



# Hewitsons Agriculture, Food & Rural Business

LEGAL UPDATE

Absolute Client Focus

March 2019

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## Planning Inspectorate considers meaning of "village" in NPPF



Gemma Dudley  
Senior Associate

The Planning Inspectorate has considered what constitutes a "village" for the purposes of paragraph 145 e) of the National Planning Policy Framework (NPPF) in the context of a planning appeal in relation to an application for the construction of two dwellings in the green belt. Whilst the NPPF provides that the construction of new buildings should be regarded as inappropriate in the green belt, paragraph 145 e) provides for an exemption for limited infilling in villages.

The Inspector considered the Oxford Dictionary definition of "village", which is "a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area". It defines a hamlet as "a small settlement, generally one smaller than a village, and strictly (in Britain) one without a Church". It was determined that the appeal site, which was among a group of 18 residential dwellings known collectively as Ridgeway with no church, fell within a hamlet and not a village and therefore the exemption in paragraph 145 e) did not apply and the appeal was dismissed.

For more information, please contact Gemma Dudley on 01223 532747 or [click here](#) to email Gemma.

### **Residential Landlords beware – new legislation regarding letting fees**



Vishaal Bhuttae  
Solicitor

A ban on tenant fees will be coming into force on 1 June 2019, pursuant to the Tenant Fees Act 2019, which has recently received the Royal Assent.

The Tenant Fees Act will ban letting fees paid by tenants for private rented accommodation and will cap tenancy deposits.

The new rules will apply to assured shorthold tenancies (excluding social housing and long leases) and student accommodation. It also applies to residential licences (with limited exceptions). The rules will come into force on 1 June 2019 for new and renewal leases and licences (excluding periodic tenancies). From 1 June 2020, they will apply to existing leases and licences.

Any terms and obligations in breach of the rules will not be valid and will not bind the tenant or licensee. A landlord/agent may be liable for a fine of up to £5,000. Tenants and licensees will be able to recover money paid in breach of the provisions.

If a landlord/agent is in breach for a second time (within 5 years of the original breach), this will constitute a criminal offence, resulting in a possible fine and banning order being imposed. Alternatively, the enforcing authority may impose a civil penalty of up to £30,000. Trading standards authorities and district councils will enforce the Act.

A key point to note is that landlords will be unable to serve section 21 notices to terminate tenancies whilst holding these prohibited monies.

For more information, please contact Vishaal Bhuttae on 01604 463138 or [click here](#) to email Vishaal.

### **When is a house not a home?**



James Frankland  
Legal Director

Stamp Duty Land Tax is a complex tax and despite first appearances does not work the way that Stamp Duty used to. It has also been tinkered with over the years to tie up perceived loop holes and inequalities in property ownership. One of these changes was to introduce an additional 3% of tax where the purchaser of residential property was "not an individual" i.e. a company or where a second dwelling was purchased by an individual. This was designed to dis-incentivise holiday homes and corporate entities from holding residential properties, particularly high end London ones. The latter being a problem as the sale of a company's shares to transfer a property results in no SDLT being paid.

A recent case in the Tax Tribunal is a welcome clarification on what is a "dwelling" for the purposes of the legislation. The question was whether the building purchased was a house and

what rate of tax was payable. The property was purchased by a company and none of the reliefs from the 3% surcharge applied if it was a dwelling. If it wasn't a dwelling then the more favourable commercial Stamp Duty Land Tax rates applied.

Under the legislation a dwelling is a building or part of a building that is used or is suitable for use as a dwelling or in the process of being constructed or adapted for such use.

The facts were that although a bungalow had been purchased it had the benefit of a planning permission to demolish it. This was what the buyer intended to do. The central heating system had been removed but it was still connected to the mains services. The bungalow was also affected by asbestos. The Tribunal found that although it could have been occupied it was not "suitable" for use as a dwelling. Weight also appears to have been given to the fact that the corporate purchaser also intended to (and did) develop the site for new homes and that reliefs would have been available if the purchase price had been over £500,000 (which it wasn't).

The Tribunal found in favour of the company and reduced its SDLT bill, ironically below that which it had originally paid. Beyond the good news for the taxpayer is a wider point that HMRC are looking at Stamp Duty Land Tax returns and querying them, most likely not by eye but by cross-referencing the data in them and on other tax returns using algorithms. Surprisingly the tax at stake here was only £6,000 which illustrates the need to consider SDLT carefully before embarking on any transaction involving interests in property.

For more information please contact James Frankland on 01223 532738 or [click here](#) to email James.

### **Reminder: Stamp Duty Land Tax payment deadlines changing**



Stephanie Dennis  
Senior Solicitor

From 1 March 2019, the payment window for Stamp Duty Land Tax will reduce from 30 days to 14 days. This means you only have 14 days after completing a transaction to submit your SDLT return and pay the SDLT due (if any).

For Stamp Duty Land Tax advice on your transaction, please contact Stephanie Dennis on 01604 463372 or [click here](#) to email Stephanie.

## Spring Seminar Series - Agriculture, Food & Rural Business



The Agriculture, Food & Rural Business Team would be delighted if you could join them for their **free** spring seminar events.

Taking place within **Cambridge** and **Northampton** these seminars will give a general update on matters affecting farmers and rural landowners - including Stamp duty land tax issues on purchases and partnerships; disputes in partnerships and common partnership issues: thoughts on coping with Brexit.

- **25th April 2019 - Northampton**
- **30th April 2019 - Cambridge**

All seminars start with a light breakfast at 7.30am, followed by a legal briefing and Q&A panel from 8.00am - 9.30am.

Due to venue capacity places are limited. To avoid disappointment early acceptances are recommended.

To reserve a space please email our Events team by clicking [here](#). Alternatively you can view our full range of Spring Seminars by visiting our Events page [here](#).

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This Bulletin is produced by Hewitsons for clients and contacts of the firm to provide them with a useful summary of recent cases, journal reports, developments in the law and dates to be aware of. It is not a definitive statement of the law in any area.

Advice should be sought from a solicitor in the Agriculture, Food & Rural Team at Hewitsons in respect of any information contained in this Bulletin that affects any matter with which you may be concerned. Hewitsons offers a full agricultural, food and rural service. This Bulletin will help to keep those involved up to date with the latest developments.

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