

rural:law

THE NEWSLETTER OF NAPTHENS' RURAL DEPARTMENT

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ISSUE THIRTY

Recruitment crisis in agriculture: is there a solution?

Agriculture is seeing the most severe shortage of workers on record. Prior to 31 December 2020, EU nationals were able to live and work in the UK, without restriction. With freedom of movement ended, farm labour shortages are unprecedented, with other factors (the pandemic, tax changes, skills shortages and an ageing population) playing their part.

So, what has been done to help?

In March 2019, the EU Settlement Scheme was introduced to secure the rights of EU, EEA and Swiss nationals and their families living in the UK by 31 December 2020. This helped to secure an existing pre-Brexit workforce but didn't alleviate future recruitment challenges, particularly in agriculture, where many seasonal workers travel from the EU to work for a temporary period.

The Government introduced other measures to tackle the shortages. In March 2019, the Seasonal Workers Pilot Scheme enabled a limited number of migrants to work in the UK for 6 months to carry out specific roles in the edible horticulture sector. This was extended in September 2021 to include 5,500 poultry workers and 5,000 HGV drivers transporting food.

The measures were welcome news for some but were short-term and only assisted a small minority of businesses. There are other visa options available (Frontier Workers, Youth Mobility Scheme), but the Government has made clear these are not long-term solutions, instead, businesses should make better use

of the existing UK workforce. They have suggested roles be made more appealing by offering pay increases, bonuses and/or additional benefits; they are encouraging investment in automation, efficiencies and training for existing staff; and to attract a more diverse workforce by promoting apprenticeships and scholarships.

Creating and developing these measures will take time and money, at a time when businesses are struggling to operate.

Skilled Worker Sponsor Licence

The ability to recruit talent from overseas remains imperative for many, especially those heavily reliant on an EU workforce. That's why many are turning to the UK's immigration system to secure a Skilled Worker Sponsor Licence ("Licence"), enabling UK-based companies to employ **skilled** workers within the UK, which could include, for example, farm managers/owners, herd managers, consultants, gamekeepers and poultry butchers or processors.



If you would like more information on whether or not a Licence could help your organisation and how to apply, please contact Angela.

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Welcome

Welcome to the latest edition of Rural Law.



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In our latest edition Naphthens' business immigration specialist, Angela Barnes, tackles a topic that is a major concern for many businesses in the agricultural sector - the recruitment crisis. In her article Angela considers what is being done to help and examines the Skilled Worker Sponsor Licence.

Meanwhile, I've provided an update on the topic of telecoms masts. With a change in attitudes from some telecoms companies and a recent case in the Courts leading to some potentially more favourable valuations, I'll explain why it's important to speak to your agent and solicitor before agreeing renewal terms.

I am also delighted to introduce our guest articles in this edition. Firstly, Hannah Towers who heads up the agency department at Armistead Barnett, shares her experience of the rural land and property market over 2021 - and looks ahead at what the 2022 market holds.

Mel Shipley, Agriculture Relationship Manager with Oxbury Bank, explains how the bank can support farmers with investment to maximise productivity and improve efficiencies.

Finally, I'm pleased to welcome the newest member of our Rural team. June Higgins, based at our East Lancashire office introduces herself in our 'Meet the Team' article. I'm sure you will all make her feel welcome.

If you have questions about any of the issues raised in this newsletter, please feel free to contact any of our contributors. And as always, if we can be of any assistance, don't hesitate to contact me or any member of the team.



What a year in Agency!

2021 presented some excellent offerings to the market, with strength in the agricultural and investment markets along with a shift in residential buyers moving to more rural locations.

We started 2021 with a bang, offering a 60 + acres Golf Course to the market, followed swiftly by a "best and final offers" process, to sale agreed, followed by exchange and completion. This set the tone for the year. The pandemic gave purchasers a "now or never" attitude towards buying which has created unprecedented interest with many properties throughout the rural and residential sectors achieving asking price or above.

We started 2021 with a bang

the priority, and this is something we have really worked with this year. It is so important to take time to understand what vendors and buyers are looking for, to enable such transactions.

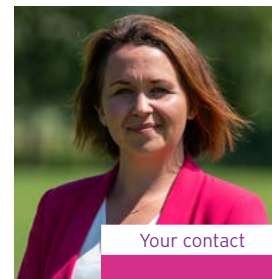
Over the last 12 months we have made alterations to the selling process, to include the use of property information questionnaires given to buyers before they offer, providing transparency and reducing fall-throughs. They have also assisted solicitors in flagging any potential issues early on. We continue to strive for excellence in all things; the process, marketing and meeting our clients' objectives.

For the year ahead we have a book full of buyers ready to move across the property types we handle.

The sale of farms and agricultural land remained strong throughout the year, with a variety of buyer profiles including those looking to continue to farm or looking to use farmsteads/land for leisure or as an investment. We have seen the overall demand for agricultural land in certain locations continue to appreciate. The supply of land, whilst similar to 2020, was not sufficient to satisfy demand.

Where it has been of value to clients, we have run a number of successful private marketing campaigns generating excellent sales, where both the vendor and buyer have been pleased with the outcome. At some levels in the market, privacy is

This, coupled with the lowest interest rates we have ever seen, plus significant buyer momentum should see strong levels of interest continue into 2022. With demand likely to continue in the short term, we hope to see even more properties come to the market to create a positive start to 2022 for the rural property sector.



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Oxbury Bank

The Bank for British agriculture

Oxbury was founded by farmers, ag-businesses and bankers specifically to meet the needs of British agriculture.

Farmers today face an unprecedented set of challenges and opportunities, with an increasing need to invest in their businesses and manage extreme cashflow fluctuations. Given the withdrawal of the Basic Payment Scheme, post-Brexit trade deals, climate change and rapidly increasing input prices, it is now more important than ever to offer financial support to this critical sector.

Becoming more efficient, while maximising productivity on farm can go hand in hand with more sustainable production and carbon reduction. A very significant part of Oxbury's mission is to support farmers in achieving this balance.

Currently, about 30% of our loans fund improvements in farm productivity, efficiencies and infrastructure. A quarter help with farm diversification, 25% go towards land purchase and a fifth consolidate existing loans.

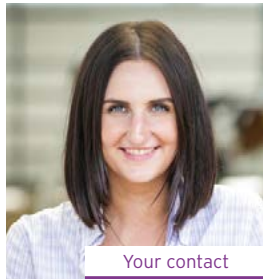
Most of our employees have farming backgrounds and we have developed several bespoke products to help farmers to manage cashflow and invest in improving efficiencies and sustainability. We use the latest technology to ensure that our specialist Agricultural Relationship Managers can make rapid lending decisions, giving farmers quick access to credit when they need it the most.

Farming is a people business, and we pride ourselves on putting farmers first. Every one of our customers is part of our mission to support sustainable British food production and every pound saved with Oxbury goes to support the rural economy.

"Oxbury Bank demonstrated clear interest in our business, our people & our vision. Their swift decision making meant refinancing was undertaken quickly and efficiently. It has been so refreshing to deal with a bank which has a common sense approach, and I would highly recommend them."

Sue Bowser,
director at Croftmarsh Limited.

For further information please contact:



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Meet the team:

June Higgins



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From the age of 14 when I did work experience at a local solicitor's office, I have wanted to be a solicitor. On obtaining my degree at Keele University I commenced employment as a legal secretary and worked my way up the ranks. I gained experience across various areas of law but my heart has always been in property and on resuming my career after maternity leave, I followed this path.

My experience grew over the years acting for individuals and companies, buyers, sellers and investors in land and property and as I gained more experience with properties of an agricultural nature, I developed my technical skills further including through specialist agricultural law courses.

I'm originally from Barnoldswick and now live in a small village near Skipton. I joined Naphthens Rural team in December 2021, based in the East Lancs office. Naphthens expertise in the Rural sector really appealed to me and I am looking forward to meeting and working with the firm's many farming and agricultural clients over the coming months.

As well as advice on buying and selling property, I can assist on a broad spectrum of legal issues including overage agreements, conditional contracts, woodlands, auctions, business farm tenancies, easements, adverse possession, voluntary and compulsory first registrations.

I am also involved in the Farm Future service provided by Naphthens - a fixed cost, tailored package covering property, commercial and personal legal advice for farming families.

Please do get in touch if I can be of any assistance.

Telecoms Masts: Update



Following on from a previous article regarding the 2017 introduction of the Electronic Communications Code (“the Code”), we thought it useful to update you on recent changes in attitudes from some telecoms companies.

When the Code was introduced, it gave telecoms providers significantly increased power over landowners, mainly by offering security of tenure. Some telecoms operators took this as an opportunity to try and ransom landowners with mast sites into nominal rents, instead of the then much higher rent prices being paid. Landowners, supported by their solicitors and agents, resisted this by not offering to renew the tenancy at this much reduced rent and instead optioned to continue on a year-to-year basis on the current tenancy - thereby maintaining higher rents until the issue tested in the Courts.

So, what has changed?

More recently, telecoms operators have been willing to offer a larger consideration or incentive payment to sweeten the deal and allow the renewal of tenancy to a new lease operated under the code. This effectively increases the rent by supplemental payments. For the telecoms company it is not classed as rent, so is not used in future market rent calculations. This has been seen as an acceptable compromise by agents: the landowner gets the inflated payment more similar to current rent rates, but from the tenant's point of view the actual rent

(which can be used in comparisons of Market Rent) is set at the lower value, so does not influence future rent reviews.

Impact on valuations

In a positive step for landowners, in the recent case of EE Ltd and Hutchinson 3G UK Ltd v R Morriss, DH Tayler and Pippingford Estate Co, the Court advised that, as these considerations/top up payments (often protected behind confidentiality clauses) are offered as part of the lease, they form part of the rent discussion and should be disclosable evidence. Under the Landlord and Tenant Act 1954 only the actual rental payment can be taken into account. This should result in higher rental payments going forward.

In the above case, this resulted in the rental suggested by the tenant of £300 (later revised by the tenant to £950 and then £1200 per annum), being increased to £3500 per annum as a result of the consideration being added into the mix by the Court.

Obviously as solicitors we cannot guide you on valuations, but please do speak to your agents and your solicitors before agreeing renewal terms as following this case, there may be much more favourable terms available.



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Supporting the farming community across the North West
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