



This article by Katherine Haslam, Property Partner, Adams & Remers, first appeared in RICS Land Journal

Carrying out a strategic review of an estate to unlock financial potential

Holding land for its investment value alone may be enough for you, but most people are keen to make their land interests work as hard as possible for them. It is worth carrying out a regular health-check of any property you hold to make sure that you aren't missing out on possible financial opportunities.

A good business plan for the whole estate should be carefully formulated and (importantly!) implemented and kept under review going forward. The major point to bear in mind is that tax and succession planning are likely to be key to the overall strategy that you adopt and you should make sure that you take the appropriate advice from your legal, financial and business team. There is not a "one size fits all" solution to getting the most out of your estate; your circumstances and the property's own peculiarities and current situation will need to form part of the overall equation.

Some of the questions that you may want to consider as part of a review process include:-

Are there any "easy wins" to pursue?

There may be a number of ways that you can look to unlock more cash that don't necessarily have to involve much investment or time, such as:-

- Are you maximising your use of the property? If you are running a business it may be time to examine your current business practices and to consider ways in which you can tweak these to increase profitability. Do you need to use all the area you currently occupy or could you free some of this up to let to third parties?
- Are there any empty or unused buildings, units or areas of land that can be let with little or no work required to make them tenable?
- Are there any outstanding rent reviews on already let premises?
- Chase and collect any rent or service charges arrears and consider dipping into any rent deposits and/or pursuing guarantors where appropriate.
- There may be grants or other claims or schemes which you may be entitled to apply for (for example, certain grants relating to repairs to be carried out to listed or heritage properties, woodland grant schemes, national lottery grants, "green deal" schemes) which are either not being claimed at all, or which are not being claimed fully. These may at the very least help to ease cash flow issues arising in respect of works that you already know will have to be undertaken by you at some stage.

- Think outside the box and consider different options such as leases of shooting rights, letting artists display their works in previously unused or underused spaces, temporary events such as camping and festivals and permitted development rights which may allow fresh approaches to the use of different parts of the estate without having to obtain planning permissions. The recent changes to permitted development rights for agricultural buildings may be of particular interest in this regard.
- Is a sale of part of the property appropriate? If so, consider whether you should sell subject to a right to share in any uplift in value of the land as a result of any future development.

Are there any longer term or more structured steps that can be taken?

As part of your bigger picture and bearing in mind the potential tax implications and the succession planning strategy that you have put in place for your estate before proceeding with any of these steps, some of the following options may also be of interest:-

- Is the property held in the correct name? Companies, partnerships, trusts or gifts to younger generations of the family may be more appropriate and tax efficient.
- Are there any “old style” Agricultural Holdings Act tenancy agreements still in place with tenants who would be prepared to replace them with Farm Business Tenancy agreements, which could result in a healthier picture as far as APR (agricultural property relief) and/or BPR (business property relief) is concerned?
- Depending on your location, you may be in a position to consider other uses (either yourself or through letting areas to third parties) such as vineyards, renewable energy sources such as wind turbines, solar farms and biomass digesters, holiday lettings or other tourist and/or recreational and leisure uses such as farm shops, adventure playgrounds, cafes, wedding venues etc. Some of these uses will not be automatically allowed under permitted development rights and will require planning permissions (and listed building consents if the property is listed). You will need to ensure that the costs of setting up any such new uses still make it financially viable.
- Is any part of your land suitable for redevelopment? New housing requirements across the country remains a hot topic and there may be opportunities for you to enter into option agreements or promotion agreements with developers. This could unlock funds up front as part of the fee paid by the developer when the documents are entered into, with a promise of further monies further down the line if and when planning can be procured for the proposed development. Alternatively, there may be existing buildings and outbuildings which can be renovated either for agricultural, commercial or residential use.

Other points to bear in mind

- As well as making sure you have taken advice on the tax implications and on succession planning matters as indicated above, issues which are likely to impact on the options available to you (either because of the additional costs that will be involved or because they may not fit with your bigger overall strategy) include:-
- Compliance with Planning Control (including planning permissions, listed building consent, building regulation control and agricultural ties).
- Existing third party rights affecting the estate. These can include rights you have already granted under current tenancy agreements and rights which otherwise bind the property such as public rights of way, statutory undertakers rights, rights which were reserved out of the property by previous owners and restrictions which may bind some or all of your land. You will need to check the title deeds to make sure you are good to go before rushing headlong into your new projects.
- The geographic location of the property. Not only will this impact on the suitability of the site for some proposed uses or developments (do you have the correct soil type for a vineyard? Is the location suitable for wind turbines? If the land is under water for half of the year then residential development may be tricky) but you may also be located within a National Park, a SSSI (Site of Special Scientific Interest), an AONB (Area of Outstanding Natural Beauty) or subject to some other specific environmental or protective designation. These can limit what you are allowed to do at the Property and may prevent you from pursuing some proposed uses or development works entirely (including those which would otherwise be allowed under general Permitted Development Rights) or make them less profitable options.

- Wildlife and ecology considerations. Are there any endangered species, habitats or other ecologically sensitive issues that will affect your ability to proceed with your proposed use of the land?
- Empty business rates. It is all very well converting units for commercial letting but if no tenants can be found then you may have to bear these rates once the conversion is done unless one of the reliefs applies.
- Ongoing legislative and policy changes and changes to the political landscape – for example, the levels of feed-in tariffs available in respect of renewable energy sources have been changing over the past few years, which impacts on the hunger in the market for certain types of renewables from time to time and results in peaks and troughs of popularity for different types of renewable energy provision. You may need to be flexible in your approach rather than stick to just one idea as otherwise the market may move on without you.
- Public opinion and pressure groups. The recent fierce opposition mounted against preliminary site investigations relating to fracking in the South East have been well reported in the press, as have pressure groups who have opposed redevelopment of land for bypasses and new housing estates. Even if local opposition to your planned development does not result in a planning refusal, is this something you are prepared and willing to face on a personal basis?
- If you have existing mortgages in place that are secured against your property, don't forget that the mortgagee's consent is probably going to be required before you enter into any new letting agreement or carry out any proposed works or changes of use at the property.
- If you are going to allow people onto your land make sure it is policed carefully to ensure that you are not inadvertently granting more rights than you originally meant to.
- Make sure your insurance policies are all up to date and reflect any new works and/or uses at the Property and that you have suitable third party liability insurance in place to cover any third parties coming onto your property.
- If you are going to have tenants or visitors make sure you comply with any obligations and legal requirements that you have as a landlord and landowner to keep them as safe as possible at all times and to minimise any claims that can successfully be brought against you.

This article is not intended to be a full summary of the law and advice should be sought on all issues.

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