



MOORE BLATCH RURAL NEWS

Edition four

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WELCOME TO THE LATEST EDITION OF RURAL NEWS

I start this edition with some news of my own, I am delighted to announce that I will be taking over the role of managing partner at Moore Blatch. I will carry on my practice as a rural property solicitor and head of our rural services team whilst managing the firm with the help of the senior management team. It is an honour to take over the role and I am hugely excited about guiding Moore Blatch through the next stage of growth and development.

Our team has already had a busy period of events this summer and we are looking forward to supporting more. Our event sponsorships this year include The Hampshire Farmers Club annual walk and dinner, The CLA New Forest Awards, Harry Whittington Racing Owners Day and ALA South Central events. I look forward to hopefully crossing paths with you in the near future.

Moore Blatch has recently refreshed its branding which is reflected in the style of this newsletter – I hope you like it! I welcome any comments on this newsletter or any queries you may have on it.



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FARM DIVERSIFICATION PART IV

‘FILM ON A FARM’

Our rural services team is the proud sponsor of the Hampshire Farmers Club annual farm walk and awards dinner. This year the walk was held at the neighbouring Horn and Martin family farms in the Meon Valley and we were treated to a 2 hour tractor trailer tour of the farms and their workings. The Horn family believes that diversification is the key to supporting their successful farming enterprise and along with fairly standard diversification projects such as commercial lettings of farm buildings, son Christopher Horn, has developed something quite out of the ordinary as far as farm diversification goes – ‘Film on a Farm.’



‘Film on a Farm’ is an outdoor cinema experience held in a beautiful rural location on a farm and while it originated in the South, it has been touring the UK this year with the hope to expand through franchise going forward. I have been to one and it is a great experience, especially going on a particularly beautiful evening!

At sunset, viewers are treated to the viewing of classic film favourites. I watched Notting Hill, but other films such as Jaws and Dirty Dancing are upcoming. It is all about the outdoor experience: picnicking outside in a beautiful part of the countryside, posh corn, beetle cars, bbq’ing local meat and a great film.

As I have reported on farm diversification projects in previous issues this experience got me thinking about the legal aspects to consider for such a diversification project:

1. a licence to screen the films would be needed from the Local Authority;
2. a landowner is allowed to host up to 28 public events on his/her land without requiring planning permission;
3. a temporary event notice from the Local Authority would be needed;
4. public liability insurance is a must;
5. employers’ liability insurance to cover any employees;
6. a contract with the farmer letting his field;
7. employee contracts; and
8. contracts with any third party providing services for the event such as catering.

The list is certainly not exhaustive but covers legal points any landowner should consider when hosting public events on their land.

‘Film on a Farm’ is certainly a novel diversification project and one that I think ‘strikes a chord’ with our younger generation of farmers coming through the ranks, in an industry that typically requires alternative forms of income to support core farming practice. For more information on ‘Film on a Farm’ and for upcoming venues visit www.filmonafarm.co.uk.



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SEPTIC TANKS

When you are marvelling in the peace and tranquillity of buying a house in the countryside, you are not going to stand in your new garden taking in the spring blossoms considering the subject of sewage.

Although a dirty word, this will be the forefront of most sellers and buyers of rural property come 2020 when it will become law that all properties previously served by a septic tank that discharge into a river or stream will instead be required to install a sewage treatment plant at the cost of thousands of pounds.

The General Binding Rules which came into force on 1 January 2015 provide that if you have a septic tank that discharges direct to surface water the system will need to be replaced or upgraded to a treatment system by 1 January 2020 or when you sell your property if before this date. A small treatment plant uses mechanical parts to aerate bacteria to treat liquid so it is clean enough to go into a ditch or stream. You will need to check that the treatment plant that you install complies with the British Standard BS EN 12566.

Treatment plants installed after 1 January 2015 require planning approval and building regulation approval. You also need to ascertain how much your system is discharging which can be calculated at www.gov.uk/small-sewage-rules if you discharge more than 2,000 litres of treated sewage a day into the ground or 5,000 litres into flowing water you will need a permit.

In the New Forest most rural properties will not be on mains drainage and will be served by a septic tank or treatment plant. As the New Forest is a designated sensitive area any discharge will require a permit from the Environment Agency. New discharges to watercourses that seasonally dry up are not allowed under the general binding rules.

If you plan to buy a rural property your solicitor will need to raise detailed enquiries of the seller to ascertain the type of system installed and whether it complies with the new binding rules. If you sell your property you must inform the buyer in writing that it has a septic tank or small sewage treatment plant. Being able to provide them with records and a maintenance guide will reassure them that the system isn't a liability.



Kerry Dovey

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New Forest Commoner; Kerry Dovey who runs a herd of ponies and is also a highly experienced property lawyer has joined the Moore Blatch rural services team.

Kerry has extensive experience in farms and estates as well as some of the more specific property requirements of residents of the New Forest and surrounding area.

Ed Whittington, managing partner and head of the rural

services team said: "Kerry's wealth of experience in rural property matters and her New Forest connections will be a great asset to our rural services team as we continue to deliver the high standards of specialist expertise in this sector that our clients have come to expect from us."

Kerry said: "The rural services team at Moore Blatch has an excellent reputation and so I'm delighted to be joining them."

'THE COUNTRYSIDE MATTERS'

5 PRIORITIES FOR THE GOVERNMENT POST GENERAL ELECTION

Ed, Philip and I attended the CLA's AGM at Broadlands Estate at the end of June, during the week that the Met Office declared the highest June temperatures since 1976.

Needless to say, we were treated to a balmy tractor trailer tour of the Estate. We were also introduced to the five priorities the CLA is lobbying the Government to adopt post election to ensure the Government understands why the countryside matters and what is needed to ensure it thrives. We feel these points will be of interest to you, our readers, and they are:

1. to deliver a Brexit that works for the countryside;
2. to create the homes that rural areas need;
3. to implement a simpler, more cost effective planning system in rural areas;
4. to end the digital divide for rural communities; and

5. to design a tax regime that encourages and does not discriminate against rural businesses.

More information on the above points can be obtained from the CLA.



#thecountrysidematters



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STAMP DUTY LAND TAX

RELIEFS AND MITIGATION

Most people are by now aware that in March 2016 the government overhauled the Stamp Duty Land Tax (SDLT) rates, ostensibly to “reform” and “make fairer” the process for “hard working families” – that oft used phrase beloved of politicians, but in fact resulting in significant increases in the amount of tax paid on properties over £250,000, on second homes and on properties bought in the name of trustees or companies.

The actual rates can be found on the free Moore Blatch app, which you can download straight to your phone using the QR code below. But suffice to say that for anyone looking to invest in buy to let property, or purchase that new country house, then the costs have substantially increased. In some cases if one were to buy a residential property for more than £1.5 million, and one owned an interest, beneficial or legal, worth more than £40,000, in any property anywhere else in the world, they could be paying up to a crippling 15% top rate on the value over £1.5million and 13% on the portion from £1 million to £1.5million.

There is no doubt that the top end of the residential market has slowed down as a result.

However there are some legitimate ways that it may be possible to utilise existing lawful reliefs.

For example someone has decided to buy a large home in the country with gardens and a lodge in the grounds, but it is not a farm, nor does it have any commercial element to it. Where the overall purchase price is £3m, and the buyer already has an interest in a property that will not be sold, the SDLT would be £363,750. That is nearly three times the price of my first flat! However, if multiple dwelling relief is calculated the purchase price is divided by the

number of dwellings, the mean average is then used for the price. So the SDLT using the same criteria would be based on an average price of £1.5m being £138,750 then multiplied by the number of dwellings being bought. In this case it is multiplied by 2, giving an SDLT liability of £277,500, which is a considerable saving.

Other possibilities are where properties have a genuine commercial or agricultural element to them, provided that use is existing at the completion date, then the property could be classed as mixed use and the significantly lower mixed use rates apply.

If one is planning to put their country home on the market, it is worth looking at it with fresh eyes to see if it can be marketed to make it clear that either multiple dwelling relief or the mixed use rates can apply. The property may sell that bit more readily.

This is an area where one has to tread carefully and appraise each purchase on a case by case basis. Not every house with ancillary accommodation will qualify for multiple dwelling relief, but if you find your dream home or investment opportunity, then before you make a decision to walk away because the new SDLT has made it unaffordable, then there may be a way to make that dream property yours after all.



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AGRICULTURAL PROPERTY RELIEF

WHAT TO DO FOLLOWING THE DEATH OF A FARMER

It will come as no surprise to many of you that even with a lack of resources in personnel and time, HMRC and the District Valuers are under pressure to maximise the inheritance tax intake.

Of the many cases that HMRC have to process claiming Agricultural Property Relief (APR) they are naturally targeting their limited resources on those with the most chance that the claim can be denied. Conversely if you are able to put forward a robust, well presented case which highlights the activities of the deceased as a farmer coupled with a good well informed valuation then it is less likely to be queried.

So what are some of the basic dos and don'ts :

- It might seem blindly obvious but if you are claiming that the deceased is a 'farmer' then don't put his/her occupation as something else on the death certificate, or just as bad, don't state he/she is 'a retired farmer'. If he/she was during their lifetimes making the day to day decisions on the farm (even if they were physically unable to drive the tractor themselves) then their occupation is farmer;
- Obituaries are another favourite own goal. With the internet now it is very easy for the caseworker at HMRC to google the deceased and read the local newspaper obituary. Again if this doesn't mention his farming activities (even if he was known for something else as well) then it helps HMRC to dispute the claim that the deceased was a farmer;
- Gathering evidence is key. There may be a temptation by the family to clear out all those old papers of farmers but that temptation should be resisted. Whilst statute may deem that only the last two years are relevant for in hand farming in a number of the "farmhouse cases" where the taxpayer has been successful the documentary evidence produced went back significantly further. In one case almost fifty years!
- But it is not all about invoices and receipts. Think about photographs of the deceased out in the fields, at local agricultural shows or even winning that livestock prize. It all helps to build up that all important picture.

- A good valuation is key. My heart sinks when I see the words "paddocks" mentioned, conjuring up images of grazing horses. What's wrong with the term small fields? Again I like to see in the valuation lots of pictures – preferably with the agricultural machinery in the farm buildings or working on the land. If it looks like a farm to you then take photographs to show HMRC. Remember a picture tells a thousand words.
- If the farm is in the middle of nowhere then say so in the valuation. Equally if you have knowledge that other farms in the area were sold to genuine working farmers again this is worth putting down in the valuation to help show that the agricultural value and the open market value for the farmhouse are closer together.
- Finally don't neglect the woodlands. The third biggest incidence of queries from HMRC are on woodlands and shelter belts so make sure the documentation submitted to HMRC addresses this. If you can produce evidence that wood was used to mend fences, protection from the elements for livestock or prevent soil erosion then say so.

Working with a professional team who has experience in agricultural matters is key. This is a valuable relief and if denied can have dramatic consequences for the family. If a farmer's Will is being held by a law firm that does not have any agricultural tax planning or property experience, it is advisable to instruct a firm that does.



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Philip is undertaking a series of nationwide MBL seminars advising on wills & tax planning for farmers & landowners. For more information please contact Philip or visit www.mblseminars.com



MOORE BLATCH

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