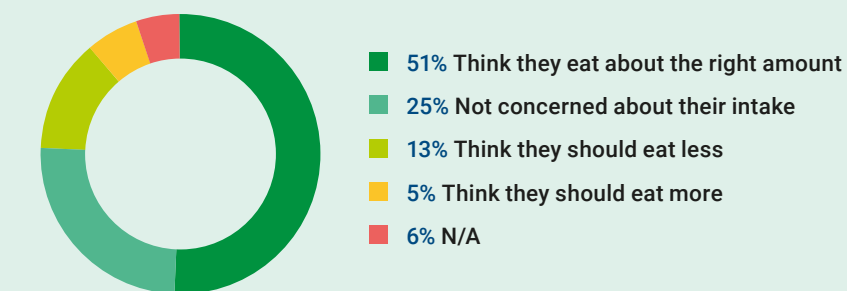
In the agricultural context, carbon sequestration is the capacity of land used for or incidental to agricultural production to capture and/or store carbon dioxide which would otherwise be released into the atmosphere. More research is needed to properly validate the claims being made on both sides of the argument but there seems little doubt that permanent grassland and features like farm woodlands and hedgerows all help store carbon. Greater use of no-till and cover and catch cropping will all improve soil carbon content and help carbon capture.

Very few of the statistics produced showing the greenhouse gas emissions from agriculture attempt to show the net impact, i.e. emissions after sequestration and capture, and this seems less than honest.

Vegans, vegetarians and flexitarians

Whilst climate change is of concern to all (albeit to varying degrees) the decision not to eat meat or animal products is taken for a variety of reasons. For some it comes from a desire to reduce CO₂ emissions or to reduce red meat in their diet. But for others it is a fiercely held ethical belief that it is wrong to exploit animals. Whilst those in the former category may be

UK attitudes to meat consumption



Source: YouGov/AHDB, 2019

persuaded by the arguments and science over various production systems and dietary research, those in the latter will never be able to reconcile their beliefs with livestock farming - regardless of how it might be conducted. At present all groups use the others' arguments to promote their cause.

"I am a vegetarian on Mondays and Tuesdays"

If you had followed the media reports at the beginning of the year you would have been forgiven for believing that a large swathe of the population had cut out meat and animal products. The statistics, however, are not as clear cut. Based on research last autumn, YouGov/AHDB suggest that 3% claim to be vegan with a further 7% vegetarian and 4% pescatarian. However, Kantar, the independent market research agency which tracks actual food consumption, finds that the number of people in the UK who have genuinely not consumed any meat, fish or dairy products over a week long period is much lower, at only 0.6%. So, as AHDB concludes, for many "the vegan diet is more aspirational than achievable".

Further market research (YouGov/AHDB) earlier last year asked existing red meat eaters how they characterised

their attitude to red meat consumption. 51% thought they ate "about the right amount"; 25% weren't concerned about the amount they ate; 5% thought they did not eat enough and only 13% said they would try and reduce their consumption of red meat.

But a new category of consumer has appeared: the "flexitarian". You might have thought that meat and two veg was the ultimate flexitarian meal, but this group has been identified as being primarily concerned about health issues. Its members are concerned about getting their "five a day" as well as fibre and vitamins. For them reducing meat consumption is not an ideological choice but one based on lifestyle and dietary advice (sound or otherwise).

This is a large group of consumers and the potential impact of their buying decisions on meat purchasing is greater than the seemingly large rise (in percentage terms) in those claiming a vegan lifestyle. It remains to be seen for how long the recent converts to veganism will stay the course. Research by Harris (quoted by AHDB) suggests that, of the vegans questioned, a third had followed the diet for less than a year and another third for less than five years. Only 10% had stuck to it for more than ten years.

33% of British consumers would consider buying a plant-based burger, compared with **40%** of Americans.

Source: YouGov/AHDB, 2019



Meat and dairy alternatives

The production and marketing of alternative meat and dairy products has been seen as the next “big thing” by some large investors looking to “disrupt” an otherwise expansive and valuable market. Accordingly, there has been considerable fanfare associated with new products, promoting their virtues for health, the environment or animal welfare with varying degrees of veracity and objectivity. At present, good margins have been obtained from these products, but as they become more mainstream we are likely to see more supermarket own-brand offerings and greater price pressure on producers.

The market reaction to these products is not always positive. Research for *The Grocer* has shown that 33% of British consumers would consider buying a plant-based burger, compared with 40% of Americans. In both countries the younger generation were more likely to try.

Ironically, the increase in demand for plant-based protein has been mirrored by an increase in demand for meat protein. The upshot is that “the bulk of losses for red meat (86%) have gone to chicken and fish rather than to plant-based food” (source AHDB quoting Kantar).

Future directions

The impact of agriculture on the environment has dominated the agenda based on half-truths and generalisations. There is an urgent need to re-look at where we want our food to come from, and establish the true impact of the varying production systems practised in the UK, and research into how they can be improved.

Carbon sequestration also needs to be looked at as part of this exercise. The cynicism of those who, like Mr Leunig, dismiss British agriculture, needs to be countered. It is dishonest to export our food production (and emissions), particularly as the slack is likely to be taken up by countries with production systems based on land re-claimed from forests. These are less sustainable, and the likely net result is an increase in world emissions!

Changes for chicken?

The long-term trend that has seen red meats give ground to chicken as a source of convenient and cheap protein will most likely continue. That trend could falter if and when the scientists produce either a plant-based or a genetically engineered alternative protein source that is cheaper than meat, and which might replace meat in supermarket convenience meals, for instance.

Biodiversity needs grazers

When you think of the British countryside the image that comes to mind is a patchwork of fields and hedges or perhaps an expanse of downland turf. All of this is a product of livestock farming. Conservation bodies the length and breadth of the country want livestock to graze and manage SSSI's and other sensitive sites. They recognise the

importance of stock to the environment and the natural world.

This is a point forgotten by those advocating “re-wilding”. Farming is not a new phenomenon in Britain. It was first introduced by an influx of Mesolithic people between 5000 and 4500 BC, which means that in many cases “re-wilding” is as much a fantasy as those landscapes created by Repton and Capability Brown for the aristocracy of the 18th and 19th centuries. To provide biodiversity and a variety of habitats, most rely on grazing livestock – generally rare breed cattle and deer, but nevertheless ruminants – and we all know what they do!



David Blake

d.blake@batchellermonkhouse.com



Conservation bodies across the country want livestock **to graze and manage the land.**

As a farmer, there are so many opportunities available as well as legislation I have to adhere to. It's reassuring for me that Batcheller Monkhouse is on hand to offer advice specifically tailored to my needs.

Tom Holt
Chiddingfold, East Sussex



Balancing the carbon equation

Farmers have a once-in-a-generation opportunity to bring farming to the centre of the national conversation and make a positive difference to the nation's lives by locking up carbon.

The last time the agricultural industry held such a pivotal position was after World War II, when the focus was on food production for an undernourished population. We now live at a time when obesity is the biggest health problem, and added to this there is the pressure of climate change, bringing extreme weather and land use changes.

The UK has the opportunity to be ahead of many other nations in taking decisive steps in a new direction for farming. No longer locked into the EU subsidy system, the UK is free to create its own Environmental Land Management System (ELMS). There will also be freedom to produce food in line with global demand, and we urge the Government to ensure that UK food security remains a key objective.

The bones of the changes ahead are set out in the Agricultural Bill now making its way through Parliament. It represents a radical rethink of farming practice. In post-Brexit Britain, farmers will be rewarded for providing services for society like clean air, recreational space, pollution-free water, flood protection, locking up carbon dioxide and diverse flora and fauna. Although the Bill has been applauded, the policies are still at the embryonic stage, and as details emerge conflicts are sure to arise.

While many farmers are already familiar with environmental and access payments, there are opportunities opening up as regards locking in water and carbon. Luckily these two aims can be compatible. Agriculture currently contributes 10% to UK greenhouse emissions; of this 51% is due to methane. So with husbandry changes it can play a huge role in sequestering carbon and decreasing the amount of greenhouse gases in the atmosphere.

This will mean farmers – and their agents – will become experts in carbon accounting. By looking at carbon capture by soils and plants, and the release of greenhouse gases from animals, fuel, disturbing soil and artificial fertiliser, it is possible to work out the carbon footprint per holding, per product and per enterprise.

Carbon calculators are now an important tool not only for improving the image of farming, but also for really helping the UK move to net zero. As an added bonus, productivity will be increased in many cases along the way.

Livestock options

Just over half the contribution of carbon dioxide equivalents in the UK is from

methane. But it is a short-lived gas – about 12 years. Therefore, if sheep and cattle numbers decline by 10%, there will be a net cooling effect. In fact, 2018 statistics showed livestock numbers declined by 1.8%, so this outcome could be achieved within a few years.

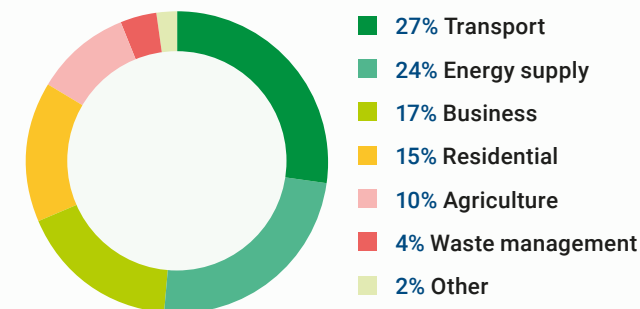
Reducing numbers is not the only factor responsible for positive change. On the global scale, UK livestock production looks good. For instance, beef cattle raised on deforested land is responsible for 12 times more greenhouse gas emissions than cows reared on natural pastures.

On average, beef reared in South America produces three times as many greenhouse gases as beef produced in Europe – and uses 10 times as much land.

However, the UK could be doing much more. In data from the BCFN Foundation and the Economist Intelligence Unit, the UK ranks only 24th in Europe for agricultural sustainability. Austria, Denmark and Poland take the top three spots.

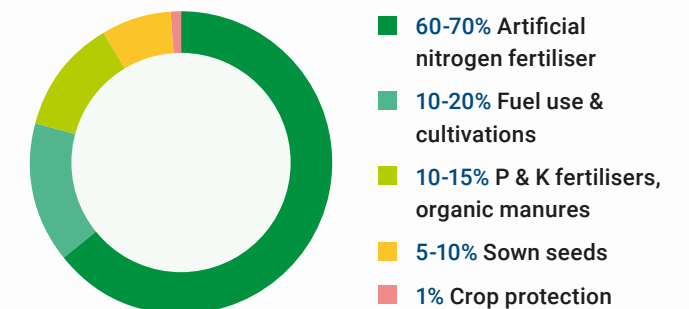
In fact, working on averages of carbon calculating (in the world) is misleading. There is so much individual variation between soil types and individual farms within one soil type. Moving to net zero with sheep and cattle enterprises involves improving grassland management, improving husbandry, optimising diets, and breeding for disease resistance. The European countries achieving better results than the UK also have production benefits such as improved animal health, welfare and growth rates.

Sources of UK greenhouse emissions



Source: YouGov/ADHB, 2019

Gas emissions in arable sector (UK)



Less methane and better weight gain

One of the quick wins is improvement in diet. The Rowett Institute in Aberdeen reduced emissions of methane by 70% in lambs fed fumaric acid. Fumaric acid can be found naturally in biodiverse pasture systems that include wild plants such as angelica, common fumitory, shepherd's purse and bird's foot. Not only does fumaric acid reduce the amount of methane released, but the lambs gain weight faster.

Similar research shows that feeding seaweed to cattle is also yielding encouraging results. At present the UK is 80% self-sufficient in beef production. Interestingly, because the countries we import from, mainly South America, have such terrible methane and carbon emitting systems, increasing self-sufficiency to 100% would actually reduce the UK's carbon footprint.

Food miles less significant

However, farmers must not be lured into thinking that encouraging consumers to buy local will always have a carbon-friendly outcome. Food miles are only part of the bigger food emissions story. The carbon footprint of food is actually dominated by production emissions:

food transport makes up just a tenth of food emissions up to the point of sale.

A few different studies have verified this. In the 2008 paper by Weber and Matthews, in their analysis of US food emissions they found 83% of carbon emissions in the food system result from food production, 5% from wholesaling and retailing food, and 11% from transporting it.

Limiting the amount of food travelling by air can be a way to help reduce food transport emissions. However, with regard to food shipped in from afar, the chances are those food miles create relatively few carbon emissions. Even when food has been flown in, it can still sometimes be less carbon-intensive than produce grown locally. This is because the carbon intensity of production in Africa for example may be lower than that in Europe, thus more than offsetting the emissions from the food miles.

An extreme example is winter tomatoes which are hot-housed in the UK, using significant amounts of energy. The carbon footprint is much smaller when imported from warmer climates like Spain or Mexico. Of course, this can all change if the electricity is sourced from solar or wind power or another sustainable source.

Carbon footprint labelling

Plant-based foods tend to have a significantly lower carbon footprint than animal products, even when the whole supply chain, including transport emissions and fertiliser is taken into consideration. The message that is likely to come from this is to buy slightly less meat and dairy, and buy it from producers who are taking measures to limit the carbon footprint. To make this easier there are some food analysts pushing for a carbon footprint traffic light system to be used on packaging.

To score well, in addition to adjusting ruminant diets, low stocking densities can increase carbon capture. By contrast, intensive stocking leads to soil degradation, where the carbon is oxidised and leaks back into the atmosphere. Furthermore, soil has a finite ability to capture carbon, and once capacity is met, leaking will occur. Weather events such as droughts or flood erosion could also release carbon from the soil.

Soil is now taking a more central position in policy. In its Bill, the Government promises to reward British farmers who protect the soil. There are large amounts of carbon stored in the UK's permanent pastures and rough grazing. In many circumstances the best way to protect the carbon stored will be to graze sustainably.

Trade in carbon credits

Until now, there has been little financial incentive for farmers to trade in carbon credits, due to the inability to measure carbon in the soil. That’s changing. Protocols are being developed to measure carbon in soils. This means that some of the tens of billions of pounds of carbon credits that are purchased each year could go to farmers. The vast potential carbon sink that lies in agricultural soils remains untapped. The key to unlocking this potential and connecting farmers to carbon markets is the ability to measure and verify carbon accurately and affordably. Progress is expected later this year.

There is an existing carbon-credit market for trees. Recently a Government fund of £50 million was set up to enable owners to auction captured carbon dioxide in the form of woodland carbon units. These credits can also be sold privately on the open market. There is the same potential market for soil.

Trees have moved up the agenda because they are more efficient at sequestering carbon than soils. Young, fast-growing forests sequester high levels of carbon. Once they are mature they become a large carbon store, but have low sequestration potential. In the carbon equation the most desirable end use for trees is in construction. There the carbon is locked up indefinitely and it may be replacing materials with a high carbon footprint such as steel and concrete. Tree plantings vary depending on the main goals of flood alleviation, biodiversity, carbon-capture or landscape value.

Carry on cropping

Despite the carbon-capture and flood alleviation benefits of grassland and trees, there will be strong demand for grains, pulses and vegetables grown for human consumption. Around 80% of crops grown in the UK are actually for animal feed. If this area was reduced and switched to human foods, the UK could achieve full self-sufficiency, provided people ate seasonal food and more fruit and vegetables.

British farmers are already experimenting with pulses and grains such as quinoa, lentils and fava beans. Many of these



The Woodland Carbon Guarantee is a **£50 million** scheme that aims to help accelerate woodland planting rates and permanently remove carbon dioxide from the atmosphere.

crops are good for the land, and from a whole farm viewpoint they increase diversity, which spreads risk and reduces plant diseases. So, environmentally, growing a bigger range of crops is good for farmers.

Nitrous oxide is the major contributor to greenhouse gases in the arable sector. Not only is it a highly potent greenhouse gas, it also has a lifetime of 110 years and depletes the ozone layer. Half of the nitrous oxide released comes from the manufacture of artificial fertilisers, and the other half is released at application. Here, precision agriculture and crop management techniques can be used to reduce the carbon footprint and reduce input costs.

Organic systems have a role to play through nitrogen fixing or livestock incorporation. However, Cranfield University calculated that if the whole UK switched to organic, we would have to import more food from less carbon-sustainable production systems, which would in fact increase greenhouse gas emitted per unit of food.

It is incredible how pressures from financial, meteorological, ethical and political directions are all swirling around to create a major change in our land use and income. Despite the unsettling nature of change there is plenty to look forward to in the years ahead, and even to be excited about.

Take-home messages

- The livestock carbon footprint can differ significantly between holdings within the UK
- The UK can look to livestock systems in Europe and New Zealand to reduce its carbon footprint
- When you analyse carbon footprints, production emissions can easily dwarf transport emissions
- Arable systems can reduce the carbon footprint with targeted nitrogen use, low tillage and improving soil management
- Carbon credits for soil and woodland carbon units will be commodities in the future



Kate Richards
k.richards@batchellermunkhouse.com

Did you know...?

<1%

British Agriculture accounts for less than 1% of UK CO₂ emissions

30%

Of all food is wasted



Pork has half the CO₂ emissions of beef or lamb

Beef production accounts for 41% of all emissions from animal and land agriculture which annually accounts for 14.5% of all human emissions.



=41%



Chicken and eggs have half the emissions of pork



Globally, agriculture and forestry contributes 24% of greenhouse emissions

N₂O

1 tonne nitrous oxide = 298 tonnes CO₂. Nitrous oxide is not only a greenhouse gas, but also an ozone destroyer.



UK beef herds produce 39kg CO₂e per kg meat, and the global average is 71kg. The same CO₂ is produced when you burn 6 litres of petrol

Almond milk vs dairy milk	Almond	Dairy milk
CO ₂ e (excluding transport)	0.36kg	1kg
Water used per litre milk	400l	685-1000l
Protein/l	8g	32g
Sugars/l	0g	48g
Ca and vit D	fortified	present

CO₂

1 tonne methane = 28 tonnes CO₂



Checking the contract...

Letting a contractor take on the strain of farm activities works well in many scenarios. Leo Hickish explains how to avoid the pitfalls.

As the economics of farming come under increasing pressure, more and more farmers are considering their future. Other factors such as retirement or tax mitigation can also play a part in the discussion.

Despite the wide range of reasons to change the structure of the enterprise, they usually lead to two answers: a joint venture with a third party and more commonly a contract farming agreement. Contract farming enables the farmer to retain the status of farmer. The identity of "active farmer" is desirable for many good reasons, not least the tax advantages, both in terms of inheritance tax (IHT) and capital gains tax (CGT), but also income tax and VAT.

Purely and simply a relationship under which the contractor provides detailed services for a specified remuneration, contracting can also work well for tenant farmers wishing to outsource certain operations without breaching conditions of their tenancy.

Scope of the agreement

The agreement can be far-reaching or minimal in scope. At one end of the spectrum the farmer instructs the contractor in all activities, taking all decisions and running all the books. At the other end, the contractor has wide operational discretion. Under the former, the contractor is paid fixed sums for specific activities and nothing more; under the latter it is common to see the contractor also share in profits.

The more the contractor has responsibility

for day-to-day decisions, the greater the risks are that some of the benefits of retaining the status of farmer may be lost. This means that tax advantages for IHT and CGT are put in jeopardy. Even if agricultural property relief (APR) for IHT is not lost on the land, in no time APR on the farmhouse will be put at risk. HMRC is increasingly strict in its review of contract farming agreements, and many have already fallen foul of this and been found to have migrated too far away from true in-hand farming.

Where contracts go wrong

There are several points at which the farmer can fall foul of the active farmer definition – if too much control is devolved to the contractor, for instance, or if the contractor ends up dealing with the Basic Payment Scheme paperwork and handles invoices and receipts.

On the remuneration side, if the agreement is structured in such a way that the farmer/owner in effect is only provided with a fixed sum (akin to a rent), this is regarded as not having direct involvement with the enterprise. Worse still are agreements framed in such a way that the contractor ends up taking on the risk of the business.

Keys to successful contracts

- Limit the scope of contractors' responsibilities and pay for operation on commercial basis;
- Retain bookkeeping/sales/invoices/purchases in-hand;

- Farmer to undertake BPS regulation;
- Maintain the farmer's separate accounts/books;
- Take care assessing any "first charge" payable to the farmer – beware of this looking like a guaranteed return;
- Even for small farming operations, register for VAT;
- Ensure extensive minutes on all farming decisions;
- Retain a realistic exposure to risk from fluctuating profits/losses;
- Ensure all farm management is directed from the farmhouse.

Other agreements

Share farming: Two separate businesses combining to produce a common output. Used in dairy farming in particular, but there is a long history of sharecropping across the world. In the UK, it is often used when allowing younger/new entrants into the livestock industry. In these, the landowner and contractor enter into an agreement to share margin or profit in proportion to the value of relative inputs. Typically the landowner puts forward land and buildings, and the contractor provides labour and machinery.

Partnership: These are increasingly less popular other than between family members.



Leo Hickish

l.hickish@batchellermunkhouse.com

Making the best of CPOs

Harry Broadbent-Combe explains how to look after your interests in negotiations with utility companies and transport providers.

Infrastructure projects across the South East are many and varied, and are set to step up following the budget commitment to treble spending on infrastructure.

Usually the first landowners know about it affecting them is when a letter drops through the letter box asking them to confirm ownership or tenancy of the land and to arrange a site survey.

A simple access request may seem innocuous enough, but if you do not seek professional advice at the first stage you may miss out on compensation that you are entitled to, and if any damage is done you may struggle to have it repaired. In fact, you are generally entitled to free professional advice, but this is not something acquiring authorities are keen to point out.

In our experience, those who are represented often end up getting more than those who are not. And it is a win-win situation, as the authority pays for your professional advice. At the very least, having an agent will help smooth the process and save you time. Importantly the agent is there to see that you do understand your rights and do not feel bullied by the acquiring authority.



Powers in place

Our starting point is to check that the authority – typically a utility company or Highways England – has the necessary powers. For instance how they can access, where, and when all need to be clear. It is important to establish this for both new and ongoing easements. Consideration also needs to be given to emergency access compared with routine access.

The powers do vary slightly between authorities, with water companies, for example, having particularly strong powers. The rights are enshrined in acts of parliament for the respective authorities, but these are all underpinned by common principles set out in the Compulsory Purchase Act 1965 and the Acquisition of Land Act 1981.

The powers typically include the right to:

1. Enter land for surveys;
2. Acquire rights over land by wayleave or easement;
3. Compulsorily purchase land.

Voluntary agreements

The strength of these rights and the ease with which different authorities can use them varies, but in most cases affected parties are entitled to compensation. In theory, the amount of compensation is based on equivalence: that is, the landowners and occupiers must be no worse or better off financially as a result of being subject to a compulsory purchase order.

In practice, landowners and occupiers are sometimes better off coming to a voluntary agreement with acquiring authorities, particularly when the works are urgent. Authorities often prefer a voluntary agreement because it can be time-consuming and costly jumping over the legal hurdles of CPOs, so they are sometimes prepared to offer a little more to speed up the process and reduce procedural costs.

However, should a landowner and agent actively oppose the CPO and take the matter to a hearing, the landowner could end up having to pay his/her own costs and potentially those of the authority if he/she was judged to be obstructive or unreasonable.

There are three aspects to compensation:

1. The value of the land taken;
2. Reduction in the value of surrounding land;
3. Losses or disturbance, which includes the impact on your time and disruption to domestic or business activities.

This third point can encompass many things, from crop loss to disruptive levels of dust in the home. Ensuring you receive the correct compensation depends on the detailed recording and presentation of evidence and can involve protracted negotiations.

Mitigating the impact

Having every eventuality covered will prevent any unpleasant surprises. Access is regulated in terms of timing, routes used and limiting damage. When work is done, re-instatement needs are clear, whether it be grass, fencing or landscaping. And unforeseen events, such as weather holding up progress, or unexpected archaeological finds, can put timetables out completely, so it is essential that this kind of disruption is built into the agreement.

There are already a huge number of compulsory purchase and utility schemes underway across the south east. We expect further announcements soon on a range of schemes from motorway and A-road improvements to flood defences, sewage infrastructure and utility upgrades. There has also been mention of compulsory purchases to deliver housing.

So if your land is in the path of one of these projects, seek professional advice without delay. Early engagement is crucial in protecting your interests and achieving the best possible outcome.

Golden rules if contacted by an acquiring authority

1. Do not agree anything without professional advice;
2. Make sure all agreements are in writing;
3. Have a record of the condition of your land before allowing anyone on site.

CASE STUDIES

A27 Blight Notice – turn a threat into an opportunity

We recently acted for a client whose property was due to be impacted by the proposed A27 Arundel Bypass, the preferred route of which was close to their house. While the peace and tranquillity they valued would have been ruined, none of their land was going to be taken, which meant their rights to compensation were limited.

They were looking to downsize anyway, so we suggested they consider a discretionary blight notice requesting that Highways England purchase the property based on certain (discretionary) grounds. The notice was successful, and we subsequently handled negotiations for the sale of the property.

Once a blight notice is accepted, the purchase of the property by an acquiring authority is treated as a compulsory purchase. So our clients not only achieved the full market value for their house, ignoring the impact of the proposed bypass, but also received a £63,000 home loss payment, and had all their conveyancing costs, stamp duty and moving costs paid by Highways England. A real threat was therefore turned into an opportunity.

The **rising demand** for homes may see compulsory purchase orders put in place to deliver housing.



All schemes, large...

No matter the size of the scheme affecting your property it can pay to have an agent representing you.

We are acting for a significant number of clients impacted by Esso's proposed new 90km Southampton-to-London fuel pipeline, an infrastructure project of national significance affecting hundreds of landowners. So far, we have helped negotiate option agreements and survey access arrangements for our clients and have submitted representations to the Planning Inspectorate. Our involvement will continue throughout the course of the project as we liaise with Esso to ensure things run smoothly and that our clients' interests are protected throughout, before submitting and negotiating final compensation claims once the pipeline is complete.

...and small

At the other end of the scale, we recently acted for a single landowner who had been approached by Surrey County Council, who were replacing a drain on a small country lane. The new drain marginally extended onto our client's property and led to a soakaway on their land. We negotiated heads of terms for a new easement as well as a licence agreement which permitted access for the works and an associated compound area, and then oversaw re-instatement to a high standard once the works were complete. Our involvement ensured that our client's interests were protected and that the works caused as little inconvenience to them as possible.



Harry Broadbent-Combe
h.broadbent-combe@batchellermunkhouse.com

In the **March 2020 budget**, Chancellor of the Exchequer Rishi Sunak pledged

£600bn

in investment over the next **five years** for infrastructure and industry.



Average net investment will be **triple** that of the last 40 years, going to **rail, road, affordable housing, broadband and research**. This is the highest level [of investment] in real terms since 1955.

The rules determining **how, where** and **when** an authority can access a site all need to be established.



Ditchling's future looks rosy

Public access and local jobs provide the healthy heartbeat for Ditchling and surroundings, thanks to the foresight shown by local landowners nearly 40 years ago.

The joint vision of Mary Dumbrell, one of three sisters who owned Dumbrells School, and her cousin, acclaimed heart surgeon Dr Richard Turner, has left a legacy that most certainly contributes to the health, wealth and happiness of the area.

After managing the contract for the grassland at Lodge Hill and adjoining fields, Batcheller Monkhouse took on the Turner-Dumbrell Foundation's 20 workshop units last year. Although managed with the same rigours as any other estate, the difference here is that the profits go to provide grants to local good causes.

Chris Tipping of Batcheller Monkhouse's Haywards Heath office said: "All aspects, from managing the contracts to the day-to-day running, are handled like any other estate. But the fact that so many of the Foundation's aims are community driven is truly inspiring and shows how an estate can benefit the lives of so many people."

Dumbrells school

The Dumbrell family had lived in the village since the 1860s. Sisters Mary, Edith and Harriet ran the school (formally North End School) founded by their mother in 1885.

Perhaps its most famous pupil was Camilla, now the Duchess of Cornwall, who attended the school until the age of 10.

Mary and Edith were energetic and politically active ladies. They earned notoriety by standing up to housing developer Lewis Cohen, who in 1939 wanted to buy their land, including Lodge Hill and the Bowling Green, to build his "Sussex Garden City" to house 10,000 people.

Mary, who lived for another 23 years, was determined that Lodge Hill, some 15 acres, would "be used for agriculture and not built on, or used as a recreation ground." She therefore bequeathed her farm to her cousin Dr Richard Turner, who shared her vision for an unspoiled working village.

His family had been in the village since 1637. However, he had made his mark on the world by introducing groundbreaking ways for investigation and treatment of diseased valves in the heart. As a passionate advocate of health education, his belief in the benefits of exercise struck a chord with Mary, who had nurtured the health of her pupils with daily walks and spending time outside.

Foundation established

Some land was sold for building sheltered housing in 1983, and this gave the opportunity for Richard to set up the Turner-Dumbrell Foundation and use the funds to convert the farm buildings into small workshops to be used by local artists and craft workers.

The workshops support a thriving community of skilled artisans whose crafts range from upholstery to acupuncture. The longest serving tenant is Jane Hopkinson, who has been there for 16 years. She lives in nearby Barcombe and moved into the workshop when her handbag business had grown too big to be run from home. "Although most of my sales are through shows, I have a steady trickle of visitors to the showroom here who met me at shows or live nearby," says Jane.

Also in the converted barn is vintage dress dealer Kate O'Donnell. She makes most of her contacts and deals through Instagram, trading as @the_saturday_dress. This is supported by visits to fairs and by her network of designers and film creatives. She loves her location, which is just a short walk from her home in the village.

Workshops are often a first stage on the business ladder, providing a formal workplace for enterprises which are too big to be run from home but whose proprietors are suited to rural workshops.

"Although most of my sales are through shows, I have a steady trickle of visitors to the showroom here who met me at shows or live nearby."

Jane Hopkinson,
Handbag Designer



The Turner-Dumbrell Foundation Workshops

Public access

Chair of the Trustees of the Foundation, Janet Cragg, added, "The Foundation makes an important contribution to the village environment and wellbeing of the community through its provision of Lodge Hill, an attractive space both for walking and wildlife, and the community orchard; as well as the workshops, which in turn provide income for grants to be made annually to local charities and organisations."

There is a permissive access agreement for Lodge Hill: residents are permitted to walk on the hill for 364 days a year. It is closed on 21st December to ensure the area retains its permissive access status. Locals treasure the view from Lodge Hill, which overlooks the village and has views to the South Downs.

Chris oversees the management, with Claire Adcroft dealing with day-to-day questions, contractors and paper-work. Since Batcheller Monkhouse took over the running of the estate, they have co-ordinated projects such as a re-roofing programme and the refurbishment of the common areas.

"It is vital to keep buildings in good shape to ensure tenants are happy, and that there are no gaps in the income stream. Having charitable objectives does not influence how we plan and manage the estate, but it is rewarding to see the money generated by the Turner-Dumbrell Foundation being reinvested back into the local community".



Chris Tipping

c.tipping@batchellermonkhouse.com

This summer, the Foundation anticipates awarding grants to the value of £25,000. In May 2019 grants were made to:

- **Beacon Parish** for the upkeep and maintenance of St Margaret's churchyard;
- **Ditchling Parish Council** for outside table tennis equipment, as part of the scheme to enhance facilities at the recreation ground;
- **Ditchling Streat & Westmeston Sports** for the refurbishment of cups;
- **FPTA of Ditchling Primary School** towards the cost of canopies for outdoor learning spaces;
- **Ditchling Lawn Tennis Club** towards court resurfacing costs;
- **The Monday Group** for the annual fixed costs of footpath maintenance;
- **Ditchling Unitarian & Free Christian Church** towards refurbishment of the Old Meeting House;
- **Oldland Mill** for lightning protection; and
- **Hassocks Youth Hangout Family Trail** project.

In praise of promoters

Valuation disputes have marred traditional option agreements with housebuilders. Oliver Robinson examines how landowners can safeguard their interests.

Securing planning permission for residential development should be a major cause of celebration for landowners who are looking to maximise site value. However, in a number of recent cases we have witnessed a worrying trend of housebuilders submitting incredibly low offers for the land, and this often results in lengthy valuation disputes.

So why do valuation disputes occur?

Traditionally, many planning applications have been obtained in conjunction with a housebuilder under the terms of an option agreement. Once planning has been obtained it is in the housebuilder's interest to negotiate down their perceived market value of the site. This is where we are seeing serious problems arising. Each site is individual in nature and provides unique challenges for those trying to ascertain the site value.

In many parts of the South East, there has been little in the way of development in recent times. This makes the task of sourcing suitable comparable evidence problematic. Sites will have varying layouts, site densities and percentages of affordable housing units. There will also be significant differences in construction costs due to topography, site contamination and ground conditions.

Therefore landowners and house builders can have vastly opposing views on the value of the site. Negotiations can also be skewed in the favour of developers, as they have access to a number of existing detailed site surveys. Having a greater armoury of information enables developers to diminish the value of sites and makes it all too easy to steamroll landowners, who will have neither access to detailed site information nor personal experience in dealing with matters of this type.

If an impasse is reached between the two parties, the destination of last resort is to engage an independent expert or apply for arbitration through the Royal Institute of Chartered Surveyors (RICS). We have gone through two of these recently. Both were worth doing from a financial point of view, but such cases are costly, convoluted and stressful for all involved and are not to be undertaken lightly.

What are the alternatives to option agreements?

Land promotion firms have been operating in the strategic housing market since the early 1990s, but it is only in the last ten years that they have come to prominence. From relative obscurity a decade ago they are now managing 70% of the planning applications that Batcheller Monkhouse is handling.

It is a situation we welcome, as land promoters are able to gain a full market price for our clients.

While option agreements and promotion agreements may superficially appear similar (see box), a key factor is that the interests of the land promoter and the landowner are aligned: to maximise the price on the open market. By contrast, house builders are seeking to obtain the site at the lowest price in order to maximise their profits.

How do we go about securing the optimum deal for the landowner?

The starting point is to try and secure a land promoter for the site. We work with several trusted land promoters who are well-funded and have extensive planning knowledge. The land promoter is appointed to act on behalf of the landowner in order to secure planning for the site.

Crucially, once planning permission is secured, the development site will be marketed for sale. This will give a number of house builders the opportunity to bid for the site. Our experience has frequently shown that house builders are willing to pay a premium to secure a desirable site which is shovel-ready. They might have other reasons for acting quickly, such as increasing their market share in a region or meeting their construction targets.

In a recent marketing exercise, we had ten bids from house builders. Interestingly, they varied from £5.5m to £11m. This clearly demonstrates that if, in an alternative scenario, the landowner had agreed an option agreement with one of the housebuilders who valued the site at the lower end of the spectrum, then the landowner would have been vastly out of pocket, even after extensive negotiations. Using a land promoter not only increases the likelihood of securing the landowner a higher value for the site, it also provides greater levels of transparency and peace of mind.

There are, however, some downsides to the land promotion route. Land promoters do tend to be more risk-averse in their selection of sites. There have been sites, in particular those situated in the green belt, where we have not been able to secure a land promoter. In this instance we have found that house builders are more prepared to take a longer-term view. There are also occasions when a landowner might adjoin land that is already under an option agreement, so there is no choice but to bolt it on to the existing scheme.

Making an option agreement with a house builder needs extreme care. Although it is a legal document that will always involve a solicitor, there will be practical aspects where an agent can spot potential pitfalls in the future. These centre in particular around working out future value. Interestingly, I recently worked on an extension to a 1998 agreement that clearly showed the

lessons that have been learned over the past 20 years, and where safety nets can now be built in for landowners.

The structure of option agreements and promotion agreements are very different, and I have every confidence when I say that agent fees are more than covered by the extra income and reduced stress that results from our being involved from the outset on the road to development.



Oliver Robinson
o.robinson@batchellermonkhouse.com

Option agreement: the landowner has an agreement with a house builder who will obtain a suitable planning permission over the land. The house builder has the option to purchase the site at a set percentage of the open market value.

Promotion agreement: the landowner has an agreement with a land promoter who takes the site through planning to sale on the open market. The promoter receives an agreed percentage of the final sale proceeds.

Who are the land promoters?

Unless you work in the land development sector, the chances are you will not have heard of land promoters. Their work involves securing full planning applications by arranging surveys, architects' plans and general planning work. It is a costly process, usually taking many years, but with good professionals in their team it is a profitable model fuelled by between 10 and 30% commission on the final sale value.

They are mainly private companies that usually work on a "no win-no fee" basis, and in some circumstances will provide an upfront payment to show goodwill. However, because of the "no win-no fee" arrangement, they are selective about the land projects they take on. Their business model operates on around a 90% success rate. There are about eight large land promoters across the UK, and many smaller ones are springing up.

Case study Steel Cross, Crowborough

Following the grant of planning permission, Batcheller Monkhouse was instructed to bring a 103-unit development site to the market in the summer of 2019. An extensive marketing programme culminated in receiving over ten bids for the site. Interestingly there was nearly 100% difference between the bottom and top bidders for the site. Offers were received from a number of national house builders; these included some of the bids at the lower end of the scale. Had the site been under an option agreement as opposed to a promotion agreement then negotiations would have resulted in a significantly lower land value.

Given the multi-million pound nature of these deals, it is likely that the landowner would have been out of pocket by a number of millions of pounds had Batcheller Monkhouse not been involved in the negotiations.

Stuck in a rut

Despite the good intentions of most Local Authorities many are falling woefully short of their housing supply targets. Hannah McLaughlin investigates.

The housing delivery test results for the period 2016-2019 were published in February 2020 and they show that eight Local Authorities across the country failed to deliver 45% of their housing requirements over the past three years. Three of these are in the South East region: Eastbourne, Thanet and New Forest.

The 45% threshold was set by the Government as the red line for meeting housing targets for 2019. Delivery below this threshold means that Local Authorities can no longer rely on their existing housing policies which control the extent and location of growth. Instead, there is a presumption in favour of allowing sustainable development in locations that may have been previously discounted for housing. Delivery below 85% triggers a need for a 20% buffer to be applied to the five-year land supply target, and below 95% there is a need for an action plan to be prepared to explain how a Council will increase delivery.

Councils in danger of speculative housing bids

In November 2020, the Government is pushing the bar higher. Local Authorities will have to deliver 75% of their allocated target or be forced to apply the presumption in favour of sustainable development instead of their own growth policies, regardless of their five-year land supply position.

Several Local Authorities in the South East that could be caught out by this presumption include Adur, Arun, Brighton and Hove, Elmbridge, Epsom and Ewell, the Isle of Wight, Rother, Tandridge, Medway, Oxford, Spelthorne, Sevenoaks and Worthing – all below the 75% threshold according to the latest housing delivery test results. With Eastbourne and Thanet, this represents 24% of all planning authorities in the South East, excluding the South Downs National Park.

Local Authorities and the communities they serve have put a great amount of time and effort into creating progressive Local Plans to identify enough housing land which could reasonably accommodate expected levels of growth. But many Local Plans across the South East are being held up or even abandoned

at the examination stage. This means that despite efforts to rectify poor levels of delivery, many Councils remain at risk of unprecedented new development.

Conflicting guidance

One of the most common examples of competing pressure in the South East relates to Green Belt land. A few Local Authorities in the South East are almost entirely within the Green Belt, with the highest being Sevenoaks (93%) and Tandridge (94%). This makes it almost impossible for these Local Authorities to find suitable land for development without conflicting with Green Belt policies.

There is substantial direction to uphold the Green Belt status of land and continue to protect it from inappropriate development. However, there is a question of whether it is feasible for an Authority comprising more than 90% Green Belt land to achieve an unaltered housing target without consideration of these constraints.

Both Tandridge District Council and Tunbridge Wells Borough Council acknowledged that they have limited opportunities for relying on existing built areas to secure the level of housing required. To address this, they have sought substantial Green Belt release in the form of new Garden Village settlements.

Sevenoaks District Council has taken a more restrained approach and has tried to identify enough land within the envelope of existing built up areas. However, the Inspector recently cancelled the next round of hearing sessions on the Local Plan after finding it 'unsound'. The primary reason for the Inspector's conclusion was the District's failure in its 'duty to cooperate'. However, a lack of justification on a lower housing target than identified needs and concerns over their Green Belt assessment and the deliverability of some allocations were also identified as issues.

This shock decision means that those who have promoted sites that are suitable for development, and could be delivered fairly soon, are left unable to progress. These are development sites which could have contributed to the District's housing targets in locations that are supported in principle by the Council.

The leader of Sevenoaks District Council has recently written to the Secretary of State raising his concerns about the Inspector's conclusion and the Authority's disappointment in the length of the time the Inspector took to find the plan 'unsound'. The High Court has now granted permission for a judicial review of the Inspector's decision.

The tide may turn on restrictive approaches to development

Wealden District Council has faced a similar setback. Although not constrained by any Green Belt designation, the District has an extensive area covered by the High Weald Area of Outstanding

Natural Beauty (AONB). Here the Local Plan was thrown out by the Inspector on the basis that the Authority's scientific and environmental evidence for the designated area was flawed. This evidence underpinned Wealden's growth strategy. The Authority had also failed in its duty to cooperate by not helping its neighbour - Eastbourne Borough Council – in meeting its housing need. The District is now left with a lack of five-year housing supply and a 20% buffer requirement in reflection of its housing delivery test result. The Inspector's conclusion may put an end to Wealden District Council's highly restrictive approach towards growth, which has often stalled or resulted in the refusal of potentially 'suitable' and 'deliverable' development proposals.

Delivery stagnated

More generally across the South East, the lack of Local Plans and the lengthy delays in the plan-making process could hinder permissions for appropriate development, with a knock-on effect of hampering the delivery of housing.

Even where a Local Plan is approved and adopted, housing delivery is not necessarily coming through as quickly as envisaged or projected. Where growth strategies are focused on large sites or new settlements, the delivery and implementation process is frequently slow. This is mainly due to the length of time it takes to secure planning permission and deal with the subsequent planning conditions and legal agreements. More importantly, it is not proving easy or even feasible to address the need for significant infrastructure investment. The roads, water, sewage, gas and electricity requirements of these large plots take many years to fund and implement. It means the consented development will become a solution for growth in the medium or longer term, but this does not solve the problem of the housing shortfall that Local Authorities need to act upon now.

Finding the way forward

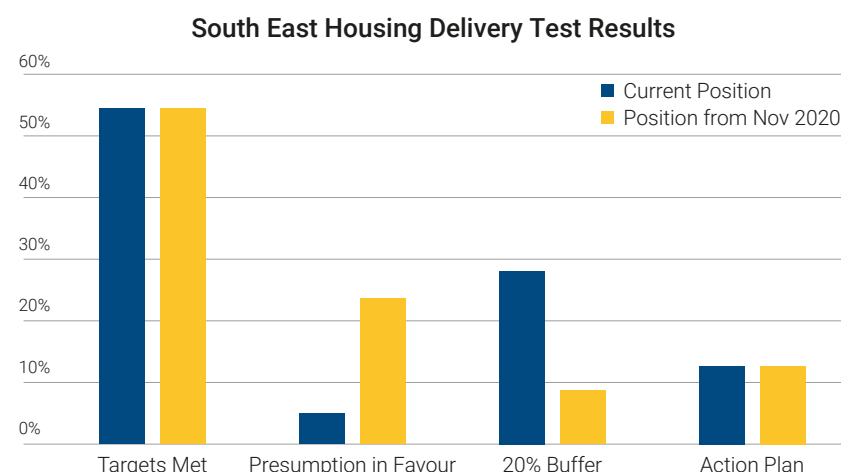
A more joined up approach is needed in the plan-making process, which might involve having Inspectors involved from the outset. By doing so, errors made in the evidence gathering and interpretation stages can be ironed out early on, with the examination stage limited to minor modifications and ultimately a swifter adoption.

More consistent timescales in the plan-making process across authorities would provide developers with a better idea of where to invest time and money.

Further guidance on the duty to co-operate progress would also be welcome. Local Authorities are required to demonstrate that discussions have been held with neighbours on strategic issues, but agreements are not often made on unachieved housing targets. Could incentives be developed to encourage less constrained Districts to meet their neighbours unmet housing needs? This might involve lowering the threshold which triggers the presumption in favour of sustainable development in such instances where Councils have provided for the unfulfilled needs of their neighbours.

A more joined up approach could also help identify larger areas of the Green Belt that may not contribute to the character and openness protected under the designation. This would satisfy longer term targets for several Councils.

Equally, smaller site allocations are vital for ensuring a consistent level of delivery across the plan period. Councils should provide clearer support in Local Plans for sites that are suitable for small to medium house builders and can be delivered within the succeeding five years. These sites might be within or, where appropriate, immediately adjacent to settlement boundaries to discourage land banking, and would contribute to a more steady delivery of housing over the plan period.



Source: Government's Housing Delivery Test



Hannah McLaughlin

h.mclaughlin@batchellermunkhouse.com

Dream on...

You may dream of a unique property that would grace the cover of an architectural magazine or take a slot on television programme *Grand Designs*. But it is much harder to achieve planning consent for these than the lifestyle media might lead you to believe.

Although planning policy (National Planning Policy Framework Para 79) does allow for new dwellings which are of truly outstanding innovative design, and reflect the highest standards of architecture, the bar is set incredibly high. Very few are approved. The truly unique set of circumstances required by the policy test is very hard to establish. The work that goes into them can be extremely time-consuming and costly, with no guarantee of a positive outcome.

Even properties that are designed with all the latest low energy and water recycling systems and that display the highest sustainability credentials, are not guaranteed to be considered as an exception on this basis. The rare examples of Para 79 exception homes that are approved across the country each year – typically six – stand testament to how much scrutiny such proposals come under. Rigorous assessment and consideration of design and circumstances are monitored by

the council at every stage. The planning process is most certainly involved, with significant time and cost implications.

Local Authorities are really looking at the best examples of architecture that will keep their iconic status in the future. To embark on this process is typically a five- or six-year project, as you work through different variations that might be acceptable to planners. In the event that you are lucky enough to secure planning consent, unless you are looking to build your own dream home, these properties often end up being extremely expensive to build and commercially less profitable than something more traditional.

There are better ways of securing planning consent for a new dwelling if you are able to compromise with a conversion or take a longer-term strategy to development. Success is more likely when you understand the land and building designations (see previous article) to put together your strategy.

Location, location, location

Location will have a direct bearing on whether or not development is accepted in principle. This is particularly important in the countryside, because applications beyond development boundaries are generally rejected. Special justification must be made for new builds outside settlement boundaries. The key issue for most residential schemes is whether their location is sustainable enough to support new residential use.

Things taken into account include isolation, proximity to shops and services, whether there is access to a bus stop with regular services and whether you can walk into the town or village safely. Councils accept that the countryside cannot stagnate but are largely bound by legislation and planning policies, which generally point towards more support for the conversion of an existing building.

Suitable site access

It is not just the building itself that needs careful thought. Access to land and buildings is very important. Creating new access roads and entrances from the highway can sometimes involve significant clearance and building works

which have an impact on the character and appearance of the rural landscape. New access routes might introduce noise or disruption for neighbours, and there are many instances when the ideal access route is owned by another party.

Local Planning policy variations

Most rural Local Planning authorities have adopted planning policies which refer to development in the countryside. Their respective policies will set out their aims and ambitions for the development they want to see, which will have subtle variations. National planning policy sets out scenarios where residential development may be allowed in the countryside: for agriculture and forestry, accommodation for rural workers, small scale business development, and a few other specific needs.

New build dwellings in the countryside are difficult to secure. Three possible routes are:

- The floor space of an old building can sometimes be traded for new. This is largely dependent on the perceived benefits of consolidating the development into a new form. If a reduction in floor area can be demonstrated, so much the better.
- Creating a single new dwelling of exceptional architectural design. This is specifically addressed in Para 79 of the National Planning Policy Framework, and these are the *Grand Designs*-type dwellings.
- Have the land included as a development allocation in the Local Authority's Local Plan or neighbourhood plan. The process of making a Local Plan as well as a neighbourhood plan can be lengthy. Sites which are located closest to existing towns and villages and can demonstrate sustainable locations stand the best chance of success. But again, the process may take many years.

Seven steps to successful applications

1. Understand the land and building designations.

2. Ensure the location relates well to existing areas of development.

3. Existing use of the site may present opportunities or barriers.

4. Proposed access on and off the site can make or break a development.

5. Know and work with rural development planning policies.

6. Check permitted development rules.

7. Choose between conversion, re-build or new build.



To get planning permission for a new build, the floor space of an old building can sometimes be **traded for new**

Permitted development

If you have just minor changes in mind, it may be possible to secure consent for these under permitted development legislation. Permitted development is a more streamlined process than making a planning application. There is a more limited range of issues to be considered, but the scale and extent of development that can be achieved is inevitably much narrower.

Developments that fall within this criteria can include conversions, extensions, change of use, new agricultural buildings and access roads. There is a defined process to follow and, similarly to a planning application, plans and detailed justification are required.

Conversion or new build

The existing condition of the original building can also make a significant difference to the attitude of the Local Authority. Is it something that enhances the landscape, or would it be better to take it down and start

again? Local planning authorities will be looking for evidence that the building is structurally sound and capable of being converted without a major or complete reconstruction. Conversions are easier to achieve than re-builds.

Furthermore, commercial issues will come into the decision. A new build will often be cheaper and quicker to construct than a conversion. Add into the equation the fact that a new build will be zero-rated for VAT, and the advantage can become even more significant. As you can see from this brief dip into the planning world, there are many criteria to weigh up. So that all aspects are considered for the best possible outcome, we can manage the whole process, bringing in development surveyors and other experts where appropriate.



Kirsty Castle

k.castle@batchellermonkhouse.com

Bats, badgers and Brexit

Will great crested newts matter after Brexit?

Ecology surveys will still be required in planning applications once we leave the EU. The designated areas where some species, such as great crested newts and bats, are protected may diminish, but species protection and wildlife conservation are firmly embedded in our own UK domestic legislation.

Will the UK become less environmentally conscious?

No. The need to fully assess, take account of, promote and secure new wildlife and biodiversity as part of development proposals is set to become higher priority. New Government policy is in fact some of the most far-reaching in the world. It will be mandatory to secure biodiversity net gain. This will apply to all development, from single houses to larger housing estates.

Para 79 facts

23
years ago

Principle established
in planning policy

About
130

Para 79 houses approved
across the UK

£100,000

Is typical pre-planning cost

58%

Success rate



Protecting species, such as the **Pipistrelle bat**, is firmly embedded in **our own UK law**, and will continue **after we leave the EU**.



“The Trustees of Old Brick Farm have worked with Batcheller Monkhouse for several years. During that time, we have made fairly major policy changes. 500 acres are now let to a tenant selected by Batcheller Monkhouse, which has proved to be an enormous success. The team is headed by Charlotte Pearson-Wood and all concerned are happy in trying to achieve well-balanced, successful outcomes. In all aspects we are delighted with the service we receive from Charlotte Pearson-Wood and Batcheller Monkhouse. Long may it continue.”

Michael Rudman, Trustee, Old Brick Farm

Loosening the Green Belt

With so much of the South East subject to designations such as Green Belt, National Park or Areas of Outstanding Natural Beauty it is hard to imagine how any development takes place at all. However, consent for projects can be achieved with good knowledge of the designation's purpose.

"There are often ways of working with the designation to show how a proposed development can make a positive contribution to the area", says Clare Bartlett of Batcheller Monkhouse's Pulborough office. She explains that the first step to a successful development application is to have a clear understanding of the purpose of the designation, and to work with that to emphasise the benefits of the proposed changes.

For instance, where a National Park is involved, one of its purposes is to provide a natural environment for the public to enjoy. "Respecting the natural beauty is the starting point in your application", advises Clare, "so anyone developing in a National Park will be looking at attracting people in, whilst maintaining design sensitivity."

The National Park Authority will always be cautious about development proposals. But it is also aware that part of its remit is to conserve the culture of the area, which means that people need to be able to live and work there.

Housing for the family or bed and breakfast accommodation are popular requests. While a new building in the landscape is unlikely to be acceptable, converting an existing outbuilding can often be successful. "Do not despair. It is surprising what can be accepted as a conversion. Small, apparently useless buildings can be the start of your application", she says.

"Do not despair. It is surprising what can be accepted as a conversion. Small, apparently useless buildings can be the start of your application."



Clare Bartlett

c.bartlett@batchellermonkhouse.com

Houses in a National Park

For residential use, the first stage is often to prove a need. In a recent example, at Bury Common, a farm in the South Downs National Park, the farmer was living in a bungalow a short distance from the main farmyard. However, with a growing family he wanted something bigger. There were three attached barns that were too small to use for modern machinery so no longer had a function. The planning authority accepted that it would be useful for the farmer to convert the buildings to form a house, which would then be nearer calving sheds for the dairy and beef herds.

"The Green Belt poses different barriers, and in turn alternative solutions," explains Clare. In these designations the main objective of the Local Planning authority is to maintain the degree of openness. This can mean some horse trading is required to bring about the desired result. For instance, one client needed a larger building to accommodate a tenant's growing business. By trading in a redundant farm building with no prospect of re-use, consent for a purpose-built modern building was granted, enabling the project to go ahead.

Doing a deal

Similarly a farmer in the Surrey Green Belt wanted to convert or replace the majority of his farm buildings to accommodate other uses such as a gin distillery. Some of the work had already taken place and required retrospective

consent. "To regularise everything was a lengthy process. There were six stages over 18 months. The Local Authority was generally helpful about trying to find a way forward, but there are fewer options when trying to gain retrospective permission," she added.

In the end, by trading in old buildings and structures, such as a piggery, consent was granted for the distillery, shop, bar, storage units and a new dwelling.

Sensitive change of use

Listed buildings bring their own challenges. "Listing is not a preservation order, preventing change", Clare points out. "It does not freeze a building in

time, it simply means that listed building consent must be applied for in order to make any changes to that building which might affect its special interest."

At a farm in West Chiltington, the farmer had started using a listed barn in the farmyard for weddings. The changes had been carried out sensitively and ensured the long-term future of the barn. With the overall look of the yard remaining largely unchanged, listed building consent and retrospective planning permission were both granted.

Whatever your project, Batcheller Monkhouse also works with a range of different architects who understand the challenges and have strengths in particular areas.



In Surrey, by trading in old farm buildings and structures, consent was granted for a distillery, shop, bar, storage units and a new dwelling.



Listed building consent and retrospective planning permission were both granted for this barn – allowing it to be used as a wedding venue.

Understand your designation

- **National Park – to conserve and enhance the natural beauty, wildlife and culture heritage**

Promote opportunities for the understanding and enjoyment of the special qualities of the area by the public

- **Green Belt – is a specially designated area of countryside protected from most forms of development, it serves five purposes:**

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- **Areas of Outstanding Natural Beauty - areas of countryside which have been designated for conservation due to their significant landscape value.**

- **Listed Buildings – for a building to be listed it must be of special architectural and historic interest. Listed building consent must be applied for in order to make any changes that might affect the building's special interest.**

Communication breakdown

Andrew Mallard looks at how new telecoms legislation introduced in 2017 has caused innumerable legal arguments for operators and property owners.

In theory, the telecoms industry is gearing up for the upgrade to 5G, as well as improving the existing 4G network. However, legislation designed to speed up investment is slowing activity on the ground.

Unfortunately, a smooth transition to improved communications for all received a setback when the electronic communications code was introduced in December 2017 as part of the Digital Economy Act 2017. Lack of clarity in the provisions has meant operators and property owners are at loggerheads as they put different interpretations on the guidance – whether it be about new agreements or renewals, or valuation, access and occupancy. The legal minefield has meant that we as agents have had to become experts in the minutiae of each aspect of the new code.

At the heart of the problem is the interpretation of what should be a market rent. Operators believe the code authorises them to offer very low valuations on new agreements. Government backed research in 2013 expected rents to fall by 40%, but with operators offering considerably less than that, hackles have risen and landowners have collectively rebelled against the new agreements.

What is market value?

The battle ground is about how the term “consideration” should be interpreted. This is a payment peculiar to telecom agreements that is made in addition to compensation. The theory is that “consideration” should relate to the “price of agreement” (with an

assumption that it is not used for the operators’ network) and be in line with the market value. But the interpretation of market value can have very different stand points. Telecoms operators are interpreting this as the value of the square footage of building or land. However, the property owner brings in other criteria such as disruption, and access rights. Batcheller Monkhouse considers that it should be interpreted as the market price, which takes an unwilling seller and turns him into a willing seller.

Some valuation arguments are waiting to be heard by the tribunal. The only valuation case that has already been decided was a roof top in Islington. Islington Council was unhappy when the operator dropped the rent by over 95% from the previously agreed figure of £21,000 pa when the new code came in. It was a blow to the council and other property owners when £1,000 pa was awarded by the Upper Tribunal.

A glimmer of hope came in the case of an operator vs Compton Beauchamp Estates Ltd. Martin Rodger QC set out in his judgment: “We are not persuaded that the tiny sums suggested by Mr Chase [on behalf of the operator] take into account the understandable reluctance of rural landowners to lose control of their land to the extent that entry into an agreement for code rights is likely to entail.”

Discussions on compensation appear less contentious. Compensation is exactly that, compensating for actual or likely losses incurred, and this broadly reflects the principles of compulsory purchase.

Challenging the operators

Resentment over limited improvements on valuations means that at every stage of the process property owners are challenging the powers the operators believe they have.

An appeal case recently agreed with a judgment from the Upper Tribunal that a site survey (often referred to as a multi-skilled visit (MSV)) is a right under the code. Consequently, as a code right, terms for the proposed visit should be recorded in writing in such a way that

does not give the operator a permanent right. Batcheller Monkhouse is agreeing terms and working closely with solicitors to progress this temporary right and to recover costs from the operator.

Type of tenancy matters

Then to add to the legal quagmire, when and how the term of a particular agreement expires affects whether the agreement is renewed under the Digital Economy Act 2017 or the Landlord and Tenant Act 1954 (LTA54). If the former applies, disputes are heard by the Upper Land Tribunal, and if the latter, by the County Court.

The importance as to whether the agreement fulfils the criteria to fall under LTA54 or under the code also influences how the valuation is worked out. If the operator’s tenancy is believed to fit the parameters of the LTA54, then it should be valued in line with the market value principles of LTA54, without the “no network” assumptions of the code. This suggests a better rental value for the property owner. However, we forecast that these two types of valuation will be a hotly debated issue through the courts during 2020.

In seeking to secure consensual agreements, Batcheller Monkhouse has met all the major operators and continues to engage with them. There has been movement in agreeing terms and over valuation, although not as much as we should like. We believe it is in both the country’s and our clients’ interests to find solutions with which our clients can be satisfied. Beyond the deal to be struck, there is a relationship of landlord and tenant to be maintained, and nothing can be gained by our clients feeling they have been held over a barrel.

Why was the new code introduced?

The new electronic communications code was introduced on 28 December 2017 as part of the Digital Economy Act 2017. The Government wanted to see slightly lower rents so operators would invest in a more robust network.

Has it succeeded? Network growth is minimal. Before the new code was introduced, thousands of agreements were signed nationally each year. In the period between then and March 2020, only a few dozen of the new code agreements at low rents have been agreed by force or consensually.

5G – the big push

Analyst McKinsey predicts that network-related capital expenditures would have to increase by 60% from 2020 through 2025.

Many elements of current 5G technology build on 4G networks and that means mobile operators can take an evolutionary approach to infrastructure investment. For instance, operators could begin by upgrading the capacity of their existing 4G macro network by reframing a portion of their 2G and 3G spectrum.

When network upgrades are no longer sufficient to support the increased traffic, operators will need to build new macro sites or small cells. That point in time will vary by location, but most operators will need to embark on significant new build-out between 2020 and 2025.



Completing the picture

5G exclusion zones

There have always been physical limits around antenna where in theory only operational personnel, and not the public, should be allowed, so controlling exposure to radio frequency (RF) electromagnetic fields.

There are two exclusion zones around antenna on base stations: the smaller one for workers and the larger zone restricting access to the public. Public standards are the most extensive, assuming that the general public does not have the knowledge to be able to identify and manage risk associated with radio frequency. Occupational standards are strict but less extensive as it is assumed those working with, in or around apparatus which emits RF will have the necessary skills and equipment to manage a safe working environment.

Historically it has been accepted that ICNIRP [health and safety standards for telecoms emissions] design plans provided by the operators should be relied upon. Indeed, as long as there was a statement confirming a design was ICNIRP compliant that was sufficient for the relevant authority determining planning applications, for example.

However, with the advent of 5G technology, concerns have started to surface suggesting self-stated compliance can no longer be relied upon. Primarily this is because operators tend to work on the assumption it is the occupational zone which will apply.

With 5G apparatus, clearance zones for the public are typically two to four times bigger than they were for 4G technology. With some types of antenna, the public would enter this zone four to five metres above the ground. And of course a farmer or farmworker is in fact a member of the public, and certainly not a RF trained worker. This is a problem that will need to be addressed, as arable farmers are "public" and not "occupational" and there may be some scenarios, such as driving a combine, where they may enter the public exclusion zone.

Radiation facts

- ICNIRP stands for International Commission on Non-Ionising Radiation Protection – the body responsible for providing guidelines and recommendations on the limits of exposure to radio frequency (RF).
- Radio frequency is non-ionising but does have a heating effect on tissue.
- The human body can adjust to small rises in temperature, as it does with exercise, but above a certain threshold serious health effects such as burns can occur.



Batcheller Monkhouse's New Homes Department was launched in January 2018, enabling it to complete the full property life cycle from bare land with no planning permission to selling new builds.

In just over two years, Batcheller Monkhouse has built up a portfolio of new homes and apartments across the South East. Some have been taken on when developers are looking for a specialist service to sell their new homes. In others, Batcheller Monkhouse has been involved from gaining planning permission and engaging a builder through to marketing the properties.

Julie Carver leads the team. She has 30 years' experience in the housing market, 18 of which have been spent specialising in marketing new properties. "House builders developing sites of 40 plus homes, tend to have their own marketing teams. However, whether you have one or 100 plus houses, we can tailor our service to suit your needs," says Julie.

"The ideal is to be called in when a landowner is considering whether his/her plot of land is suitable for planning. It gives me the chance to advise what type of build would suit the area and what sort of price could be achieved for the properties. Our planners can then assist with the planning permission. Once built, we put together the sales materials, and depending on the number of units, can have someone on site with the marketing information and knowledge of the properties."

The marketing campaigns are crafted to maximise footfall and present a development to its best possible advantage. In addition to good roadside signage and possible on-site staff, our offices have all the tools to present and sell the stock.

To assist developers, Julie offers a free valuation service for re-sale values. "This helps them decide what sort of properties would be most viable, and helps me be involved from an early stage." She is also happy to help with advice on layouts, interiors and appliances that are appropriate for particular price bands.



Andrew Mallard

a.mallard@batchellermonkhouse.com



Julie Carver

j.carver@batchellermonkhouse.com

The 'off market' strategy

Batcheller Monkhouse reveals its secret weapon, thanks to residential estate agents Wendy Stirk and James Maule.

As we go to press, the estate agency and lettings markets have re-opened following lockdown imposed to tackle Covid-19. The press would have you believe the agency world collapsed over that period. That is far from the truth and certainly not what we witnessed. Most notable is the growth in demand for both rural and regional town property, and especially from those looking to relocate from London and other urban areas.

As the rules on movement relax, the markets are responding well. What is now key is to use all our techniques to secure the best deals for our clients. With this in mind, we explore one method that we have developed and honed.

Low-profile marketing brings better results

For those who wanted to move in 2019, a lack of confidence around Brexit caused the market to stall. Then in December the pressure valve on property sales was released with a decisive election result. With a more predictable outlook, people are on the move again. Across all Batcheller Monkhouse offices, sales agreed in January 2020 were up 92% on January 2019. Similarly, viewings were up 94% in January this year compared with last year. Then Covid-19 struck. What we are now seeing is not only the return of this demand but a notable increase.

There are always ebbs and flows in confidence in the property market and it is critical to have a strategy in place that can cope with the bad times as well as the good. To this end Batcheller Monkhouse has developed its "low-profile marketing" strategy.

Low-profile marketing

"We do not set a price. Properties are not publicised or advertised on the open market. By maintaining regular contact with potential purchasers, we have a good understanding of their search requirements. This enables us to introduce buyers to suitable properties based on criteria as opposed to purely price-matching," says Wendy Stirk. "The strength of this approach is that in an ever-changing market we can remain flexible in our marketing of a property."

Our extensive database of buyers has been developed over time, incorporating returning clients, and continues to grow through social media initiatives as well as traditional marketing at shows and events. For this strategy to really work for our clients we must be proactive in our approach and not solely reliant on property portals.

"It is proving to be a very effective tool as purchasers come to us knowing that we can offer properties which they won't necessarily find on the internet, and that match their search criteria," says James Maule.

Wendy adds: "This approach can be used to sell a wide range of properties and has resulted in a growing number of off-market sales, representing about 15% of all transactions."

Low-profile marketing can often lead to competitive bidding, reaching a point where we have to ask for best and final offers from the buyers. As always, the primary aim is to achieve the highest possible price.

Keeping on track

Communication is paramount once a sale is agreed. The conveyancing process has lengthened, and its complexity can create stumbling blocks and develop uncertainty, and so requires experienced handling. "Guiding the client and buyer through the sales process is one of our core strengths. Experience and effective communication are fundamental in keeping this process on track," James explains.



Wendy Stirk

w.stirk@batchellermonkhouse.com



James Maule

j.maule@batchellermonkhouse.com

CASE STUDY



"A big thank you to everyone for guiding me through the sale of my house. Advancing years were forcing me to move to a more manageable sized home and I was nervous of appearing on the internet and, indeed, whether I had the strength for the challenge...The discreet, low-profile selling approach proved to be far less stressful than I feared, and I am pleased with the result, securing a good buyer at a strong price, and I am grateful for all the professional help and advice you gave along the way."

Seller's comment

Benefits of low-profile marketing:

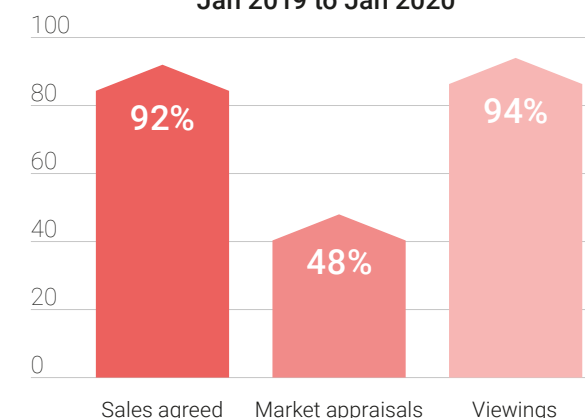
For sellers

- No digital footprint
- Qualified viewings
- Buyers matched on their search criteria rather than price
- Potential competition with multiple offers
- Enables discreet "market research" should full marketing be required

For buyers

- Exclusivity
- Early introduction and access to properties
- Awareness that their search needs are considered carefully

Jan 2019 to Jan 2020



Letting agents are landlord Samaritans

Self-managing properties can be stressful. Clare Sheffield of Batcheller Monkhouse's Pulborough office looks at how agents can relieve the anxiety for landlords.

Self-management is hard, with around 170 rules and regulations to comply with. So the job of a letting agent is like that of a compliance officer, protecting the landlord from getting fined.

There is a long list of potential worries when you are your own landlord: non-payment of rent; difficult tenants; managing property maintenance and repairs; not finding a suitable tenant; and accounting for tax.

Added to that, there have been huge Government changes increasing regulation in the tenanted sector over the last 10 years. 90% of landlords have just one property, and for those landlords in particular, having to put in the time and effort to follow the legislative changes holds less appeal than ever.

Some landlords have come into the market almost by accident, be it through a change of job, an inheritance or not being able to sell a property. Alternatively it can be part of a financial strategy to provide a regular income or pension plan,

or for a future nest egg. Property owners often come into the rental world from the outside and therefore may not enjoy administration and legislation research; if this is the case, an experienced agent can take on the work.

Potentially those most likely to be caught out by new regulations are those who have had a tenant in a property for over 10 years. "Much has changed in that time about deposits, minimum energy efficiency standards (MEES) and electrical safety standards," explains Angela.

It may come as a surprise, but the safety requirements for holiday let owners are the same as those for long-term let landlords. There are various rules and regulations that need to be adhered to, which are also frequently updated, and whilst holiday letting may appear attractive with higher rents available, hefty occupancy rates are needed to make it more profitable over the course of the year. Also, costs are greater including cleaning, decorating, furnishing, repairs and agency fees.

Qualities to look for in your letting agent

- Has knowledge of the area
- Finds quality tenants
- Achieves best possible rent
- High quality and professional service
- Is a member of ARLA Propertymark,
- Experienced and qualified team
- Up to date with changing legislation
- Provides client money protection
- Offers a flexible range of services
- Full management including regular inspections

Electric safety standards are next

On 1 June 2020 the UK Government released guidance on the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. The rules apply to new tenancies entered into on or after 1 July 2020 and for all existing tenancies from 1 April 2021.

The regulations require landlords to ensure that every fixed electrical

installation is inspected and tested at least every five years by a qualified person. The report of the inspection and test must be given to each tenant within 28 days and a copy retained. If needed by the local housing authority, it must be provided within seven days.

The private landlord must supply a copy of the last report to any new tenant before occupation, or any prospective tenant within 28 days of a request from the prospective tenant.

Local housing authorities must enforce the rules, and they have the power to arrange remedial action. Proven breaches of the regulations can result in the local housing authority imposing a financial penalty of up to £30,000.



Clare Sheffield
c.sheffield@batchellermonkhouse.com

Minimum energy efficiency standards explained

- All new tenancies must have **EPC rating E or above since 1 April 2018**
- All existing tenancies must have **EPC rating E or above from 1 April 2020**
- Tenants must be given the **EPC rating certificate**
- If F and G rated properties cost more than £3,500 to bring up to requirement, an exemption can be requested from the local council
- There are fines of up to **£5,000 for non-compliance**





Warnham, West Sussex

A residential farm which sold in August 2019 at around the guide price of £1,300,000.



Wisborough Green, West Sussex
Example of a grain store with permitted change of use to residential with 45.6 acres. This sold in May 2019 for a figure close to the guide price of £975,000.



Slinfold, West Sussex

A mixed farm with about 79 acres, buildings converted to commercial use and good road communications sold in lots in October 2019 well in excess of the guide price of £1,950,000.

Market review

Russell Parkes and Matthew Braxton discuss the highs and lows of the market for country houses, cottages and farms.

Even before the Covid-19 outbreak we would have described the property market as 'bumpy'. Coronavirus certainly causes issues and we needed to respond quickly to new methods of working. However, this has not halted transactions from taking place and benefiting both sellers and buyers.

The key to success is to ensure the correct agent is appointed with the necessary experience, expertise and ability to adapt to changing circumstances. Batcheller Monkhouse has proved this across the South East region over the last 12 months, achieving some excellent sales, and providing some bright spots in the uncertain 2019 market.

By carefully considering how to best market a rural property or farm we have

dealt with the challenges of Brexit and the uncertainties of the election late in the year. This may have been through a confidential off-market approach to specific buyers or through full marketing with consideration given to lotting to achieve the best price. Russell Parkes, whose main patch is West Sussex and Surrey, said: "Last year, if there was something good it was snapped up, particularly as there was a shortage of farms available, but more generally buyers were slightly nervous and needed some encouragement."

Whilst the market for farms or properties with a decent acreage was fairly quiet during 2019 due to a shortage of supply, there was almost a frenzy of activity for ranges of agricultural buildings and smaller areas of land. Land as an asset that can also be enjoyed has always been popular, but



Russell Parkes

r.parkes@batchellermonkhouse.com



Matthew Braxton

m.braxton@batchellermonkhouse.com

Land as an asset that can also be enjoyed has always been popular, but now agricultural buildings are in demand as a result of permitted development policies under which farm buildings can be converted to residential use

now agricultural buildings are in demand as a result of permitted development policies under which farm buildings can be converted to residential use, provided certain specific criteria are met.

"With our planning department assisting with these applications, we have been able to sell a number of portal-framed farm buildings at a significant premium to account for the change to residential use," explained Russell. "This has been so popular that it also means there is a shortage of farm buildings for their original purpose, thus raising prices".

It is important for agents to know their region, and there are subtle differences in East Sussex and Kent, which is another stronghold for Batcheller Monkhouse. This region is headed up by Matthew Braxton who continues to achieve successful sales of farmhouses and rural properties, both with and without land. Matthew says: "East Sussex has a wealth of beautiful properties in scenic locations. Many buyers are attracted to the more peaceful and grounded lifestyle, whilst still being in reach of exceptional schools, retail and hospitality services. We have noticed buyers in East Sussex

feel they receive excellent value for their money and are fortunate to be able to live in not just an appealing property, but also in a naturally stunning part of England".

As we moved into 2020, market conditions changed, with plenty of activity and an unprecedented number of viewings, sales and valuations during January and February. We seemed to be set fair for an exciting and busy year. Covid-19 and the associated lockdown did affect the market but throughout we saw no reduction in levels of interest, simply that the restriction on movement stopped viewings and inspections. These restrictions have now been removed and we are already seeing the markets gathering pace.

We must remain vigilant and act promptly to changing circumstances but the signs are positive for the residential and farmland markets to bounce back strongly.



“In February we instructed Batcheller Monkhouse to find us a buyer for our home via their “off market” method. One of the beauties of this is that we knew all the applicants would be carefully vetted and only those serious in buying likely to come and view. Lisa Kerry, negotiator, certainly worked some magic, sending a select handful of prospective buyers. We accepted an offer in March and applaud Batcheller Monkhouse for their skill in bringing our sale to a successful conclusion within 3 months. Thank you.”

Mr & Mrs J

Contact

Battle

68 High Street, Battle, TN33 0AG

Sales: 01424 775577

Lettings: 01424 236145

Professional: 01424 775577

battle@batchellermonkhouse.com

Haywards Heath

67-69 The Broadway, Haywards Heath, RH16 3AS

Sales: 01444 453181

Lettings: 01444 415151

Professional: 01444 412402

hh@batchellermonkhouse.com

Pulborough - Sales & Lettings

Stratton House, 57 Lower Street, Pulborough, RH20 2AZ

Sales: 01798 872081

Lettings: 01798 877501

sales@batchellermonkhouse.com

Pulborough - Professional

New Bartram House, 3-5 Swan Court, Station Road, Pulborough, RH20 1RL

Professional: 01798 877555

professional@batchellermonkhouse.com

Tunbridge Wells

1 London Road, Tunbridge Wells, TN1 1DH

Sales: 01892 512020

Lettings: 01892 502840

Professional: 01892 509280

twells@batchellermonkhouse.com

Mayfair

Cashel House, 15 Thayer Street, W1U 3JX

Sales: 0870 112 7099

Lettings: 0870 112 7099

mayfair@batchellermonkhouse.com

Our Corner of England
We manage it.
We protect it.
We know it.
We love it.

Sales & Lettings
Estate Management
Planning & Development
Agriculture
Telecoms

**Batcheller
Monkhouse**

Our Corner of England



Haywards Heath
01444 453181
hh@batchellermunkhouse.com

Battle
01424 775 577
battle@batchellermunkhouse.com

With thanks to Lucy Carnaghan Photography

Pulborough
01798 872 081
sales@batchellermunkhouse.com

Tunbridge Wells
01892 512 020
twells@batchellermunkhouse.com

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