Welcome to the winter 2011 edition of Aspects of Land and its selection of topical articles and news, which I hope you will find useful. It comes as the ongoing turmoil in the global economy and concerns about long-term food production strengthen the rural and agribusiness sectors in Scotland, with investors looking for a safe haven for their capital.

Investors are showing real interest in quality agricultural land, which is sustaining arable land values. There has been significant interest in the forestry sector too, with land values jumping by 30 per cent in the early part of this year. Nevertheless, there have been some challenges. Estates and farms are facing difficult trading conditions – the limited availability of finance, high inflation and minimal economic growth – which have tightened the margins on rental portfolios.

Savills farms and agribusinesses, and their heirs, is confirmed the principal tests that will be applied by Her Majesty’s Revenue and Customs (HMRC) in a claim for Business Property Relief (BPR). This Balfour Case was a victory for the taxpayer and, more pertinently, for the owners of estates and agribusinesses, and their heirs.

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Savills Scottish Estate Benchmarking Report
It’s your chance to take part...

CAP reform legislation
Behind the thinking of EU decision makers

A recent Balfour Case was a victory for the taxpayer and, more pertinently, for the owners of estates and agribusinesses, and their heirs. It confirmed the principal tests that will be applied by Her Majesty’s Revenue and Customs (HMRC) in a claim for Business Property Relief (BPR). This has also clarified the ways that owners can order their affairs to ensure they qualify for this form of IHT relief.

As a result, Savills has come up with the Balfour Matrix, a mechanism that helps work out whether rural businesses are likely to qualify for BPR, the extent to which they might be liable to IHT, and what steps they can take to minimise their exposure. This matrix collates a range of information, which will then show whether action needs to be taken to secure the estate for heirs, and how this might be implemented.

Early warning of tax implications allows businesses to establish a structure that both maintains operational objectives and maximises the chance of obtaining IHT reliefs.

The Balfour Matrix process shows the rate of BPR that is potentially available; the relative value of trading and investment elements (though this is not a formal valuation); the proportion of time that is spent on trading and investment; and the relative turnover and profitability.

It also includes a consideration of the estate in the event that it must be sold. If the results suggest a possible risk to IHT reliefs, Savills experts will meet with the owners’ advisers to discuss possible solutions. These can then be implemented with specialist advice and documentation available from legal counsel.

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CAP reform legislation
Behind the thinking of EU decision makers

As anticipated, the draft CAP reform legislation was leaked in August, allowing feedback to the proposals, prior to the formal draft legislation in October and final implementation in 2014. It seems unlikely reforms will be implemented anywhere near the draft legislation timetable. What it does do is give us an idea of the thinking of the EU decision makers and what themes may come in this and maybe future reforms.

BASIC PAYMENT SCHEME
Key to the reform is a move away from payments based on historic production. England and Wales will have achieved this by 2012; in Scotland and other member states it will have greater impact.

The legislation proposes an increased progressive reduction in direct payments and a payment cap at 300,000 euros, potentially offset by “salaries” paid by the farmer. This continues to be a significant area of debate. The options of restructuring businesses to minimise the effect of capping need to be considered — artificial arrangements are open to challenge by the SORPIB, but there may be grounds to advance planned changes.

Existing entitlements
Existing payment entitlements will be reallocated. When dealing with farmland which becomes vacant it would appear to be potentially beneficial for it to be farmed in-hand or on a contract basis, as opposed to letting on the basis of an SDLT or LDT, although this is only one factor in the decision making process.

Environmental element
More focus than ever will be placed on environmental goals. A significant level of additional payment, up to 30 per cent of the national allocation, will depend on achieving specific targets which go beyond what is in place under cross-compliance. This could include an ecological focus area with at least 5 per cent (excluding permanent pasture) placed in ecological management (e.g. fallow, terraces, landscape features and buffer strips). Mandatory crop diversification and maintenance of permanent grassland areas are also included. This top-up payment is applied to the area used for the basic scheme.

Coupled support
There is a provision for coupled support to maintain the current area of crops in a region. Payments can be applied to almost any type of agricultural production, and could be based on a fixed area, yields or number of animals.

It is hard to believe that this would go through unchanged. What can we be sure of is that bureaucracy would need to be increased.

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A test case that established a legal precedent on whether a farm residence counts as agricultural property – and qualifies for Agricultural Property Relief (APR) on Inheritance Tax (IHT) – is a significant victory for Clive Beer, Savills Head of Mediation. Clive acted as expert witness on behalf of the taxpayers, the children and executors of Dennis Golding, in the case of Golding v Her Majesty’s Revenue and Customs (HMRC).

The case concerned HMRC’s ruling that Dennis Golding, who had a smallholding near Laulhadow, HMRC accepted the executors’ claim for APR for the land and outbuildings, but not for the house, a three-bedroom property in a poor state of repair, which HMRC argued was not character appropriate. The tribunal found in favour of the taxpayers and executors. The Golding case confirms that character appropriateness should not simply be based on financial viability. Reduced business turnover and profitability do not mean a farmhouse ceases to qualify for APR. And the character appropriate test must take into account the farmer’s approach to life.

Clive Beer was also involved in the Antrobus cases, the first brought by HMRC in relation to APR. “This is a victory for farmers and landowners,” he says. “If HMRC had won, the character appropriate test would have been subject to the vagaries of farming profitability; this is a significant victory for Clive Beer. Savills (APR) on Inheritance Tax (IHT) – is a green energy maze.

The Savills Energy Audit is designed to find clients through the maze and offer clarity on the correct technology and route to development for their property. It is a three-stage process, drawing on the knowledge of Savills in house teams, including planners, project managers and specialist consultants. STAGE 1 acts as an initial review to draw out the clients’ objectives, constraints, planning and financial viability. This stage is designed to form the backbone of a business plan which can be presented to banks or others when discussing finance.

STAGE 2 takes the process into project development and goes from technical studies, contract negotiations and planning through to consent and commissioning. The audit process is designed to be flexible, allowing clients to enter at any stage. It also offers them the ability to look into alternative development routes, whether that’s options, lease, joint venture or self-development.

Renewable energy is now an essential part of any rural business plan and an integral part of the financial viability. Reduced business turnover and profitability do not mean a farmhouse ceases to qualify for APR. And the character appropriate test must take into account the farmer’s approach to life.

The Golding case confirms that character appropriateness should not simply be based on financial viability. Reduced business turnover and profitability do not mean a farmhouse ceases to qualify for APR. And the character appropriate test must take into account the farmer’s approach to life.

Use the Savills energy audit to navigate the green energy maze.

CATCH & RELEASE guidelines

• CATCHING THE FISH Use appropriate tackle. The use of barbless or micro-barbed single hooks is recommended as they make removing the hook easier.

• PLAYING THE FISH Try not to play the fish to exhaustion – if possible move the fish out of fast-flowing water quickly.

• REMOVING THE HOOK Holding the fish, remove the hook gently with forceps or a hook disgorger.

• RECORDING FISH Do not weigh the fish, but estimate the weight of the fish from its length. LANDING THE FISH Use a fine knot-less meshed landing net and ensure the fish remains in the water.

• HANDLING FISH Gaff or tailed must not be used. Never pick up a fish and hold it by the tail.

• REVIVING THE FISH Support the fish, in a current, facing upstream and allow time to recover.

Savills Mallow trophy promoting best practice

A s the temperature cools and we enter the second half of the season, when larger fish are more prevalent in Scottish rivers, competition for the sought-after Savills Mallow Trophy is heating up. It is important to remember that the award aims to promote the conservation of salmon stocks. To be eligible for entry, a fish must be caught on a fly and be returned unharmed. This ensures it has the best chance of survival and future breeding.

Huston McCollough was last year’s very worthy winner for the fine 36lb salmon he landed and returned to the River Spey. “I am delighted to have won the Savills Mallow Trophy,” he said. “The winning fish is a testament to the great work performed by the many charitable organisations devoted to restoring our salmon stocks, as well as to the management of the River Spey.”

Mr McCollough received a silver sculpture of a salmon, commissioned by Savills from artist Patrick Mavoros, and a £250 voucher from The House of Bruar.

Make sure your business is in good health by following these five simple steps

1. Energy Savings Trust

Energy savings. This continues to provide grants for private rented housing, offering free home insulation to over 70s or tenants who receive qualifying benefits. Tenants may also be eligible for £4,000 towards upgrading their heating. Free insulation top-ups and discounted rates for insulation are also available.

2. SRDP

Funding for large-scale SRDP projects has been reduced, but there are still opportunities for landowners, especially for environmental schemes. The application process has now been streamlined so smaller projects (up to £50,000) can be assessed on an ongoing basis.

3. Utility Contracts

Although dealing with utility suppliers can be painful, it is worth keeping a close eye on what you are paying, especially when prices are rising. Taking time to negotiate new contracts, switch suppliers or consolidate sites can save a significant amount of money at year end.

4. Private Water Supplies

Grants of up to £3,000 per property are available for the upgrade of private water supplies to bring them up to the requirements of The Private Water Supplies (Scotland) Regulations 2006. Where a large number of properties are served by private suppliers this can amount to significant funding.

5. Insurance

Farms and estate owners should consider putting their insurance renewals out to tender every few years to ensure they are offered competitive rates. Price is one factor to consider; the most important thing is to ensure you are covered for the correct amount of money at year end.

The farm supermodel simplifying the budget process

Creating an accurate farm budget can be difficult, so Savills has developed a Virtual Farm Model to help. Designed in association with Farmers Weekly, the model comprises a set of accounts from a hypothetical 2,000-acre commercial arable business.

“The beauty of it is that you can reprice inputs and outputs with fluctuating incomes, and control the rules with different decisions,” says Robert Hall, agribusiness consultant at Savills.

“Past models were retrospective, but this looks forward. The aim is to provide a tool for farmers who do not budget, to help them formulate strategies for the future.”
**Interview with Fergus Ewing MSP, Minister for Energy, Enterprise and Tourism**

**How does the Scottish Government balance meeting renewable targets with the potentially negative impact of wind farms on our landscape?**

“We want Scotland to be a world leader in renewables technologies and have set a target to meet 100 per cent of our electricity needs from renewables by 2020, creating new jobs and benefitting communities across Scotland. There are further opportunities for onshore wind, alongside big expansions in offshore wind, wave and tidal energy. We will not approve wind farms in the wrong places.”

**What is the view from the top?**

“The Scottish Government encourages woodland planting – ranging from direct planting to the restructuring of the Single Farm Payment subsidy. With negotiations on CAP starting this year, Scotland will argue for a fair share of the budget, flexibility to address the needs of Scottish farmers and removal of constraints to ensure a sustainable rent determination of the Moonzie case last year. We want to speed up decisions and avoid delays. Also, an economic argument was not given an equal weighting to one supported by comparable evidence; it should simply be used to confirm the market rent would be sustainable. Other important considerations are that cottages not required for farm workers make money from potato/vegetable growing by making an arrangement with a third party even though a lease prohibits sub-letting; and a tenant with a third party even though a lease prohibits sub-letting; and a tenant would have sufficient capital for the provision of equipment, borrowing being accounted for in his earnings. Key considerations for landowners are to apply adjustments to comparable rents; consider recent agricultural conditions to ensure a sustainable rent is being proposed; consider surplus cottage rental values and the opportunities with potato or vegetable growers and its associated income.”

**APPLYING the PRINCIPLES of the MOONZIE CASE**

Following the Land Court’s determination of the Moonzie case last year, the Court reached a number of conclusions on what should properly be considered when fixing rent. The basis of rent was established as being an “open market” rent and not a “fair” rent based on an assessment of the productive earning capacity of the property, like the English system. The Court made clear that it preferred a comparable approach. All types of tenancy can be used for comparable purposes, as long as adjustments are made. With the average discrepancy between sitting tenants rents and 1991 Act tenancies now at 30 per cent, this is significant for landlords. Also, an economic argument was not given an equal weighting to one supported by comparable evidence; it should simply be used to confirm the market rent would be sustainable. Other important considerations are that cottages not required for farm workers make money from potato/vegetable growing by making an arrangement with a third party even though a lease prohibits sub-letting; and a tenant would have sufficient capital for the provision of equipment, borrowing being accounted for in his earnings. Key considerations for landowners are to apply adjustments to comparable rents; consider recent agricultural conditions to ensure a sustainable rent is being proposed; consider surplus cottage rental values and the opportunities with potato or vegetable growers and its associated income.

**Values**

There has been little change in values in Scotland since last September, partly owing to the fact that the majority of farms for sale were advertised in May and June for November entry dates and the transactions have not completed yet. Anecdotal evidence suggests that the value of prime arable land is continuing to increase. It is currently averaging about £5,500 per acre, but along the east coast it regularly exceeds £7,000 per acre. The value of lower quality arable land and grassland has remained static over the past 12 months, and looks likely to remain so. The average value of all land is just over £4,000 per acre.

**Who’s buying?**

We have seen many Scottish buyers and local farmers/landlords with surplus land who are at odds with the many that achieve their value of lower quality arable land and grassland. The value of lowland farms and grassland has remained static over the past 12 months, and looks likely to remain so. The average value of all land is just over £4,000 per acre. The value of lower quality arable land and grassland has remained static over the past 12 months, and looks likely to remain so. The average value of all land is just over £4,000 per acre. The average value of all land is just over £4,000 per acre. The average value of all land is just over £4,000 per acre. The average value of all land is just over £4,000 per acre.

**Who’s selling?**

The four Ds – death, divorce and downsizing – continue to be the principal initiators of sales in Scotland. In the first half of this year there were 78 sales of over 50 acres advertised in Scotland (30 of which were launched in May/June alone). Only 17 of these were of more than 400 acres, so truly commercial units remain very scarce. In 2010. This is in contrast with the general nationwide increase in supply of 12 per cent, but the Scottish market starts later. Overall, supply looks to be almost the same as last year.

**Exciting Sales**

Two farms achieved particularly good sales. These were Morham Mains, East Lothian – a well-equipped 460-acre arable farm marketed at offers over £4.5 million – and Cumrie, a 607-acre dairy farm at Lockerbie, marketed at offers over £4.25 million. The froth seems to have come off the market. “With economic markets looking increasingly unstable, farmland remains attractive to conservative investors. Nevertheless, some of the froth seems to have come off the market. That’s not surprising; the growth of the past three to five years was always going to slow.”

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**Farmland review**

In Scotland there has been little change in farmland values, and that’s not likely to change in the near future.
Savills has been advising landowners and farmers for over 155 years and offers over 350 property services. What you might not know...

**Heritage**
Savills was established in 1855 as a rural surveying business. It has 25 dedicated rural offices across the UK and over 200 professionals working for its clients.

**National Coverage**
Savills is the UK’s leading farm agent, marketing more farmland than any other agent*.

**People Power**
Savills rural staff have a combined total of 2444 years’ experience.

**Client Benefits**
Savills prides itself on long-term relationships and has been working with many clients for a number of generations.

**Connecting You**
Clients have access to a global network of over 200 offices and associates, throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

**Facts & Figures**
- Savills received the UK’s Number One Graduate Employer award at The Times and TARGETjobs National Graduate Recruitment Awards
- Savills is Estate Guyte’s number one UK agent for the last three years
- Savills won the Best Corporate Website Award at the 2011 Property Marketing Awards

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**Property highlights**
A selection of Scottish farms and estates marketed in 2011

**Outstanding arable farm with Georgian farmhouse**
Morham Mains
Haddington, East Lothian
- 5 bedroom listed farmhouse
- Class 3 farmland
- Grain and potato storage
- Underground irrigation main
- 468 acres

Offers over £3.5 million
Contact: Savills Edinburgh
0131 247 3720

**Arable & mixed farm**
Greenmyre
Kingoldrum, by Kirriemuir
- 4/5 bedroom house
- Class 3 arable
- 2 cottages
- 408 acres

Offers over £1.7 million
Contact: Savills Brechin
01356 628 628

**Mixed farm with fishing**
Corniehaugh & Woodfold Farms
Rothiemay, by Huntly
- 2 farmhouses
- 2 steadings
- Cottage
- 549 acres
- Available in 2 lots

Offers over £1.4 million
Contact: Savills Brechin
01356 628 628

**Attractive upland farm**
Curlusk
Mulben, by Keith
- 4 bedroom farmhouse
- Restored
- 150 acres

Offers over £625,000
Contact: Savills Brechin
01356 628 628

**An island estate on the shores of a sea loch**
Benbuie
Isle of Mull, Argyll
- 6 bedroom lodge
- 4 bedroom farm house
- 2 bedroom cottage
- Deer stalking and loch fishing
- 3,925 acres

Offers over £1.55 million
Contact: Savills Edinburgh 0131 247 3720

**Exceptional riverside estate**
Hensol Castle
Douglas, Dumfries and Galloway
- 10 bedroom manor house
- 11 estate dwellings
- Farmland
- Woodland
- Driven pheasant shoot
- 2,264 acres

Offers over £4.25 million
Contact: Savills Edinburgh 0131 247 3720

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**Case in Point**
Savills has acted as ‘Expert Witness’ in hundreds of cases, many of which have established important new case law for rural property owners.

**Heritage & Technology**
Savills.co.uk is the most visited UK national estate agency website (Source: Hitwise, March 2011)

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**The knowledge**
Savills has a dedicated rural research department, which has been operating since 1987.

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**Facts & Figures**
- Savills is number one in the UK Business Superbrand charts in the real estate sector, and has been for the last three years
OFFICE DIRECTORY

Savills has more than 90 offices in the UK with 25 dedicated rural offices

KEY
- Office includes rural department
- Other Savills offices
- Estate office

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