

Rural View

CARTER
JONAS

The Property People

Summer 2011

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Welcome

What will they think?

Hindsight is a wonderful thing but how will future generations view us, their ancestors? I would like to think with some pride, but try explaining some of our current issues in simplistic terms and you do begin to wonder.

1. Why are we growing food to produce energy when some people in the world do not have sufficient food to survive?
2. We talk of a world food supply but is it?
3. Why are land prices in the UK currently so high?
4. The Government wishes to encourage green energy but without incentives the whole process is marginal.
5. Why are farmers paid subsidies with an emphasis on rewarding those that improve the environment?

The basic answers to some of the above questions would appear relatively obvious but, in reality they are deeply complex and interpretations will inevitably vary depending on circumstances. By constantly questioning ourselves and having an informed debate, hopefully we are shaping the future in a positive way but so long as we are here that process will never stop.

When we look back over the last Century there were some notable inventions although, at the time, I doubt their inventors had any idea of the way they would change the world in which we live.

- 1903 Wright Brothers first flight in a craft heavier than air
- 1906 Will Kellogg introduced cornflakes
- 1909 Instant coffee invented
- 1921 First robot designed
- 1923 Clarence Birdseye introduced frozen food
- 1945 Atomic bomb developed and used
- 1950 Diners' Club introduced first credit card
- 1973 First mobile phone call
- 1985 Microsoft brings out Windows 1

We hope that the information provided in this publication of Rural View will be helpful. Whilst we are not announcing any new inventions we seek to inform and if any questions arise we will do our best to answer them!



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Certificates of Lawful Existing Use or Development

Under the Localism Bill the Government proposes to abolish the right to apply for retrospective planning permission where an enforcement notice has been served.

This means that the Certificate of Lawful Existing Use or Development (CLEUD) is likely to become a more important tool. A CLEUD does not grant planning permission but renders the applicant and any future owners immune from enforcement action.

A CLEUD can be applied for after four years in the case of a new building or the change of use to a single dwelling and after ten years in all other cases. The onus is on the applicant to provide sufficient evidence to prove that the use or development has occurred continuously for the entire period required.

Carter Jonas recently secured a CLEUD where an agricultural occupancy condition had not been complied with for more than ten years. Our clients, who were accountants, had inherited a house from their farming parents and had lived in

the house for 17 years before deciding to sell. The agricultural 'tie' would have significantly restricted the value but evidence was submitted to show how long the owners had lived in the property. Through proof of transfer of ownership and title deeds, and with payslips and tax returns it was demonstrated that they had not been employed in agriculture.

The owner was able to provide a large amount of supporting evidence. A successful outcome is often dependent on good record keeping!



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I was appointed to act as arbitrator in a number of rent review cases in 2010. Some have been settled by the parties but a number are ongoing. For those ongoing cases I doubt the issue of how the parties treat the Single Farm Payment (SFP) will be an issue in dispute.

It has become settled practice that although entitlements belong to the farmer, the landlord provides the land which enables the tenant to unlock the right to claim the payment.

This relationship is usually reflected in the landlord and tenant agreeing to share the income derived from the SFP after an allowance for the costs of cross compliance.

When the SFP was first introduced in 2005 a large proportion of the payment was based on the historic performance of the tenant and for this reason some tenants argued that as the arbitrator must assume a hypothetical tenant and disregard any effect on the rent by virtue of the tenant's own occupation, the historic element of the payment should be ignored.

As time moved on this argument was exercised less as the historic element of the SFP grew smaller. By next year, it will no longer apply at all.

The counter argument that helped produce the current status quo was that a prudent and willing tenant would have an appropriate level of SFP to allow him, as farmer, to enjoy the support afforded by the scheme.

Will this happy equilibrium continue? Given the recent judicial guidance on this issue north of the border in *Morrison Low v Paterson*, maybe not!

Here the Scottish Land Court concluded that SFP could not be regarded as part of the earnings of the holding and as such did not fall to be taken into account in the assessment of rent. The Court did however concede that a tenant, in agreeing the rent, would make an allowance for the convenience of being able to use the holding to realise his entitlement to SFP rather than seeking a cheaper method, such as renting naked acres elsewhere. This formula however produced a far lower rent than the landlord was hoping for. The existing rent for the holding was £22,000. The landlord was seeking a review to £32,000. The Court awarded a rent of £20,800.

The implications of this case have been played down by many south of the border as it is the subject of an appeal and of course falls within a different jurisdiction although I have a suspicion that those same practitioners will be keeping a very careful eye on the outcome of the case.

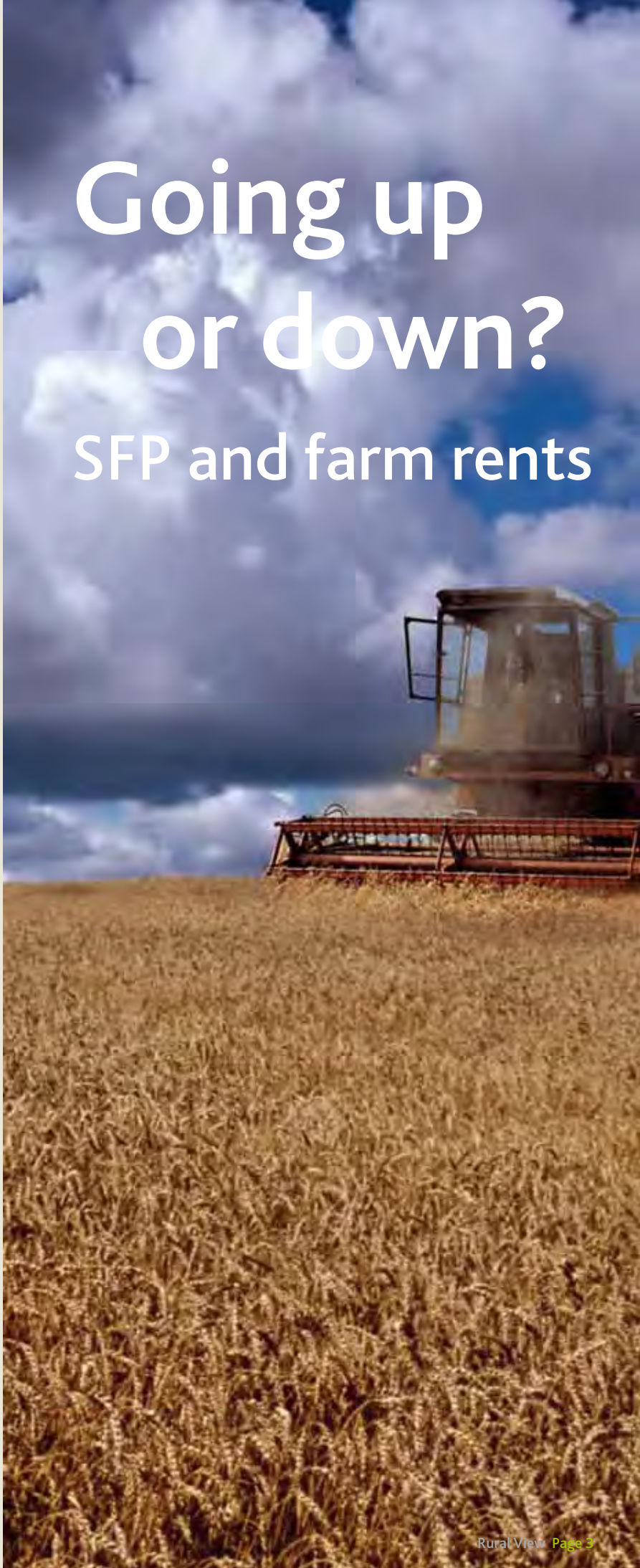


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Going up or down? SFP and farm rents





Can land values go in one direction only?

At the time of writing this article the seeds of doubt are gripping the world economies. The 'financial meltdown' of 2008/09 stalks the world economics with uncertainty in Europe/US compared to optimism in China and India.

The events in Japan, where 'nuclear meltdown' is the issue, remain to be resolved within an economy that has stagnated for 20 years. Alongside this is the unrest in the Middle East where the thirst for democracy could leave an uncertain future for oil supplies which will drive the engines of recovery in the capitalist World.

Against this backdrop it is with some trepidation that one should forecast where farmland values may go in the short, medium or long term. As we sit now the demand for land is outstripping supply and some remarkable prices are being achieved particularly in the south of England. The surge in values is not reflected nationwide and some areas are fetching strong but not exceptional prices.

The reason for the interest in land is that it, together with gold are viewed as assets to hold in a time of uncertainty. Farmland, sometimes viewed as the poor cousin of asset classes, is holding its head high and its performance over the past 20 to 30 years bears positive comparison with other indices, be they cash, equities or assets.

When considering the future does history offer us any yardstick upon which to base predictions? It is with some interest that the early seventies and nineties may give us some clues. Land values trebled between 1971-73 before the crash of 1974. This heralded an economic crisis driven by excessive lending to housing and the Bank of England bailing out 30 small banks to

the tune of £100m and hence the decision to maintain larger banks only! Add to that the fuel crisis after the war in the Middle East which in itself led to the three day week and to top it all off we then had a period of industrial unrest.

In the early nineties the UK economy went into recession with high interest rates, reaching 15% on Black Wednesday, and the resulting crash in house prices. Corporate profitability fell and there was a period of high labour costs. Whilst dramatic at the time the UK economy recovered reasonably quickly and was in good shape by the late nineties. In the early nineties land values had fallen back to below their value some ten years previous.

The noughties has seen land values more than double and maintain its value unlike the seventies and nineties when the period of crisis saw land values fall back before recovering and improving. The bull run in land values must have an end when some profits are taken and the return on investment is matched by other asset classes? On the other hand the world population continues to grow and land provides the medium for energy production be it for convertible crops and as sites for wind farms / solar farms and other sources of energy.

As many an older farmer will tell you "they don't make any more of it" and perhaps that is the biggest driver of them all. So the twenty tens may end up as a period of stability after all rather than a traditional cyclical market in which prices move in more than one direction?

“The reason for the interest in land is that it together with gold are viewed as assets to hold in a time of uncertainty.”

Land supply and prices in the UK (1945 - 2010)




Source: Farmers Weekly



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Residential lettings on the increase



This is a good example of the strong lettings market at present and clearly shows the mindset of many potential purchasers.

Whilst house sales have remained steady over the past few months, both lettings opportunities and the demand for residential property to let, have continued to increase.

The letting of Londesborough Hall, a nine bedroom house in East Yorkshire, was expected to be a difficult task when the York office was asked to put it on the market in October of last year. The house is a former shooting lodge which was once used by royalty.

A marketing campaign generated a lot of interest, leading to articles in Country Life, the Evening Standard, Country and Townhouse and the house achieved 'property of the week' status in The Sunday Times property supplement.

There were several requests for viewings and there is now an agreement in place to let the house when the current tenants move out.

The new tenants said that they had previously owned property and had sold it when the market started to decline. They had

looked at buying since but now enjoyed the freedom that letting offered them. A ten year lease, which was on offer at Londesborough Hall, gave the tenants the security they were looking for without the 'burden' of owning the property.

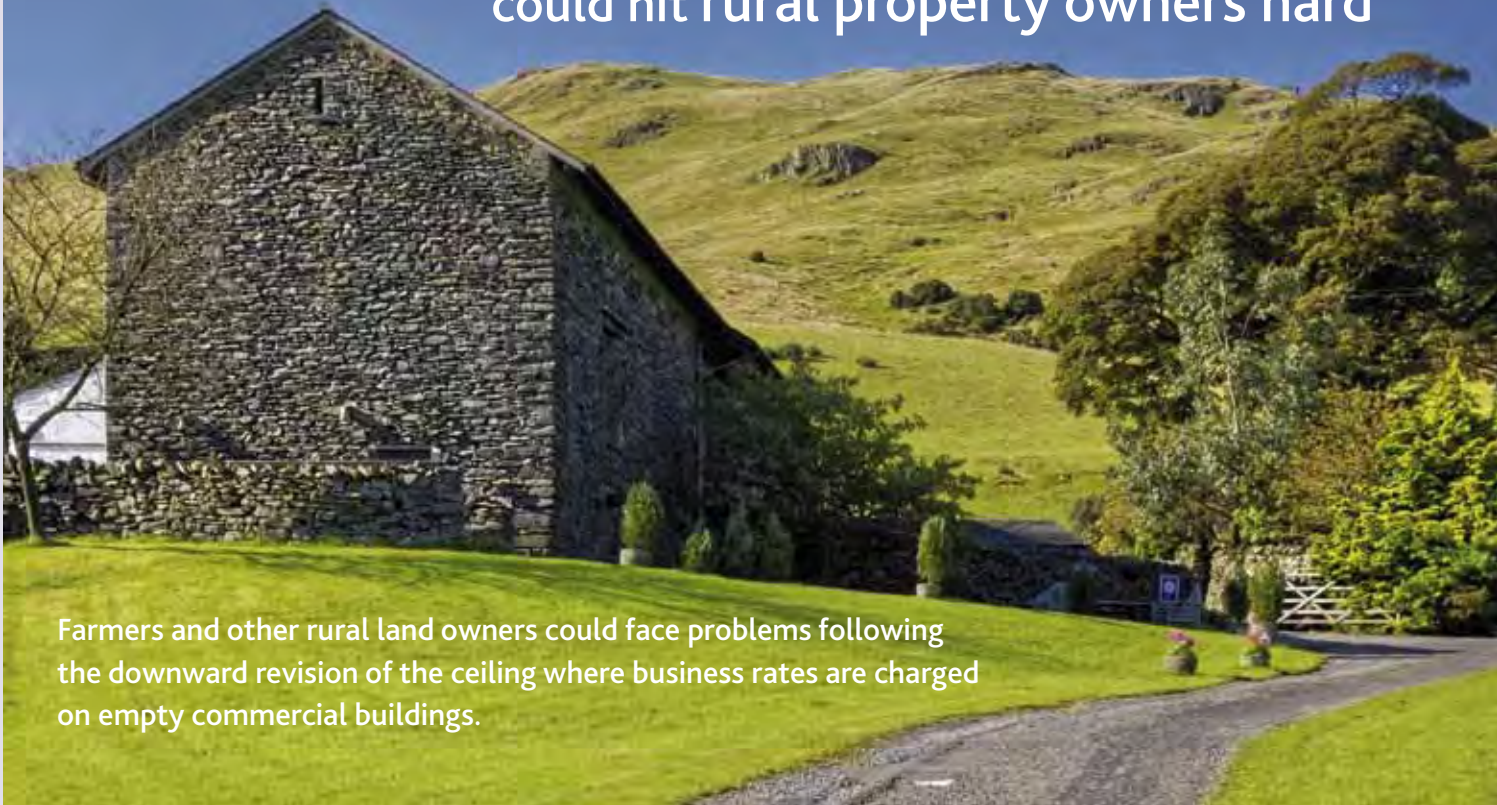
This is a good example of the strong lettings market at present and clearly shows the mindset of many potential purchasers. Letting is an option to consider for vendors having difficulty in selling their property, or looking for a shorter term or more quickly achieved resolution.



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Business rates revision

could hit rural property owners hard



Farmers and other rural land owners could face problems following the downward revision of the ceiling where business rates are charged on empty commercial buildings.

From April 1 2011, the ceiling is £2,600, drastically reduced from the former level of £18,000 and now embracing a potentially vast number of premises such as small rural work units converted from empty farm buildings in an effort to raise incomes.

In the past, providing units for business start-ups could be achieved at little risk of financial penalty thanks to the business rates relief that applied when they were unused.

Lowering this threshold could make as much as £630 million available to the Government but it will be gained by squeezing landlords who may have little financial room for manoeuvre. The potential effects could be devastating for the rural economy.

As the economic situation tightens, financial conditions could be about to become a whole lot worse for farmers and other rural landowners who have decided to diversify or let unused buildings to tenants.

If the tenant's business has got into difficulties, they might try to hand back the keys of the premises and walk away.

Owners will become liable for business rates on the empty building once any reliefs have expired – as well as having no rent, landlords may also have a considerable extra financial burden that hurts them instead.

If tenants or administrators try to hand back an empty building, owners should do all they can to resist unless, or until, you find an alternative occupant. The tenant may not be providing an income but will still be shouldering the

responsibility for the ongoing costs, even if they only represent a growing and unpaid debt.

Carter Jonas suggests that property owners should also seek professional advice before letting property so they can retain control of their asset and who is able to lease it should the first tenant default.

There's a tendency among some in the rural community to make these arrangements on an informal basis but this can come back to bite the owner. The tenant may have agreed to hand back the premises should the business fail but administrators are likely to take a different view, potentially seeing the lease as an asset that can be sold on to raise funds for creditors.

Sound advice on potential rents and terms of leases, such as rent reviews and conditions of sub-letting or selling the lease, can help owners avoid these pitfalls.

The most recent Budget by George Osborne does offer a glimmer of hope for owners of empty industrial buildings. The Chancellor of the Exchequer revealed government plans to inquire into making changes of use between classes of business use, or from business use to residential, exempt from the planning system thus enabling redundant farm buildings to be converted into homes more easily.

With the attraction of barn conversions and similar projects to residential buyers, this could make it far simpler for farmers to dispose of redundant commercial buildings that have been vacant for more than a year and see a realistic financial return.



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A photograph of a stone archway with a decorative metal gate. The archway is made of reddish-brown bricks and leads to a large, mature tree in a rural landscape. The tree has a thick trunk and dense green foliage. The background shows a green field and a clear blue sky. The entire image is framed by a semi-transparent white box containing text.

The Model Estate

The Model Estate is a fictional rural estate managed for illustration purposes by Carter Jonas. The latest report details the performance of the Model Estate which produced a 2010 total return figure of 7.0% compared to its 2009 figure of 0.5%. Capital growth was primarily responsible for the increase in performance while the revenue return remained stable. This improvement in performance mirrors the healthy and, improving sentiment across the UK farmland market as values have continued to rise throughout the year, despite the wider uncertain economic climate.



The total return of the estate increases to 9.0% if the Manor House is excluded and the analysis focuses on the trading estate. This enables the Model Estate to be directly comparable to agricultural land and other asset classes which do not include a non-income producing trophy asset.

A critical factor underpinning the performance of the Model Estate and agricultural property as a whole is the benign Inheritance Tax (IHT) regime. The advantages offered by this asset class in terms of the financial stability it delivers and fiscal advantage it offers fuels capital growth as supply remains tight across the market.

Inheritance Tax is levied on all the alternative asset classes included in this year's report, assuming they are held and are subject to UK taxation, at the rate of 40% of the capital value after any spouse transfers and the nil rate band has been deducted. Agricultural land and qualifying houses and buildings fall into the privileged position of being exempt from IHT, subject to strict criteria being adhered to, providing the Model Estate with a significant IHT advantage.

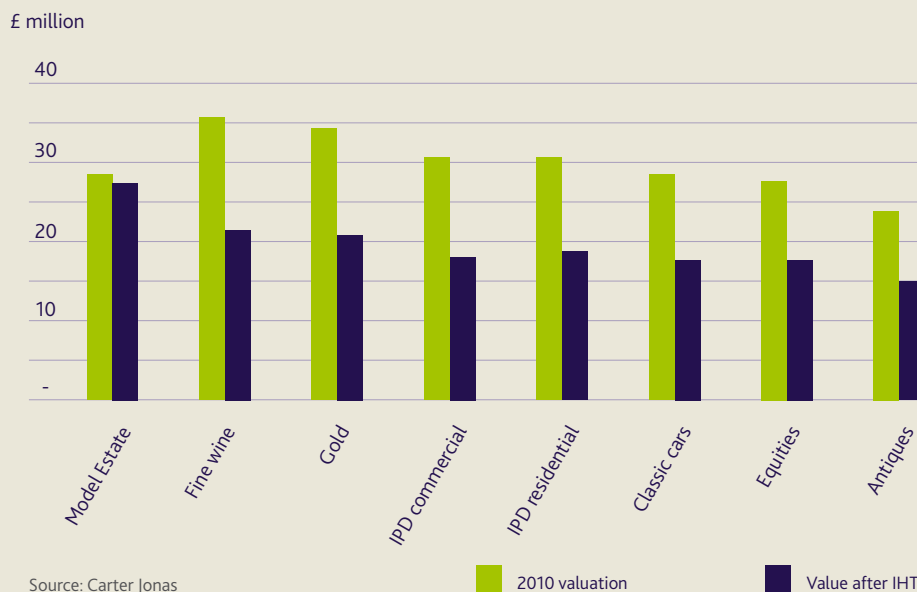
The graph illustrates how the 2010 valuation of all the asset classes may reduce, and by what extent, after HMRC have levied the IHT in the event of an untimely death demonstrating the change in overall wealth and the advantage that the Model Estate can deliver.



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The Model Estate is available to download or to receive a hard copy from carterjonas.co.uk

2010 Capital and Inheritance Tax Valuations



The taxation benefits are a key component in a myriad of complex reasons behind rural land and estate ownership. The modest revenue return delivered by rural property is more than compensated for by the capital growth and substantial taxation savings that have been seen since the 2009 report.



Bunker bonanza!

Carter Jonas, as a leading property expert, is well placed to handle the sales of any type of property, and the most recent addition to our property list is certainly somewhat different...



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Andrew Black, an Associate in the Shrewsbury office was appointed by the Comrie Development Trust to sell a nuclear proof bunker at the Cultybraggan Camp in Comrie, Perthshire, which would have served as the protected headquarters for the Scottish Government in the event of a nuclear attack.

Thankfully the bunker was never used for its original purpose and generated global interest at the price tag of £400,000 (a snip considering it would cost over £100m to build today!). Most property particulars feature words such as "delightful view" and "full central heating", however the particulars for

Cultybraggan are somewhat different, featuring such phrases as "blast proof doors" "backup generator systems" and "bullet proof glass"!

As a result of this sale and perhaps following the nuclear issues in Japan, Andrew has been inundated with requests to handle both the sale and acquisitions of other bunkers across (and underneath!) the country and further afield.

So whatever your property looks like and whatever it was designed to do, Carter Jonas can help realise its potential.

High Speed 2



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The Preferred Route for High Speed 2 (HS2) the proposed rail link between London, Birmingham and The North was published in March 2010; it was subsequently amended and initial public consultation to the scheme closes on 29 July 2011.

Further consultation will follow, targeted at those living close to the line. Subject to approval of the scheme, the final route should be safeguarded in 2012, with construction taking place between 2016 and 2026.

Construction of the route will see a number of property demolitions, with a small number of dwellings being affected by high noise levels. Around 150 additional properties are expected to qualify for noise mitigation measures with some 4,700 properties potentially experiencing some noticeable increase in noise levels.

The Exceptional Hardship Scheme (EHS) is available to property owners who have an urgent requirement to sell

but have been unable to do so other than at a substantially reduced price as a direct result of the announcement of the scheme. The EHS will be in place until the route for HS2 is safeguarded, then this will be replaced by the Statutory Blight procedures. These allow compensation to be paid where properties would be demolished or rendered uninhabitable through construction of the line. Outside of Statutory Blight, compensation for land taken and loss of value to the remainder of the holding is payable.

Carter Jonas has considerable experience in representing land owners affected by large transport schemes such as HS2. If you are affected by this scheme's proposal or any similar project we are well placed to advise you.

Ecology at the heart of agri-environment



There has been justified criticism in recent years that agri-environment schemes such as Entry Level Stewardship (ELS) and Higher Level Stewardship (HLS) are not achieving their full potential for nature conservation, and in particular for those wildlife species that are in decline. There is no doubt that there is scope for more value to be delivered, however the difficulty is achieving it on the ground. Farmers and landowners have to balance the desire to make a difference for the environment with the constraints of making a living from their land.

Sound ecological principles must be at the heart of each scheme if maximum value is to be accrued for target species, valued habitats and the wider farmland landscape. If this is the case it is also true that such a scheme is far more likely to be accepted by Natural England, which is obviously one of the prime concerns of the applicant.



It is essential that the Farm Environment Plan (FEP) is prepared by advisors with a good ecological understanding so that they are able to recognise the range of species and habitats present and assess the potential enhancement opportunities. The advisor must also be able to consider how the agri-environment application for the farm will relate to the surrounding holdings, the ecological interest found there and habitats linkage opportunities to allow wildlife to disperse. Once the agreement begins it is vital that ecological input continues through feedback and review on the relative successes of each element of the scheme.

Ecological appraisal is equally essential to setting environmental objectives for wider land management such as within our parkland estates and woodlands.

Carter Jonas has launched a new Ecology and Natural Environment Service; we can offer professional advice to estate managers and farmers on agri-environment schemes and other land management options to enhance the wildlife potential of your land.



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Our office network



dates for your diary

Carter Jonas is delighted to be attending a number of events over the coming months across the regions. These include:

- Great Yorkshire Show - Harrogate, Yorkshire - 12-14 July
- Royal Welsh Show - Builth Wells, Powys - 18-21 July
- CLA Game Fair - Woodstock, Oxfordshire - 22-24 July
- Westmorland Agricultural Show - Lane Farm, Kendal - 8 September
- The Royal County of Berkshire Show - Newbury, Berkshire - 17-18 September

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Contact us at: marketing@carterjonas.co.uk

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