



Many farmers are approached regarding development on their land

Planning Promotion Agreement vs Option Agreement

We have seen a recent influx of third parties contacting our clients regarding development potential on their land.

Most of these are offering either an option agreement or the increasingly popular promotion agreement, so what is the difference and is one better than the other?

Option agreements are usually a fixed term agreement with a housing developer, in which the developer aims to get planning permission on your land.

Once planning is obtained, then the developer has the option to buy the land from you and you must sell.

The issue with this type of agreement can be that you are both competing for the best deal

i.e. the landowner wants the highest price for their land, and the developer wants a lower price to cover infrastructure, costs of planning etc. and ultimately increase their profit margin.

A promotion agreement although similar, does have a distinct difference.

In this type of agreement, you are usually working together with a third party (the promoter) to try and get planning permission.

You then jointly market the property to all developers and your joint aim is therefore to achieve the best price, as the promoter's fee

is usually a percentage of the sale price.

Both agreements are usually cost-free from a landowner's point of view as most promoters and developers will pay the professional fees for the agreement, and also cover all the costs of (hopefully) obtaining planning permission.

That said, the fees and costs are all recovered in the event planning is obtained.

With options, a developer then gets a discount on market value to account for their risk of funding the planning, and the promoter takes a share of the profit as their share. However, the promoter's share

is usually higher than the market value discount.

So, which is best? The simple answer is that each matter is unique and should be discussed with your legal advisor and also your land agent or planning consultant for the best advice.

You never know - it may be a better idea to do it all on your own. If you feel your land has development potential, get in touch and we can discuss further.

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Welcome



Andrew Holden

Welcome to our first Rural Law of 2018.

In this edition we explain the difference between a Planning Promotion Agreement and an Option Agreement.

We also focus on Farm Future, in particular looking at the property elements of a farming business.

Whether this is an audit of your property or reviewing land for development potential, we can assist.

We have an article from one of our clients looking at the British egg market and the impact of Brexit.

Meanwhile, Ben Briggs from the Farmers Guardian gives us his update on the farming economy with Brexit in mind.

We are also pleased to announce we are attending or co-hosting numerous events in the coming months some of which are listed on the back page.

If you require speakers for any events, wish to host joint events or require any in-house training, please let us know and we will try to assist.

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Rural Law meets...



Richard Geldard examines the British egg farming market

Richard Geldard, director of Geldard Farm Eggs Ltd, Levens

What is your view on the British egg farming market now compared to ten years ago?

“Very positive: The British egg industry is in a positive place. The British Egg Industry Council (BEIC) has worked hard to develop a Code of Practice which underpins the British Lion egg quality trademark that is second to none and has become one of the most well-recognised food quality marks in the UK.

“It gives the industry a credible point of difference from eggs produced in other EU countries – so much so that consumers expect to see Lion branded eggs in front of them when food shopping.

“The national flock of laying hens has increased from 30 million to 38 million birds over the last 10 years with egg consumption rising from around 180 eggs per person per annum to over 195 eggs per person.”

What, in your view, will the break from the EU bring – more chances to trade, more

opportunity generally or will there be a negative effect?

“Positive aspects first: in the short term, there’s been a positive benefit from the exchange rate difference since the vote to leave, it has become more expensive for UK food wholesalers and manufacturers to source eggs from the continent.

“As a result, there has been an uplift in the commercial value of UK-produced eggs. However, we need to be mindful that an independent UK could find itself negotiating trade deals that are at the expense of the food production industry.

“For instance, if politicians want to achieve export opportunities for other industries when negotiating trade deals, allowing tariff-free food imports to the UK may be offered in return, and seen by our politicians as a successful way of curbing food inflation in the UK.”

What is the secret to successfully running a farming, family business?

“First, communication in the family

and the wider team generally. Secondly, having very clear objectives set down; and finally, a general understanding of the direction of the business.”

If you could go back in time, which era would you revert to as a farming family and why?

“We’d prefer to look forward as a farming family: try not to spend too much time looking back.

“It’s good to look back and appreciate where we have come from and what’s been achieved but only when planning where we go next.”



Richard Geldard

A farming perspective



Farmers Guardian editor Ben Briggs says farmers must have a strong and united voice

My brief for this article was to talk about agriculture but not too much about Brexit. No challenge there then.

Brexit is the topic that comes up time and again when talking to farmers, lobbyists, politicians or industry professionals, and covering something so complex is a great challenge for me as editor of Farmers Guardian.

It is a challenge not only because of the breadth of the topic and its complexity but also because, frankly, we can have Brexit overload when there is, as ever, plenty to grapple with away from this issue.

So I shall leave it until later and focus on other subjects obsessing farming minds in the North West; chief among them being the weather.

Having rained relentlessly for several months, the ground is saturated and patience is stretched for many. The weather has always been a gripe for farmers but this autumn's deluge is having ramifications beyond just giving them something to complain about.

Trailer loads of silage heading around the country before winter

had properly started highlighted that many farmers could be short of essential feed to get through the winter; something which puts pressure on the financial bottom line.

The price of straw from elsewhere in the country has also doubled for some on the back of poor yields and a diversion of crop into ethanol and anaerobic digestion plants. As a mainstay of bedding for livestock this will again raise the financial stakes.

On the whole though, farmgate prices have enjoyed a renaissance in 2017 and there will be many farmers fairly happy with their lot.

Dairy prices have stalled around 30ppl, but when you consider that 18 months ago they were half that for some, this year has allowed respite and a rebuilding of bank balances.

Lamb prices have remained particularly buoyant for longer than ever before as a weak pound helps the export trade in to a still tariff-free Europe.

Beef has remained robust, and pigs and poultry continue to be success stories. The only black cloud might be around arable and cereal crops which have struggled in a well-supplied market, with fears over the chemical regulatory agenda mounting.

That latter point about chemical regulations is a moot one. Influenced by a burgeoning green lobby and a farm minister in Michael Gove who seems to have an open door to environmental groups, farming has a real challenge to articulate why it needs an agri-chemical toolkit in order to grow crops effectively.

This brings me back, alas, to Brexit and the need, as we try and shape a British agricultural policy, for UK farmers to have strong and united voice. Food is the most important commodity there is, yet the catch 22 is that farmers are marginalised and their voices unheard.

A vibrant trading environment which allows the market to return the correct value for farm produce

is the ideal scenario as this would allow farmers to prosper as farm support shifts away from direct payments over time. Here's hoping.

Whatever the outcomes of the next few years, it will give us plenty to write about at Farmers Guardian for the foreseeable future.



Ben Briggs is editor of Preston-based Farmers Guardian. Napthens is a key partner in the publication's Legal Helpdesk initiative, which provides FG subscribers with access to sector leading legal advice.

farm future

from Napthens



Carry out a full audit of the family's property interests

One of the three core elements of our Farm Future service is a full audit of the farming family's property interests.

As part of the audit we look at all property interests including land and buildings owned outright, any tenancies, licences and grazing agreements, any sporting rights and any potential development sites and land diversification.

The aim of Farm Future is to ensure that the farm is safeguarded for

future generations or is able to adapt to meet the needs of the business.

In light of this, one of the initial and most important steps of the property audit, is to ascertain who actually owns what.

It is not uncommon to find that some, or all of the farm, is held by

one family member or even the previous generation. Further, where there is a farming partnership in place the land can quite often be held on behalf of the partnership rather than by any members of the family individually.

As a result of our property audit it is possible to identify whether the

farm is held in the best possible manner to ensure that it is well protected for the future of the business.

A further consideration of the audit is to identify whether all of the farm is registered with the Land Registry.

We always advise clients to ensure that their entire property is registered with the Land Registry to prevent any future problems, such as loss or destruction of deeds.

For further details on how Farm Future from Napthens can help you through a personalised, detailed audit of your property, business and family interests, call a member of our team or email:

farmfuture@napthens.co.uk



James Stocker

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Dates for the diary

Joint seminar with Natwest – Brexit for Agriculture – February 13, Leyland

Joint Seminar on Succession – Spring, Carlisle area (TBC)

Joint Seminar on Succession – Spring, Kendal area (TBC)

NFU Conference – February 20-21, Birmingham

Contact us for more information or to book your place.

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