

LAND SPHERE

JUNE 2023

BTF PARTNERSHIP

CHALLOCK | HEATHFIELD | CANTERBURY

HOW LABOUR SEEK TO
WOO VOTERS WITH
MAJOR OVERHAUL OF
THE LAND AND PROPERTY
SECTOR

IS NATURAL CAPITAL FINALLY
BECOMING TANGIBLE?
ED PLUMPTRE DISCUSSES THE
GROWTH IN OPPORTUNITIES

ONCE A HIGHWAY, ALWAYS
A HIGHWAY - HOW
LANDOWNERS ARE
TACKLING HISTORIC RIGHTS
OF WAY



LOOK LEFT

Labour seek to woo voters with major overhaul of land & property sector

May's local election results provide a bleak outlook for the Conservative Party in the run up to next years general election. It is still early days in the policy drafting process, but here's what we know so far.

LAND & FARMING

In his address to the NFU back in February, Sir Kier admitted "we have come across as the party of urban Britain". He claims his new Labour party is different, promising to deliver public goods whilst "feeding a changing world". The party aims to deliver a framework to encourage sustainable farming in line with climate and biodiversity targets.

He committed to a minimum of 50% (£1.2bn) of all food purchased by the public sector to be locally produced and sustainable. Sir Kier said he would seek to renegotiate trade deals with the EU and Australia, citing the latter cost British Farming £300m and said he understood the importance of domestic food security.

Tenant farmers are promised a "fairer deal" with secure futures – there is no detail on this yet, but he cited the Rock Review published last year into tenant farming had "sound" principles.

Other pledges to improve access to services to tackle rural crime (including fly tipping and theft) and access to healthcare (particularly emergency and mental health services) were given, including a promise to get 13,000 more police officers into towns and villages.

As part of their green strategy, they want to simplify and accelerate the planning process for solar farms and provide solar opportunities for farmers.



Sir Kier described the labour shortages seen affecting the pig sector as "shocking" and said the party would tackle labour shortages and provide a solution to the seasonal worker challenge.

"Environmental stewardship & sustainable food production, you can have both"

- Sir Kier Starmer, Labour Leader

Badger TB was mentioned, the party remains opposed to badger culling and instead would rely on a vaccination programme. Divisive issues like animal rights and rural sports were omitted on the day, including shooting and trail hunting. In a separate radio interview, Sir Kier confirmed they will be looking at reviewing the firearms licencing regime.

Other omissions included their plans to introduce a Scottish style "right to roam" law, which we saw in their Land for The Many policy in 2019. Alex Sobel, the shadow environment minister said "We will replace the default of exclusion with the default of access". The Scottish law provides exception for trampling crops, and requires roamers to leave no evidence of their journey. Detail and enforceability will be a key concern for farmers and landowners.



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PROPERTY

Labour plan to lock horns with the country's affordability crisis and reach a 70% target for home ownership. They claim that currently, two thirds of people born in 2023 will not get onto the property ladder until their mid-fifties. Their proposals include giving first time buyers exclusive access to purchase on new developments to the exclusion of existing homeowners for a certain period of time. The details of these exclusivity periods would be negotiated by local councils. A mortgage guarantee scheme is proposed, with the state acting as a guarantor for those who cannot save deposits but can afford mortgage repayments. This will fall alongside policies to discourage speculative purchasers and overseas buyers – with the ability of foreign purchasers to buy on new developments limited to 50% of the scheme. Trusts, companies and overseas buyers will face an increased rate of stamp duty.

Planning reform is a key component of their agenda, with promises to ease restrictions to encourage building alongside community spearheaded "development corporations" as well as allowing building on the Green Belt. House building targets are to be strengthened and local authorities would be granted powers to acquire land closer to existing use value.



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MAIDSTONE, KENT

- A ring-fenced parcel of predominately Grade II arable land
- Single bank river frontage to the Rivers Medway and Teise
- In all 101.17 acres
- **Guide Price - £1,000,000**



BOOK A VIEWING



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ASHFORD, KENT

- 25,900sq.ft of steel and concrete framed agricultural buildings
- Road frontage to two well-connected roads
- In all 31.71 acres
- For sale by contractual tender as a whole or in two lots
- **Guide Price - Lot 1: £750,000 - Lot 2: £250,000**



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BIDDENDEN, KENT

- Over 5 acres of water stocked with a variety of fish
- Planning granted for Bailiffs Cottage & 4 holiday pods
- In all 11.42 acres
- **Guide Price - £1,100,000**



IS NATURAL CAPITAL FINALLY BECOMING TANGIBLE?

The term Natural Capital has been creeping into professional literature for a while now, with many farming businesses gearing up for a new world in which the environment is at the core of economic planning.

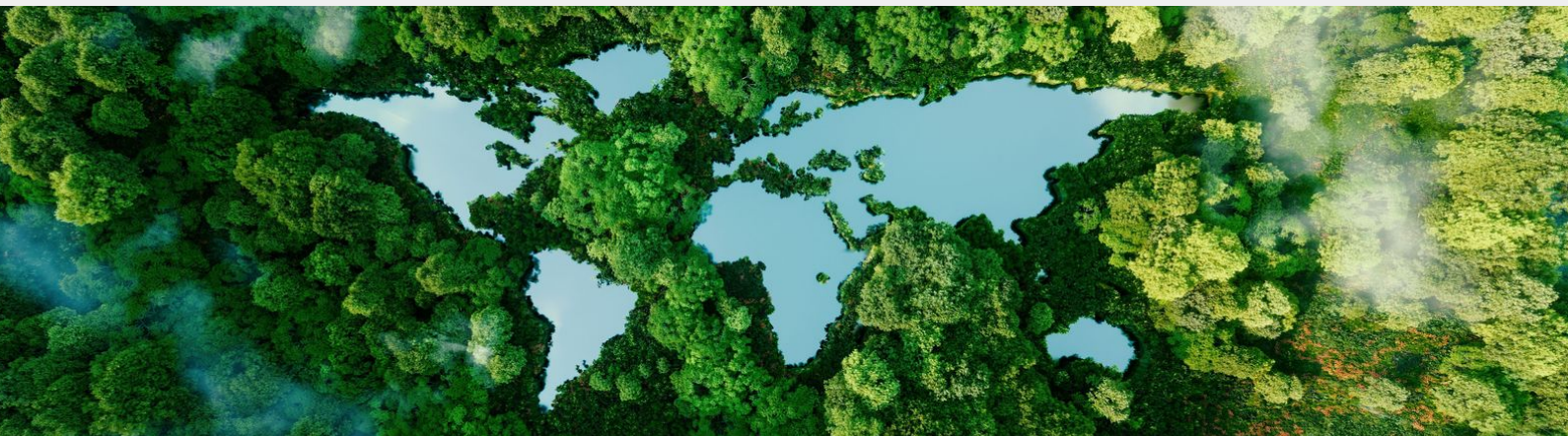
Whilst it feels like a new buzzword the term Natural Capital was first used in 1973 by the economist E.F. Schumacher who identified that the modern economy is unsustainable because natural resources are treated as expendable income when they should be treated as capital.

Despite this early reference, it was only in 2011 that the notion of natural capital as a core framework was adopted by the UK with the establishment of the Natural Capital Committee in 2012.

We are now a decade on and whilst there are lots of exciting studies and pilot projects to review, many farmers and landowners are still contemplating whether these opportunities are right for their business. Unfortunately, there is no definitive answer to this and like many opportunities for rural businesses, it will depend on a variety of factors including succession, tax implications, land use, location and appetite for risk. What is clear from our work so far is that preparation and strategic professional advice is crucial, and it will be the farmers and landowners who are the most prepared, that will benefit.

Over the last few years, BTF have been working in partnership with Kent Wildlife Trust Consultancy

to prepare our clients for this new industry and a large number of them have now had Baseline Assessments carried out to quantify their natural assets but and to provide projected income streams for the various options available to them. There is undoubtedly lots more work to do by the government and regulators to make markets more accessible to farmers and landowners, this is certainly required in the Carbon market which is highly unregulated and prices for Woodland Carbon Units remain stubbornly low at £10 - £30 a unit. That being said, we are now starting to see companies understand the importance of quality carbon schemes within investment into domestic projects rather than purchasing carbon credits from further afield.



Whilst some markets remain complex and elusive, most farmers and landowners will also have heard of Biodiversity Net Gain the framework of which is outlined in the Environment Act 2021. Many will have noticed Biodiversity Net Gain requirements sneaking into various Local Plans.

Despite being enacted in 2021, the most important moment is yet to come when at the end of November 2023 all major developments will be legally required to generate a minimum 10% Biodiversity Net Gain, either on or offsite, with smaller sites having the same requirement after April 2024.

Over the last few months, there has been a considerable shift in demand and interest

for Biodiversity Net Gain Units with Developers considering various mitigation options and understanding the need for off-site solutions as well as on-site.

Over the last few months at BTF, we have started to see this preparatory work paying off and we have successfully sold Biodiversity Net Gain Units on behalf of clients with prices in the region of £18,000 - £25,000 per unit. We have also started marketing Biodiversity Net Gain Units and currently have 147 Units available for purchase for habitat creation and enhancements within Ashford Borough Council.

We also have additional units available in other districts.

To connect clients with developers we have created a Natural Capital Database for Landowners and Developers, which will allow us to match up developer requirements with clients interested in exploring these opportunities (see link). With continued economic uncertainty and loss of BPS income, we believe that Natural Capital opportunities can offer an alternative revenue stream which avoids the sale of assets, benefits the local community and allows farmers and landowners to have a say in habitat creation.

In answer to my question "Is Natural Capital finally becoming tangible?" The answer is "Yes, but only for those who are prepared".



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BIODIVERSITY NET GAIN SITE - CREDITS

Approximately 147 Biodiversity Net Gain Credits are available for purchase for habitat creation and enhancements within Ashford Borough Council LPA, Kent.

Haffenden Farm is located within the Ashford Local Planning Authority within the County of Kent and offers a comprehensive solution to Biodiversity Net Gain requirements for developers and infrastructure providers undertaking projects in Kent and further afield.

A detailed NBS study has been carried out by KWT Consultancy Services (Part of the Kent Wildlife Trust Group) and Haffenden Farm is perfectly placed to offer habitat enhancement and creation of a wide variety of habitats to suit BNG requirements. The LPA statutory minimum requirement is 10% BNG in Ashford.

BNG Opportunity

BNG at Haffenden is part of a wider project for a 'bigger, better, more joined-up' approach to kick start effective landscape recovery and create tangible, realistic collaborative project opportunities for landowners. Approaching assessments in this way demonstrates high integrity schemes playing their role in improving landscape connectivity locally and support Kent Nature Partnership's Local Nature Recovery Network (LNRN).

if you wish to discuss this opportunity in more detail please contact:-



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**Consultancy
Services**

ONCE A HIGHWAY, ALWAYS A HIGHWAY

Landowners across the country are continuing to receive applications to add historic Rights of Way (RoW) to the definitive map. It is important for landowners to understand the implications of such applications, as once a new RoW is added to the definitive map, it is hard to extinguish, modify or divert, which in some cases can have damaging implications for future plans for the farm. There are two routes in which Rights of Way can be added to the definitive map in England: either an "historic" claim or a "use" claim can be made.

A historic claim relies on hard copy evidence of old maps and plans whether or not the route has existed in the past and should therefore be reinstated. A use claim can be made using evidence that a route has been used by the public for a period of 20 years or more and therefore should be considered a public right of way. This article mainly focuses on the process of adding historical rights of way to the map, but also touches on how to protect your land from a "use" claim being made, using Section 31 (6) agreements.

Many routes across the country have fallen out of use but have never been formally extinguished or diverted. If substantial historical evidence is found to support the existence of a Right of Way, a DMMO (Definition Map Modification Order) can be submitted to add the route to the definitive map. Once a route is added to the map, it is hard to delete, modify or divert in the future, highlighting the importance of ensuring your land is protected against future additions



Section 53 of the Wildlife and Countryside Act 1981 places a duty on the local authority to amend the definitive map in certain situations, for example if the right of way ought to be shown as a different status, eg bridleway instead of footpath or available evidence shows that the right of way is 'reasonably alleged' to exist over the land in question. Below shows the process of the application and what landowners can do if it impacts your land.

1 AN APPLICATION IS MADE TO THE LOCAL AUTHORITY

An application is made by an organisation or individual to have the route added to the definitive map. Evidence must be supplied with the application, and it must be in the correct form. Landowners could seek legal advice to ascertain whether there are any defects in the documentation as this could result in it being invalid.

3 INVESTIGATION

The application will then be investigated by the local authority, they will consult with other local authorities and decide whether to modify the map, subject to consultation. Any order will not come into effect until it is confirmed whether the modification can be deemed to reasonably alleged to exist.

2 GIVING NOTICE

The applicant is obliged to give notice to the landowners and occupiers of the land, if an owner cannot be identified, then a notice can be fixed to a conspicuous object on the land e.g. a gatepost.

4 APPEALS PROCESS

Once the Local Authority make a decision, the decision can be appealed to the Secretary of State, who can then decide whether to direct the local authority to make the order or not.

5 PUBLISHING THE ORDER

If the local authority are directed by the Secretary of State to make an order, it must serve a copy on the landowners and occupiers, among others and publish the order in the local newspaper. The order must also be displayed at either end of the route.

7 DIVERTING THE RIGHT OF WAY

Being impossible to reopen a route, e.g. a barn has been built over it, or that it is no longer practical because the land use has changed, is not enough to extinguish a Right of Way. However, it is possible to apply for the route to be diverted in order to avoid the area, this will require a separate application to the local authority in order to have it formally diverted.



Many landowners are unaware of the existence of a historic Right of Way until they get served with notice to add the route to the definitive map. The most effective way to oppose an application is to discredit the evidence being presented by an applicant. This involves either showing more reliable and accurate evidence or by proving the applicant's evidence is incorrect or unreliable. There is a cut off deadline for historic claims to be made, with DEFRA setting it for 2031, but there is mounting pressure from landowner groups for this to be bought forward.

Under Section 31 (6) of the Highways Act 1980 landowners can deposit documents to prevent a new RoW being claimed over their land. These deposits do not stop applicants from making a historic claim over the land and are unlikely to be used as good evidence in the appeal process. However, they can demonstrate the landowners understanding of the position and status of the route in question at that time.

6 OBJECTIONS

The notice of the order should explain how objections are to be made and the deadline for submitting the objection. An objection must be made under an appropriate ground, e.g. a procedural point, incorrect or lack of evidence. Objections based on the fact that the route has not been used in recent years or that it is no longer viable are unfortunately not enough to stop an order.

Section 31 (6) Highways Deposits are a very useful tool in protecting your land from future "use" claims. Once both the statement and declaration have been submitted, the land is protected from having a new claim bought upon it, for a period of 20 years', and is a good way of protecting your property against unconsented use. Having a S.31(6) Deposit submitted before an outside party makes a claim over your land could have a significant impact on the value of the land and how the future looks on the farm.

We undertake Highways Deposits on landowners behalf regularly here at BTF so call our teams in Challock and Heathfield if you have any queries regarding Rights of Way across your land, and we'll be more than happy to help.



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CALENDAR

June 2023

M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		



JUNE 8-10TH
WEALDEN TIMES FAIR
 HOLE PARK, ROLVENDEN



JUNE 10-11TH
ENGLAND HOCKEY MASTERS
 MARDEN CRICKET AND HOCKEY CLUB



JUNE 24TH & 25TH
WEALDEN LITERARY FESTIVAL
 BOLDSHAVES, WOODCHURCH



JUNE 30TH
GWCT KENT GAME BIRD CHALLENGE CLAY SHOOT
 GODINTON PARK, ASHFORD

IF YOU WOULD LIKE FURTHER INFORMATION ABOUT
 UPCOMING EVENTS PLEASE CALL US
 01233 740077



BTF Partnership are at the forefront of Natural Capital consultancy and have a dedicated team tracking legislation and identifying opportunities as they evolve.

BTF have partnered with the Kent Wildlife Trust in order to offer a suite of solutions to support both landowners and developers.