

NOVEMBER 2011

## OUR SERVICES

- Agricultural Law
- Compulsory Purchase and Compensation
- Expert Witness and Dispute Resolution
- Land and Farm Sales and Lettings
- Mapping and Land Registration
- Planning and Development
- Property Lettings and Management
- Renewable Energy
- Rural Business Advice
- Rural Grants and Subsidies
- Tax Planning
- Valuations

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## CAP Reform post 2013 - The New System

Draft proposals for the reform of the Common Agricultural Policy (CAP) have now been published. It is proposed that the new system will be introduced from 1st January 2014.

The SPS ends with all existing entitlements being extinguished. The 1st January 2014 will bring a new payment with a new allocation of entitlements. This payment is made up as follows:-

**1. Basic Payment (BPS)** – Basic income support. Farmers will need to apply for new entitlements in 2014 on “eligible land” but will only be available to farmers who activated “at least one payment entitlement” in 2011 and can meet the “active farmer” definition.

**2. “greening”** – additional payment of 30% of the annual national ceiling payable to farmers who deliver “agricultural practises beneficial for the climate and the environment”. To deliver “greening” farmers must do all three of the following:

- crop diversification on arable land (3 different crops)
- retain permanent grassland (down for 5 years)
- have 7% of arable land in Ecological Focus Areas

**3. Young Farmers Scheme** - This scheme is open to farmers who are under 40 years old and are setting up an agricultural holding, or have already set up in the preceding five years to the new scheme being introduced. Payment is made for up to a maximum of five years.

**4. Small Farmers Scheme** – To be eligible for this scheme, farmers must opt in by 15th October 2014. An annual payment of up to €1000 is made which replaces all direct payments and the scheme is exempt from “greening” and seemingly cross compliance

**5. Areas of specific natural constraints** – A voluntary area based payment up to 5% of national ceiling.

To claim BPS the claimant must be an “Active Farmer”, match entitlements allocated against eligible hectares, have that land “at his disposal” on a single date – likely to be the equivalent of 15th May and have claimed at least 1 hectare of eligible land in 2011.

The claimant must be an “Active farmer” to claim more than €5,000 and meet two tests

1) Receipt Test

The “annual amount of direct payments” is 5 per cent or more of the “total receipts ... obtained from non-agricultural activities in the most recent fiscal year”; and

2) Agricultural Activity Test

The claimant’s “agricultural areas are mainly areas naturally kept in a state suitable for grazing or cultivation and they ... carry out on those areas the minimum “agricultural activity” throughout the calendar year.



### Minimum Claim

It looks likely that the UK will set a higher minimum claim threshold (than the 1 hectare stipulated by the EU) at 5 hectares or €200. This is yet to be confirmed, however.

### Entitlements

There is only one type of entitlement and the 2 year usage rule remains. Entitlements may still be transferred but it would seem that leasing is no longer available. As is the case now, only the transferee needs to be a “farmer”, not the transferor.

### Capping

There will be “tax” or capping of payments between €150,000 and €300,000 and no payment will be made above €300,000

- 20% of money between €150,000 - €200,000
- 40% of money between €200,000 - €250,000
- 70% of money between €250,000 - €300,000

## HIGHER LEVEL AND ENTRY LEVEL STEWARDSHIP SCHEMES

The Higher Level Scheme is still open for applications even though budgets are considerably more constrained than in previous years. Natural England now have a new tier system for assessing and processing applications. If you consider your holding to have a high bird, environmental or historical interest, together with potential capital works you wish to complete, then please contact us to discuss applying. All applicants now have to be placed in a pipeline with Natural England to be considered.

It is also important to renew your Entry Level agreements in good time to avoid losing payments. Natural England are actively encouraging all holdings to be in the scheme or to renew their existing agreements therefore please contact us should you wish to apply or renew.



## PLANNING PROCESS WHAT IS REQUIRED?

Over the past twelve months the process of obtaining planning permission, be it for the erection of a new dwelling, conversion of a set of traditional buildings, or erection of an agricultural building has become far more onerous than previously was the case.

Since the creation of the new Unitary Authority of Shropshire Council it was hoped that the planning process would be simplified however in our opinion this is certainly not the case. Changes in Government Policy have added further requirements and the amount of additional paperwork and bureaucracy required prior to submitting an application is now considerably more than it was twelve months ago.

When submitting an application it is important at the initial stage to consider what additional reports may be required in order for the application to be validated in the first instance and to obtain a successful outcome.

In addition to completing an application form, ownership certificates, proposed and existing plans, location and block plans and full design and access statements, you will also need to consider the following (to name a few) specialist reports that may be required depending on the project:

- Protected Species Reports
- Tree Surveys
- Flood Risk and Drainage Assessments
- Landscape Plans
- Site Waste Management Plans
- Daylight/Sunlight Assessments
- Traffic Surveys
- Structural Engineers Report
- Heritage Statement/Report

**Madeleys complete applications for a variety of projects, including:**

- new farm buildings
- conversion of traditional ranges of barns into alternative uses
- the erection of local needs dwellings
- the erection of agricultural dwellings
- lifting of agricultural ties
- certificates of lawful use and dealing with enforcement action.

We can advise on the appropriate documentation required and have all the relevant professional contacts for the specialist reports required, so that you can be assured that everything is completed to the required standard.

If you have any problems with a Planning application and need advice on how to proceed then please contact us.

## Telecoms Masts Review Causing Upheaval

There are two main issues which seem to be arising out of the recent economic climate concerning mobile telephone masts.

Firstly, many telecommunications companies have been approaching landlords of masts, who have unwittingly agreed to vary the terms of their lease, when there is no provision in the lease to do so. Mobile phone companies have been merging and consolidating sites with site share arrangements or decommissioning masts altogether, due to the level of competition in the telecoms market.

In some instances they have also trying to get up to a 40% reduction in rental levels. Mergers of companies, such as Orange and T-mobile (who are now Everything Everywhere Limited) have also reduced the demand for sites.

Secondly, many mobile telephone companies lease agreements will be coming to an end. These companies may not want to renew leases for their masts for some of the marginal sites, which do not provide efficient returns. Although, some companies may take the view that because they have a site they may as well continue, particularly if their "powers" allow them to. More approaches

may be made to landlords to renew their leases or grant new ones.

Angela Roberts of Madeleys Chartered Surveyors said: "Landlords need to be vigilant when approached by telecoms agents" and continues "it has been known for telecoms agents turn up on the doorstep asking the landlord to sign papers to release them of their obligations under the lease, reduce the rent or the term or even grant them a new lease altogether".

It is essential for any landlord to take professional advice when dealing with issues relating to telecoms masts, whether this be when varying the terms of the lease, agreeing new terms for a lease, or dealing with issues which arise when telecoms companies decommission and vacate a site; landlords may be left with liabilities which could cost them dearly.

If you would like to discuss any issues relating to telephone masts, wayleaves, easements or compensation claims, please contact Angela Roberts.



## Considering CAP Reform - Analysis of Developments So Far...

The intended date of 2014 for the start of the new scheme seems ambitious – 2015 implementation may seem more realistic.

Trading of entitlements will be for 2012 and 2013 claim years, unless the timescales slip, in which case there will be an opportunity to claim in 2014. The market will decide how well entitlements trade - with 2, if not 3, claims to be made.

### ACTIVE FARMER

- Paid over €5,000 in the previous year? Therefore direct payments should amount to 5% or more of receipts from non-agricultural activity in the previous year.
- "Active Farmer" test is not a test of active farming but more of whether subsidy is small compared to non-agricultural gross income.
- What does the non-agricultural activity exclude or include: investments, pensions, dividends, other business/work, contracting, diversification, renewables?
- Will this mean that business restructuring, taking into consideration their non agricultural activity, would be worthwhile/legitimate?

- A claimant, in 2014, needs to be an "Active Farmer" and declare eligible land which must be "at his disposal". It seems that there may be a rush to claim all eligible areas possible at the 2014 claim date.

### 2011 STATUS

Farmers must have activated at least one payment entitlement in 2011 to obtain "2011 status"

- The "2011 Status" is likely to be a tradable asset prior to 2014 - only be tradable to one business or person.
- Vendor cannot transfer part of the Status either – the whole Status only can be transferred. It is likely that there will be a "contract" route to transfer the 2011 Status to the buyer.
- Issues where a vendor sells parts of a holding in lots – the 2011 Status can only be transferred to one person.
- Await further information and confirmation from the RPA regarding whether this can be resolved, which may not realistically come about until mid 2012.
- The identity of the claimant in 2011 needs to be protected – this could be jeopardised by Inheritance/ Change of business status/ Merger/Scission

## Land Values Remain Bouyant

The last twelve months has seen record prices for farm land sold in the Midlands with prices continuing to rise two years in a row. Across England as a whole there has been a 15% rise in land values over the last twelve months. These increased prices have seen many landowners consider selling to take advantage of the market, feeling that the prices have peaked.

It is evident from sales concluded across the Midlands that the gap between the best high productive land and the less attractive land has widened and I expect to see prices for best land to continue to rise slowly, however it is evident from some sales, that there are few buyers in the market for less attractive land and vendors must be realistic in their asking prices. The farm land market will remain buoyant over the next year compared to other sectors such as residential housing.

The main fundamental driver which has led to these price increases is the amount of land available to buy across the region is relatively small compared with the demand from farmers and investors which remains strong taking into account the existing tax regime and long term commodity prices.

If you are considering selling in the near future it is important that you obtain the best advice in order that the land is marketed correctly and priced realistically. If you would like to discuss any issues regarding the possible sale of land the please contact Paul Madeley

## DEFRA GRANT – FARMING AND FORESTRY IMPROVEMENT SCHEME (FFIS)

The RDPE has opened the first round of applications for the Farming and Forestry Improvement Scheme (FFIS). This is a new grant aimed at projects that fall into the following areas of activity; nutrient management, energy efficiency, water resource management, animal health and welfare and forestry. It is open to all farmers, contractors, foresters and horticulturalists across England and is designed to improve business efficiency whilst limiting the impact of farming on the environment.

The RDPE has announced that £20 million is available under the FFIS grant until December 2013 with a minimum grant of £2,500 to a maximum per applicant of £25,000. The grant rate for the capital items will be set at 40% for non upland holdings and 50% for those in upland areas.

Applications can be submitted from the 16th November 2011 with Round One closing on 17th January 2012. Further rounds of applications are planned as the FFIS is intended to operate every 4 months, however DEFRA urges early application as budget availability is largely dependent on the uptake.

The scheme is intended to be competitive and as such there is no guarantee that projects will obtain funding. It is very likely however that each round will have its own priorities therefore Madeleys will maintain a constant communication with the area RDPE team to assess what type of projects they are looking for in each application round.

If you have a potential project that you like to obtain funding for and it falls within the specified categories then please do contact us to discuss the matter further.



## NEW CROSS COMPLIANCE MAPS NEEDED BY 31st DECEMBER 2011

The beginning of the new year brings in a new addition to the Cross Compliance regulations, GAEC 19. For all Landowners (including land not in NVZ zones) you must NOT:-

- apply manufactured nitrogen fertilisers within 2 metres of surface water
- apply organic manure within 10 metres of surface water
- apply organic manures within 50 metres of a spring, well or bore hole.

If you apply organic manure you must produce a map showing any surface water on your holding and any land that is within 10 metres of surface water. The map must also show locations of springs, wells, boreholes and any land within 50 metres of these. It is also important to keep the map updated within three months of any change.

Both the RPA and Environment Agency have been actively carrying out inspections and therefore being able to produce the map is vital to avoid any penalties.

Madeleys can give comprehensive advice on this new regulation together with being able to produce the map and advise on the practical aspects of adhering to this new regulation.

## So overall...?

What of renting land to someone who does have 2011 Status – in 2014? Will this cause pressure on the land occupation market? Could there be an oversupply of land which is under the ownership of non-2011 claimants? Claimant's tenancies will need to be reviewed prior to 2014 to ensure that the land is actually "at his disposal" – it is apparent that this will become increasingly under scrutiny.

What of payment values? In England the amount of money derived is equally allocated across its hectares, however in Wales and Scotland it is likely that there will be the option to phase out the historic payments which is promising to hit payments with larger history elements hardest in the first year.

Crop diversification – we don't yet know what the definition of, or difference of "crops" is – spring barley? Winter wheat? There may be difficulty when a hill farmer has 15 acres of spring barley tries to conform to "greening".

Three crops may not be easy – it may be easier to grass down and buy feed and bedding in – but then doesn't that mean that there less diversity of crops?!

The devil is in the detail – and the detail has not yet been established. The advice is clear: bear the proposals in mind, particularly when considering business restructuring if receipts from non-agricultural activity vastly exceeds receipts from agricultural activity.

The proposals are complex, and therefore professional advice should be sought at every step. Protect your position – contact us.

# meet the team



## PAUL MADELEY

The Director and founder of the Company, Paul is a well known and respected Chartered Surveyor having practised in the area for over 18 years. Paul hails from a farming background, having been brought up on a dairy farm in North Shropshire.

After graduating from the Royal Agricultural College at Cirencester, Paul commenced his career at the livestock market in Bridgnorth, Shropshire where he completed his APC and RICS qualification.

After qualifying as a Chartered Surveyor in 1997 Paul became a partner in a new business of Rural Surveyors and Auctioneers, Mullock Madeley heading the rural practice department. In 2007 the partnership was split and Paul founded Madeleys Chartered Surveyors. The company has grown from strength to strength since then with an ever increasing client base.

Paul is soon to be married to Louise and he has a 13 year old son. He has a keen interest in sport, particularly rugby and cricket which now mainly involves supporting his son. He enjoys occasional shooting and hill walking.

**Paul Madeley MRICS MRAC Registered Valuer  
Director**

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## ANGELA ROBERTS

Angela's professional career has progressed; graduating from Harper Adams Agricultural College, having completed a degree in Rural Estate and Land Management then working for a national firm in Shropshire. She then moved to other small practices in the region, before settling at Madeleys Chartered Surveyors.

Angela qualified as a member of the Royal Institution of Chartered Surveyors and became a Fellow of the Central Association of Agricultural Valuers (CAAV) in 2006.

With an agricultural background, Angela is able to provide a wide variety of advice including rural, commercial and residential property lets and tenancies, sales and valuations for lending, probate and taxation purposes together with market appraisals. Much of her work currently includes grant applications, compulsory purchase, compensation claims and planning work.

Angela now lives near Bridgnorth and enjoys a number of sports, including playing netball, skiing, hunting with the Wheatland hunt and game shooting with a local syndicate.

**Angela Roberts MRICS FAAV Registered Valuer  
Senior Surveyor**

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## LISA RANGLES

Lisa graduated from Harper Adams Agricultural College having completed a Post Graduate Master of Science degree in Rural Environment and Land Management.

Madeleys Chartered surveyors has been Lisa's first post since graduating. During her time at Madeleys, Lisa has been actively involved in Stewardship applications,

Entitlement trading, Single Farm Payment Scheme, grazing licences, together with a variety of other professional work.

Lisa resides near Bridgnorth and is a keen fencer and has competed at many national competitions. Lisa is soon to be married to Mark and has a 7 year old daughter. In her spare time Lisa enjoys training and exercising her two border collies, Mist and Jake and Labrador Ben.

**Lisa Randles BA (Hons) MSc REALM  
Graduate Surveyor**

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## JANE MILLS

After working in the surveying sector for the majority of her working life, Jane moved to Madeleys Chartered Surveyors in January 2008. She brought with her a wealth of experience in administration skills.

Jane acts as "front of house" with all our valued clients. Her friendly approach and obliging manner gives our

clients the confidence to know that Madeleys Chartered Surveyors give our clients the optimum in customer service.

Jane comes from a farming background which gives her the knowledge and understanding of farming practices. She is single and lives in Shrewsbury.

**Jane Mills  
Office Manager**

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## about us

Madeleys Chartered Surveyors is a small professional firm of rural practice chartered surveyors located in the picturesque market town of Much Wenlock offering a comprehensive professional service for clients with rural, agricultural, commercial and residential property.

With a wealth of experience and knowledge of the local area in which they practice, Madeleys Chartered Surveyors are well placed to provide the best advice and guidance at all times. We pride ourselves on understanding clients needs and providing excellent customer service at all times.

Our extensive range of services means that all your agricultural, commercial and residential property requirements can be dealt with under one roof.