

## FARMING AND PROPERTY BULLETIN – MAY 2015

### ***Basic Payment Scheme Forms***

The RPA has stated that all 2015 BPS forms should now have been sent to claimants either by email or by post. If you have appointed an agent to submit your form they should have received the form instead. Those that have not received a form should contact the RPA on 03000 200 301.

### ***Entitlement Trading Extended***

It has been confirmed that the deadline for entitlement trading has been extended. The latest that an RLE1 form can be submitted will be midnight on the 15<sup>th</sup> June.

### ***Agri-environment Scheme Claims***

The date for claiming under agri-environment or woodland grant schemes has been extended to the 15<sup>th</sup> June. Natural England have been calling claimants to chase up submission of the forms but some have been incorrectly stating a deadline of the 15<sup>th</sup> May. The deadline is the 15<sup>th</sup> June!

### ***NVZ Reminders***

#### Record Keeping

By 30<sup>th</sup> April you were required to have a record of the:

- Number of livestock kept on your farm in the previous calendar year and the amount of nitrogen (N) they produced. This is to ensure that the amount of livestock manure that is spread or directly deposited by grazing animals does not exceed 170 kgN/ha or 250 kgN/ha from grazing livestock for farms with a grassland derogation. This is the 'loading limit' and is averaged over the area of the farm.
- Number and type of livestock kept on your farm during the previous storage period, details of imports or exports of manure during the storage period, and the dates and location of any sites used for storing solid manure. This is to ensure that there was adequate and suitable manure storage available on the farm, including for the previous closed period.

#### Grassland Derogations

If you held a Nitrate Vulnerable Zone Grassland Derogation for 2014, you were required to submit farm information known as a 'fertilisation account' to the Environment Agency by 30<sup>th</sup> April 2015.

You must submit records for the period 1<sup>st</sup> January to 31<sup>st</sup> December 2014 that show:

- The total agricultural area of the derogated holding and the area covered by each of the following crops – winter wheat, spring wheat, winter barley, spring barley, winter oilseed rape, sugar beet, potatoes, forage maize, grass and any other crops.
- The number and category of livestock kept on your farm, and the amount of nitrogen and phosphate in the manure they produce. These categories are given in the Department for Environment, Food and Rural Affairs' (Defra) '[Guidance on complying with the rules for Nitrate Vulnerable Zones in England for 2013 to 2016](#)', Annex 2, Part D, together with standard values for manure nitrogen and phosphate.
- The amount and type of livestock manure imported to or exported from your farm, together with the total amount of nitrogen and phosphate in that manure.
- The weight (tonnes) and nitrogen content of all manufactured nitrogen fertiliser stocks kept on, imported to or exported from your farm.

If you haven't completed the NVZ records required it is advised you do so ASAP to avoid penalties in the event of an inspection.

## **Changes to Tenancy Deposits**

The Deregulation Act 2015 received royal assent in March and provides clarity on various issues surrounding AST deposits.

Since 6<sup>th</sup> April 2007 landlords have been required to place AST deposits into a government backed tenancy deposit scheme (TDS) and to serve “prescribed information” about the deposit on the tenant. But there has been uncertainty as to the position in respect of tenancies that were created before 6<sup>th</sup> April 2007 and renewal ASTs. The Deregulation Act has now clarified the position.

- If a fixed term tenancy was created before 6<sup>th</sup> April 2007 and a statutory periodic tenancy then arose after 6<sup>th</sup> April 2007 the landlord must protect the deposit with a TDS. If this has not already been done it must be protected by 23<sup>rd</sup> June 2015.
- If a fixed term tenancy was created before 6<sup>th</sup> April 2007 and a statutory periodic tenancy then arose before 6<sup>th</sup> April 2007 the landlord is not required to protect the deposit with a TDS unless possession of the property is required in which case the deposit must be protected before a Sc21 notice is served.
- For ASTs created after 6<sup>th</sup> April 2007 where the deposit is already protected there is no need to re-issue the prescribed information about the deposit on any renewal or subsequent statutory periodic tenancy unless the tenancy details have changed.

## **Permitted Development Rights**

Over the past year, in some situations new permitted development rights to convert barns to houses have not been successful. Most Local Planning Authorities (LPA's) have taken advantage of the ambiguous wording to refuse applications but new guidance has been issued recently which clarifies the rules in favour of conversion.

In summary, in April 2014 the Government introduced new permitted development rights, which allowed for the conversion of agricultural buildings to residential use (under Class MB of the GPDO). These rights allow up to 450m<sup>2</sup> of floor space to be converted, up to three dwellings to be created and allow a ‘reasonable’ amount of rebuilding work as necessary to create a functional dwelling house.

Under Class MB, development is permitted subject to ‘Prior Approval’ being granted by the LPA. In considering such applications the LPA is entitled to take account of certain matters including highway impacts, noise, contamination and flood risk. The final consideration is *‘whether the location or siting of the building makes the change of use otherwise impractical or undesirable’*.

Unfortunately the ambiguity of this final consideration has left it open to interpretation. As such, LPAs across the country have taken the view that it would be ‘impractical or undesirable’ to allow residential conversions in the countryside where people are more reliant on the use of cars.

On 5<sup>th</sup> March 2015 the Government published new guidance within the National Planning Practice Guidance (NPPG) which provides further explanation as to what is meant by ‘impractical or undesirable’, requiring LPAs to *“apply a reasonable ordinary dictionary meaning in making any judgement”*. The guidance sites a number of examples of where this might apply including where buildings have no road access, or where they sit next to buildings containing dangerous chemicals or machinery. It specifically states that the ‘sustainability’ of the location should not be a factor taken into account by the LPA in determining these applications.

It is also important to note that the guidance does not restrict the permitted development rights to traditional farm buildings. It just states that prior notifications should be supported as long as *“the building is structurally strong enough to take the loading which comes with the external works to provide for residential use”*. Such works can include the installation of replacement windows, doors roofs, exterior walls, water, drainage, electricity, gas or other services reasonably necessary for the building to function as a residential dwelling.

Both South Oxfordshire District Council and Vale of White Horse District Council have given Prior Approval to developments under Class MB in the last year which is good news for those looking at alternative uses for agricultural buildings in this area.

## **Adkin News**

Adkin are pleased to announce that Jessica Allen has recently been successful in passing the Assessment of Professional Competence with the RICS and is now a fully qualified Chartered Surveyor. Many congratulations from all at Adkin!