

Update

Your quarterly bulletin
on legal news and views
from Lanyon Bowdler

Renewable energy - an alternative source of income



Many farmers and landowners are looking to hydroelectric power as an income source and as an alternative to wind and solar energy, according to partner Emma Wilde.

Emma is a renewable energy specialist with the firm and says changes to tariffs and subsidies mean that hydroelectric schemes are becoming an attractive option for many.

"I have acted on behalf of several clients in the past six to 12 months who are developing hydroelectric power generation schemes," Emma said.

"Hydroelectric is a good option at the moment, as the tariff schemes for wind and solar are reducing.

"Another area of growth in recent months has been the installation of mobile phone masts.

"I have been working on contracts for three masts in just the past month, and I think the sudden rush has partly been down to a push by the Government to improve mobile phone signal in rural areas, particularly for emergency service provision.

"However, the introduction of the new Digital Economy Bill from April 2018 may change things as the levels of rent achievable for such sites is likely to reduce.

"In a time of uncertainty, any form of diversification is worth considering and there are a variety of different options out there. As ever, making sure you obtain the right professional advice is critical to success."

Agricultural shows



The first two agricultural shows of the season went well. At Shropshire Show our Teddy Bear Hoopla proved to be as popular as ever.

It was the first time we had taken a stand at Staffordshire Show, near perfect weather saw lots of people attend the show and our game of guessing how many bears were in the jar was a winner.

We will be taking stands at the following summer shows, if you are there please do come and say hello, enjoy some refreshments and enter our competitions:

BROMYARD GALA

Saturday 24 & Sunday 25 June

BURWARTON SHOW

Thursday 3 August

OSWESTRY SHOW

Saturday 5 August

LLANFYLLIN SHOW

Saturday 12 August

KINGTON SHOW

Saturday 9 September

“Enthusiastic approach to handling cases.
Regular updates, commitment, valued.”

Tomlinson's Dairies Limited, Wrexham

Brexit - uncertain about the future?

Working in agriculture is a tough business - with a seemingly ever-growing amount of legislation and regulations to deal with.

And now with Britain in the midst of negotiations to leave the EU, farmers could be forgiven for feeling uncertain about the future. But lawyers at Lanyon Bowdler, say there is still plenty of cause for optimism in the agricultural industry.

Lanyon Bowdler is the NFU's recommended agricultural law firm in Shropshire, Herefordshire and Staffordshire, providing specialist legal advice for farmers and the agricultural industry.

Brian Evans, managing partner, is from a farming background himself and is in regular contact with agricultural clients across Shropshire and beyond.

“The message we are getting from our clients is that they remain cautiously optimistic about Brexit,” he said.

“As the NFU has set out in its manifesto, the EU referendum must be seen as an opportunity to create a new domestic agricultural policy which works for British farming.

“The majority of our clients - hardworking farming businesses - just want to see the government, with the help of organisations like the NFU, start working towards a clear vision for the future.

“But of course, everyone knows there is a lot more debating and negotiating ahead of us. I think people just wish the politicians would get on with it!

“Although many farmers would accept there is little they can do themselves about Brexit, there are other challenges to running a farm or rural business which they can control.

“Having the right kind of advice on hand is essential to making your rural business a success, and having a team of solicitors with experience of agricultural legal issues is a good start.”

Many of the specialist farming solicitors at Lanyon Bowdler have close links with the farming community, so understand the pressures and complexity of the issues involved in running a farm or rural business.

Brian added: *“Our services cover all aspects of farming and agricultural law, such as the sale and purchase of rural property and land, including equestrian properties and estates, whether by auction, private treaty or tender.*

“We can offer advice on secured lending on agricultural property, agricultural tenancies and residential tenancy law, as well as business property law if you are considering renting out office or commercial property.



“Our team of experts have experience of dealing with the Basic Payment Scheme, and other subsidy schemes and woodland and environmental grant projects.

“We can deal with all land development and planning issues, such as clawback arrangements, pre-emptions and Section 106 agreements.

“Access to land is an important aspect of rural management, and we can advise on rights of way and other potential planning restrictions like covenants and easements affecting land, as well as commons and village greens.

“If you employ staff, we can help you with any employment law issues, and we can offer regulatory advice and criminal defence work when necessary.

“Then there is the commercial aspect of farming - contracts with the food industry, telecommunication sites, utility company wayleaves and renewable energy schemes, such as solar farms, wind turbines and anaerobic digesters.

“We appreciate that sometimes change is needed, and we have experience in the restructuring of farm businesses, including partnerships, limited companies, joint ventures, contracting arrangements and share farming.

“Finally, don't forget to plan for the next generation; we can offer succession planning and inheritance tax advice, draft, review and update wills, and can deal with lasting powers of attorney.”

“Attention to the smallest details.”

Mr John Stott, Cumbria

Tips for a successful planning application

It isn't always easy to secure planning permission. From barn conversions to large scale chicken sheds each application will have its unique challenges. These are our top tips to clients to ensure a smooth and successful application.

- 1. Jumping The Gun** - securing planning permission before you start is vital. If you start building early you run the risk of the application being refused and being served with an Enforcement Notice.
- 2. Don't Forget Building Regulations** - you won't always need planning permission for schemes, but building regulations approval is usually always required. The Local Authority can stop your build if the regulations are not met.
- 3. Love Thy Neighbour** - planning applications can be controversial amongst the locals, especially those which involve expanding farm businesses. It's important to make neighbours feel involved to avoid objections.
- 4. Get Expert Advice Early** - Employing an agricultural planning consultant and an architect together will get you the most out of the planning process. With more complex applications it is important to get specialist lawyers on board who can certify that your application is both procedurally and evidentially sound.
- 5. Engage With The Planning Officer** - treat officers' demands for alterations or additional information as a positive. They are likely trying to make the scheme more acceptable to members.
- 6. Section 106 Agreements** - Getting the case officer to share conditions and s106 heads of terms early can be a real advantage. Having time to negotiate the terms is important, as it is near impossible to have them amended after a decision is made.

Are you considering a new project? At Lanyon Bowdler Solicitors we are able to advise on all aspects of the law, including property, agriculture, planning and building control.



As summer approaches



As summer approaches, motoring offence specialist Stephen Scully was recently asked to clarify the legal position in respect of Motoring Law issues that crop (no pun intended) up from time to time involving farmers and their employees...

Driving licences and age:

Tractors and trailers

- A person aged 16 can drive a tractor as long as it is not more than 2.45 metres wide and they have passed their tractor test.
- They can also drive tow trailers less than 2.45m with two wheels or four wheels close-coupled.
- As a rough guide, older tractors are smaller than newer ones.
- At the age of 17, once a driving test (Class B) has been passed, a 31t tractor and trailer can be driven.
- However, a person still needs to be 21 before they can drive a combine harvester, telehandler and self-propelled foragers/sprayers.

Insurance

- Employers should ensure that this is in place, expressly covering those under 17.

Mobile phones

- The rules are the same as for other motorists... six penalty points and a fine.

“Good customer service, quick and efficient staff.”

Mr Nigel Jones, Oswestry

Agricultural mediation

In May Lanyon Bowdler's Head of Agriculture, Brian Evans, gave a presentation at a national Agricultural Law conference on the topic of mediating agricultural disputes.

Mediation is a dispute resolution procedure which uses a neutral third party to help broker a deal between the disputing parties. Unlike a judge or an arbitrator, the mediator has no power to impose a solution on the parties that use a variety of techniques and negotiation tools to help the parties get to a place where they can reach an agreement with which they are comfortable.

Rules of court encourage parties to see litigation as a last resort and to try things like mediation before going to court. Parties who unreasonably refuse to mediate can be penalised even if they are ultimately successful in their case, as the court can make punitive costs orders against them. In addition, in recent years, the courts have also penalised parties for not responding to an invitation to mediate, and in a case earlier this year, punished a party for delaying and being awkward in agreeing arrangements for a mediation, even though, on the face of it, they agreed to attend in principle. So these days it is a brave litigant who refuses to mediate.

Rather than focusing on pressure from the courts to mediate, though, Brian Evans stresses the benefits of mediation:

“There are many positive reasons why parties should consider mediation. Because no one can impose a solution on the parties, they control the resolution of their own dispute. The settlement reached in mediation is therefore, by definition, one that all parties can live with. That, in turn, means the parties are more likely to stick to the agreement.

“Feelings often run high in legal disputes. Mediation allows emotions to be explored constructively and gives the parties a pressure valve to release pent-up feelings and move on. A negotiated settlement



is more likely to lead to the preservation of relationships than court proceedings.

“Resolving a dispute using mediation avoids much more significant expenditure on litigation. Many of the cases that I mediate involve farmland or the estate of someone who has died, and mediation can therefore preserve the assets for the parties, rather than land or estate assets having to be sold to pay legal bills.”

Mediation gives scope for much more creative solutions than litigation. Brian says “One case I mediated involved a dispute between the estate of a smallholder who had died, and a neighbouring farmer. The estate wanted to sell the land (which was a few acres of poor hill land) and split the money between the beneficiaries, but the neighbour claimed that he had an Agricultural Holdings Act tenancy over the land. It became clear during the mediation that the farming neighbour really wanted an access route to other land over which he had grazing rights. The case settled with the estate giving the farmer a strip of land enabling him to access the mountain so he could graze sheep there without crossing anyone else's land. The estate preserved most of the land and was able to sell it. Everybody got most of what they wanted, which would not have been possible in litigation.”

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