

FARMING AND PROPERTY BULLETIN – APRIL 2014

SPS 2014 Financial Discipline

Single Payments for 2014 may fall by more than previously forecast. Proposals from the EU Commission suggest the 'Financial Discipline' could be placed on this year's payments with an estimated reduction of 1.3%. This is on top of a reduction in the UK's Pillar 1 budget of around 3% for the 2014 year.

Financial Discipline is the mechanism by which spending under Pillar 1 of the CAP is controlled. If total payments for the year look like exceeding the limit within the EU Budget, then all direct aid across Europe are reduced by a percentage. However, the first €2,000 of the Single Payment is exempt from any cut. It was used for the first time under the 2013 SPS.

New Environmental Land Management Schemes

Landscape-scale agri-environmental agreements do not look like forming a major part of NELMS after all. This was one of the big ideas which was to be part of the new schemes. However, a recent DEFRA announcement has downgraded this element.

There will be an upper-tier focusing on 'priority sites'. This will look very much like the present HLS, and would be by invitation-only on the land with the most environmental potential. In addition, there will be a universal capital grant scheme paying up to £5,000 to fund activities such as hedge management, stone wall repairs etc. This would be open to all, including those not in a management agreement.

The mid-tier was originally planned to focus on landscape-scale agreements. This was groups of farmers or land managers coming together to offer large areas of land into a scheme. This was thought to offer better environmental outcomes than isolated 'pockets' of land. However, it has now been stated that 'high quality individual applications addressing local priorities will characterise these agreements'. This was due to concerns over the challenge of getting farmers to act together.

The above may make it easier to apply for NELMS. However, it does not change the fact that some farmers will not be able to get into a new scheme when their current ELS ends.

LEADER Opportunities

The new LEADER scheme will start on 1st January 2015 as part of the new RDPE. A budget of £40 million has been set with the priority areas being:

- Support for micro enterprises and farm diversification
- Support for increasing farm productivity
- Support for rural tourism
- Support for increasing forestry productivity
- Support for cultural and heritage activity
- Provision of rural services

70% of LEADER funds must directly support the rural economy. The remaining 30% must make a contribution to the local rural economy for example by attracting visitors who will then spend on local businesses and services.

The farming industry has not engaged much with the LEADER programme until now but it may be a useful source of funding for the industry in the future.

Alignment of Environmental Stewardship Payments

From 1st January 2015 all existing Environmental Stewardship agreements will have their claim periods re-aligned to the January to December calendar year. This will have an effect on the cashflow for agreement holders depending upon their agreement start date. Further information and a payment calculation tool is available on the Natural England website which can be used to evaluate the effect on individual agreement holders.

Renewable Energy and Private Nuisance

Renewable energy projects in rural areas are often met with local opposition, predominantly at the planning stage. However, a recent High Court case demonstrates that in some cases the opposition may continue into the operational period. Landowners with renewable energy schemes should be aware of the issues that can arise.

A case was brought to the High Court recently by neighbouring landowners to a 50kW on-farm wind turbine. The neighbours alleged that a number of factors including the colour of the turbine, the speed of the blades and the angle of the sun created a flashing effect on their home and was therefore a nuisance at law.

The Court held that although it could be a nuisance at law it was not appropriate to order an injunction. The Judge stated that the conduct of the farmers who owned the turbine was a large part of the equation as they were found to have acted reasonably, even offering to cover the cost of a planting scheme on the neighbours property.

Residential Conversion of Farm Buildings

From the 6th April 2014 there will be greater flexibility in change of use under Permitted Development Rights. The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provision) (England) Order 2014 confirms that:

- Change of use of existing agricultural buildings, and land within their 'curtilage', to up to 3 dwellings and associated building works can be permitted development.
- Buildings up to 450 sq m can be converted, however the footprint of the development cannot go outside that of the original building.
- Permitted building operations are the installation/replacement of windows, doors, roofs, external walls and services. 'Partial demolition' is allowed.
- Prior approval must be granted for location and siting, design and external appearance, transport and highways, noise, contaminated land and flood risk.
- The site must have been used solely for agricultural use, as part of an established unit on 20th March 2013.

The new Permitted Development Rights will not apply to Listed buildings, on Scheduled Monuments, on SSSI's, or in Article (15) land (National Parks, World Heritage Sites, AONB's etc).

Where the site is let under the 1986 or 1995 Agricultural Holdings Acts both the landlord and the tenant must have consent in writing to the development. Where the tenancy has been terminated within the past 12 months (in order to carry out the development) there must be consent from both parties that the site is no longer required for agricultural use.

These new rights will sit alongside existing Permitted Development Rights for agricultural buildings; this will result in some restrictions:

- If existing Permitted Development Rights are used after 20th March 2013 to construct a new agricultural building the right for change of use is lost for 10 years.
- If the new rights to change the use of a farm building into a dwelling are used, the existing Permitted Development Rights to erect a new farm building will be lost for 10 years.

The new rules do not require that the building converted is redundant for agricultural purposes. Nor do they apply to only to traditional farm buildings – more modern constructions are potentially covered.

MOT's

European proposals for MOT-style tractor and trailer tests have now been scrapped. The European Parliament, Council and Commission agreed to scrap the proposals at the end of last year. MEP's have now officially ditched the scheme following a full vote on the 11th March.

Reinstatement of Public Rights of Way

Oxfordshire County Council may be checking reinstatement of Rights of Way following cultivations soon, especially as crops become more established. If the County Council find routes which have not been marked or are of insufficient width enforcement notices may be served on the landowner or land manager. This gives the County Council the power to enter your land to carry out work and bill you for all costs involved if you do not comply with the notice.

To comply, please ensure the following minimum widths are established:

Footpaths: Crossfield – 1m
Field Edge – 1.5m

Bridleways: Crossfield – 2m
Field Edge – 3m