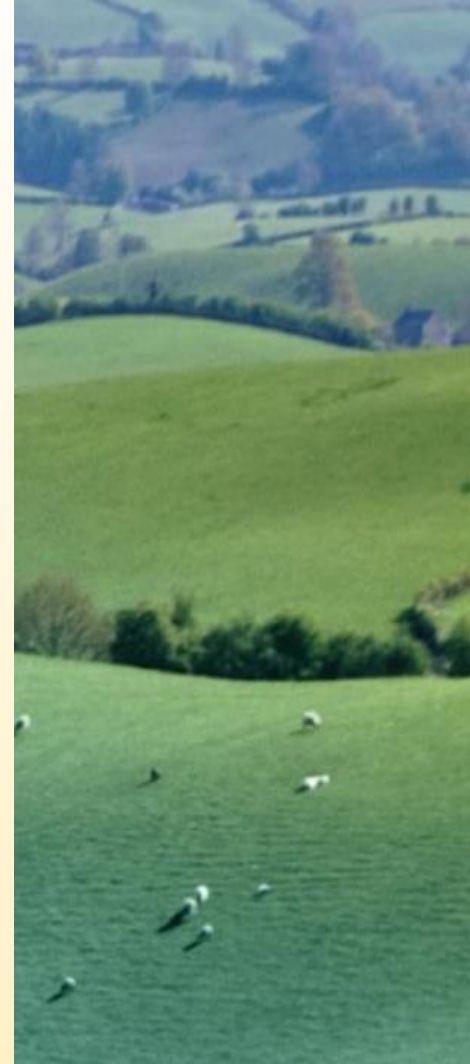


Planning for New Incomes

FARMING IS CHANGING.

ARE YOU READY?

Helen Dale, Rural Adviser, CLA Midlands



The logo for CLA (Central Land Agency) features the letters 'CLA' in a bold, white, sans-serif font. A stylized, curved yellow and orange swoosh is positioned behind the letters, suggesting a landscape or a path. The logo is set against a dark teal square background.



Department
for Environment
Food & Rural Affairs



**Farming is changing
here's what you need to know**

25 YEAR ENVIRONMENT
PLAN

AGRICULTURE BILL

ENVIRONMENT BILL

DEFRA 25 YEAR ENVIRONMENT PLAN

25
YEAR
PLAN



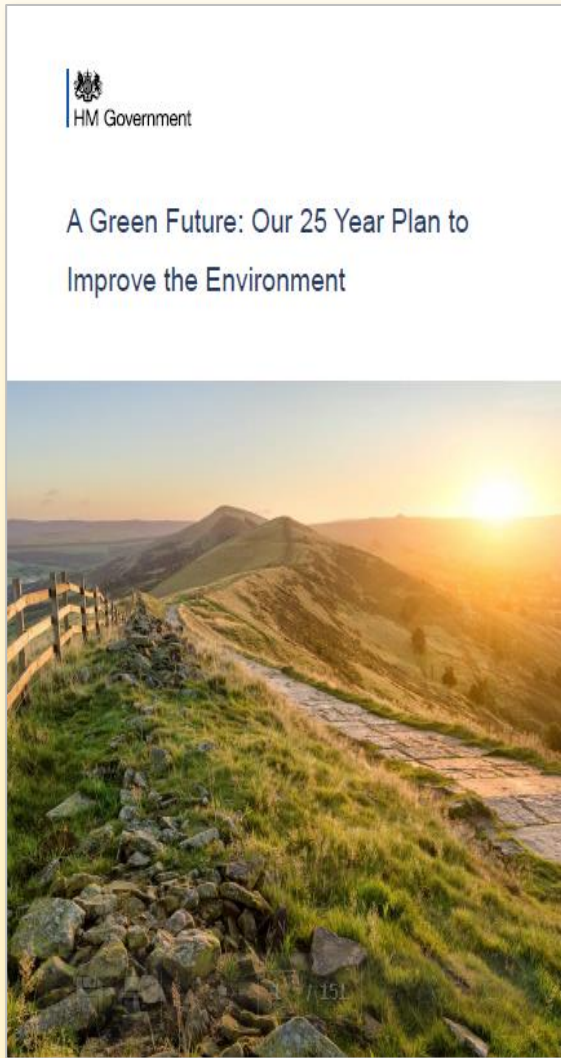
Department
for Environment
Food & Rural Affairs

A GREENER FUTURE

This Government's ambition is to leave our environment in a better state than we found it. Our 25 Year Plan outlines the steps we propose to achieve that ambition.



DEFRA 25 YEAR ENVIRONMENT PLAN



Clean and plentiful water



Clean air



Protection from and mitigation of environmental hazards



Mitigation of and adaptation to climate change



Thriving plants and wildlife



Beauty, heritage and engagement



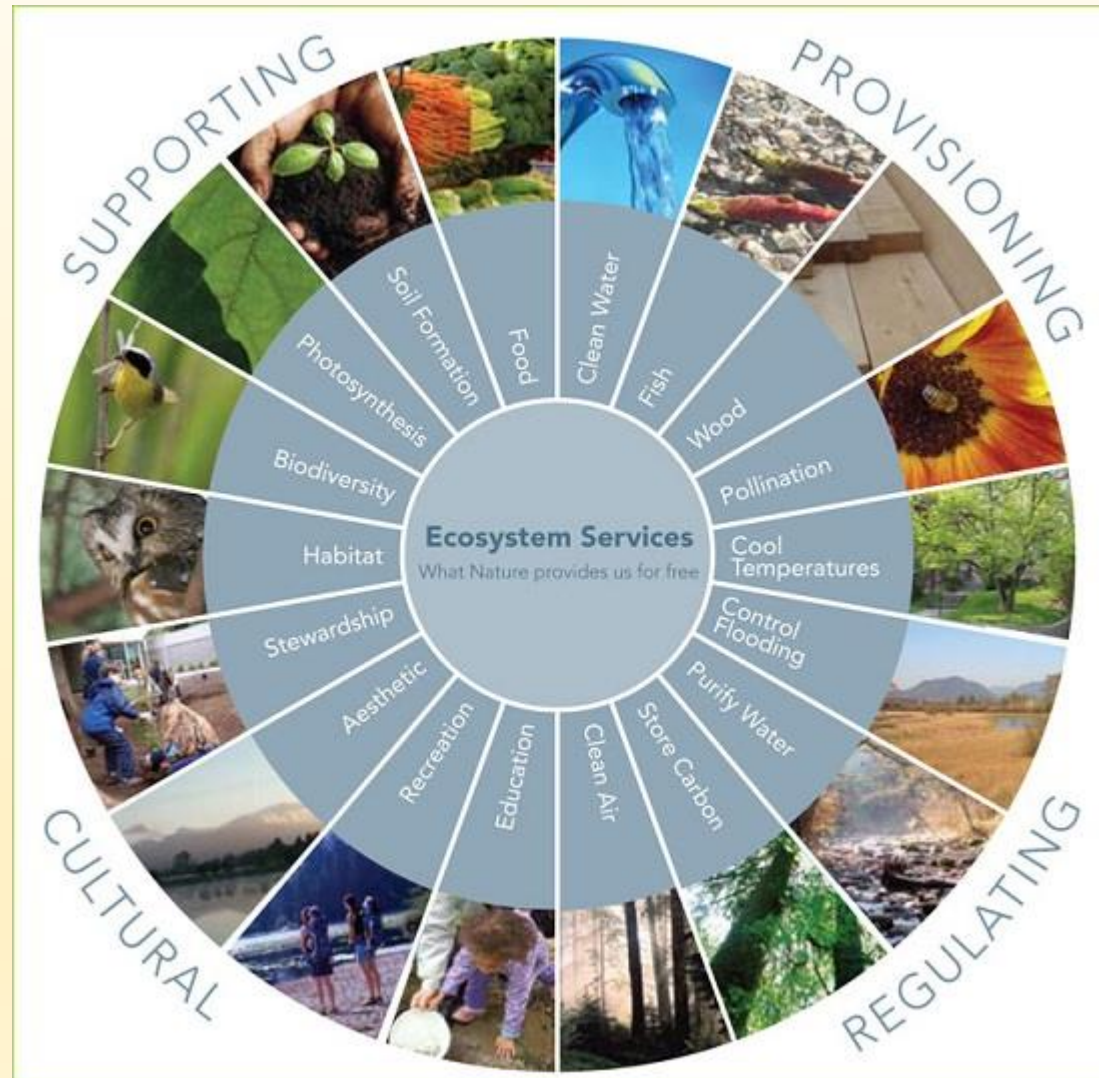
NATURAL CAPITAL

Natural Capital is defined as:

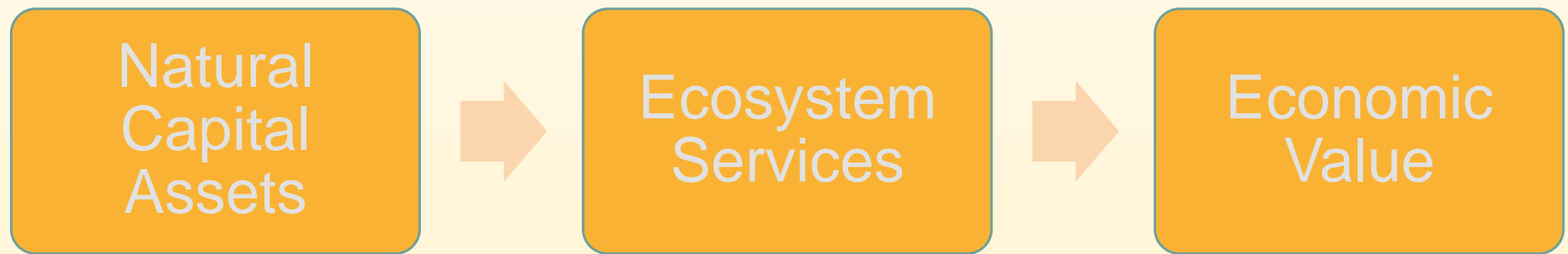
- *“..elements of nature that directly or indirectly produce value or benefits to people, including ecosystems, species, freshwater, land, minerals, the air and oceans, as well as natural processes and functions”*



A NATURAL CAPITAL APPROACH



NATURAL CAPITAL AND ECOSYSTEM SERVICES



- Step 1: Identify environmental assets
- Step 2: Identify the services produced
- Step 3: Estimate economic value of assets and services

AGRICULTURE BILL

HEADLINES & KEY CHANGES

- New financial powers - Public money for public goods



Delivered through:

New Environmental Land Management Scheme (ELMS)

Farm productivity grants 2021!

But, BPS is going!

BPS

GOING,
GOING,
GONE



CURRENT ELMS DESIGN THINKING

Scheme 1 Farmer/forester scheme

- Available to everyone
- Environmentally sustainable farming practices
- e.g. Integrated pest management, soil health, nutrient and manure/slurry management

Scheme 2 Environmental enhancement

- Linked to local environmental priorities
- Competitive, collaborative
- e.g. Natural flood management, woodland, habitat creation

Scheme 3 Landscape scale and land use change

- Large scale landscape change
- Afforestation, peatland restoration

WHAT IS SUSTAINABLE FARMING?



WHAT DOES THIS MEAN FOR FARMERS?

Start thinking about what public goods are you already providing or could provide in future and what changes could make your farm more sustainable?

Be prepared for BPS payments to start being reduced from 2021, and phased out by 2027.

Be prepared for new ELMS from 2024. Already in CS or thinking of applying this year?



ENVIRONMENT BILL

HEADLINES

To make provision about targets, plans and policies for improving the natural environment

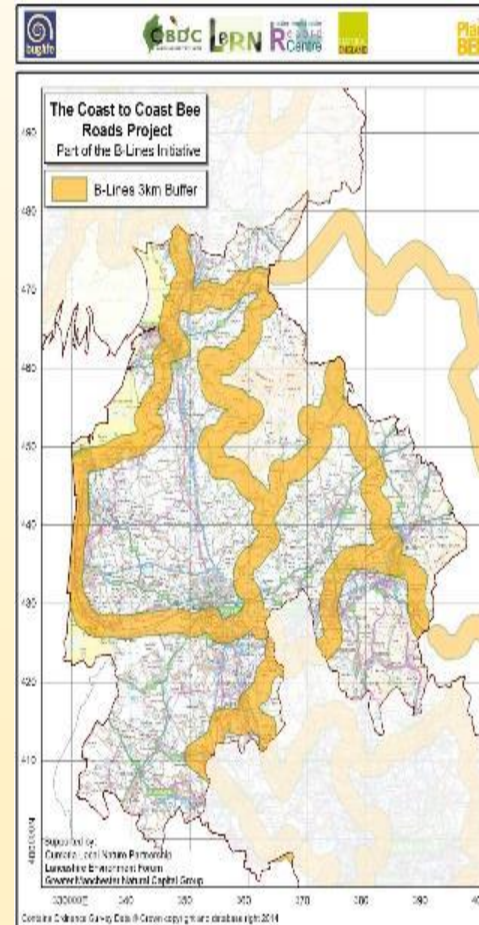
- Office for Environmental Protection
- Air & Water Quality
- Conservation covenants
- Nature Recovery Networks
- Biodiversity Net Gain

NATURE RECOVERY NETWORKS

Be part of the Nature Recovery Network

A Nature Recovery Network will protect, join up and enhance the fragments of nature that remain – for people and wildlife across Coventry, Warwickshire and Solihull.

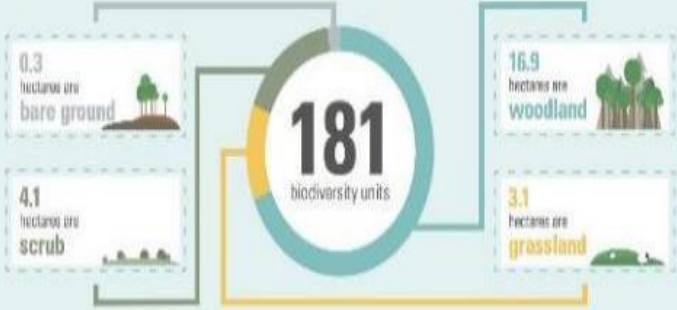
THE WILDLIFE TRUSTS
Warwickshire



BIODIVERSITY NET GAIN

Stage One: Before Works Commence

The project footprint comprises 24.5 hectares of transport verges, of which:



=

Net Gain



COMING UP.....

1

**NO PART OF OUR
ECONOMY MATTERS
MORE THAN FOOD**

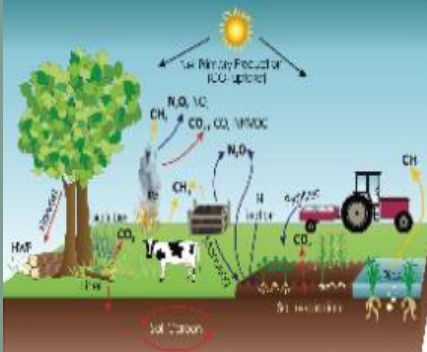
**NATIONAL
FOOD STRATEGY**

www.nationalfoodstrategy.org

CLA

3 KEY MESSAGES:

It's better to be
prepared for an opportunity
and not have one
than to have an opportunity
and not be prepared.



Prepare for change

Consider what training,
skills or advice might help

Recognise that we have
potential to provide some
of the solutions







Helen Gough
Senior Associate
helen.gough@mfgsolicitors.com

Legal Considerations for Diversification



What is Diversification?

- Other forms of income from outside the sphere of traditional farming practices;
- Becoming increasingly commonplace;
- Defra (figures end of January) – more than half of England's 57,000 **farms have diversified** in some form.

Why Diversify?

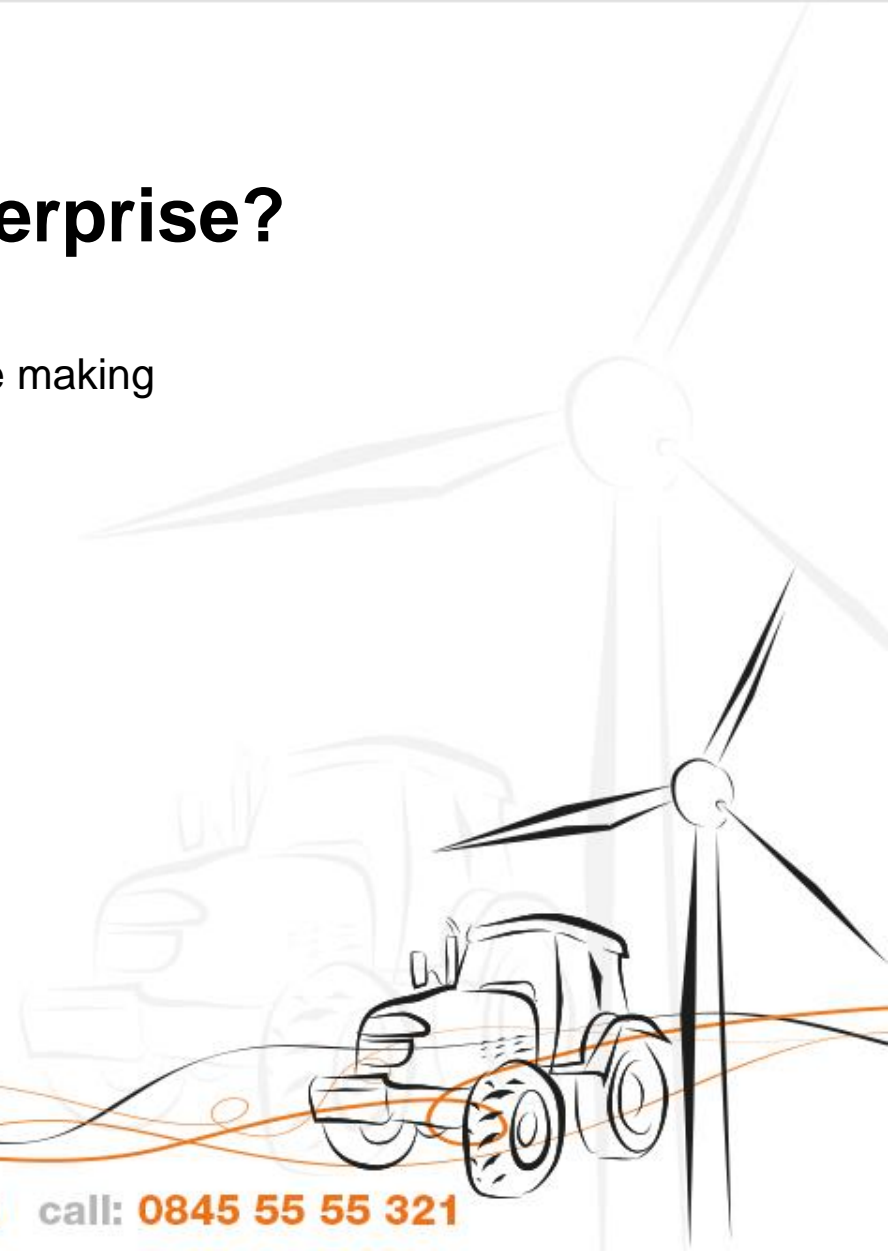
- Generally considered now as the key to success
- Ensure farm remains economically viable going forward
- Enable other family members to be more involved and make their own income opportunities on/from the holding



Points to consider

Who will run the new enterprise?

- Specialist skills – butchery/brewery/furniture making
- Regulations to consider
 - e.g. H & S Certificates
 - License
 - CRB Checks
- Qualifications?
- Planning permission? Will this be required?



Points to consider

Where will the new enterprise be located?

| In hand | Tenanted |
|--|---|
| <ul style="list-style-type: none">• A Business Tenancy may be created• Tenancy agreement excluding protection from ss24-28 Landlord and Tenant Act 1954• What if members OUTSIDE the family unit are involved? | <ul style="list-style-type: none">• Does this take the USE out of that which is permitted in the agreement?• Do you need consent from the landlord to continue?• How long do you have left on the tenancy?• How will this affect rent reviews in future? |

Points to consider How/will the business be incorporated into the farming business?

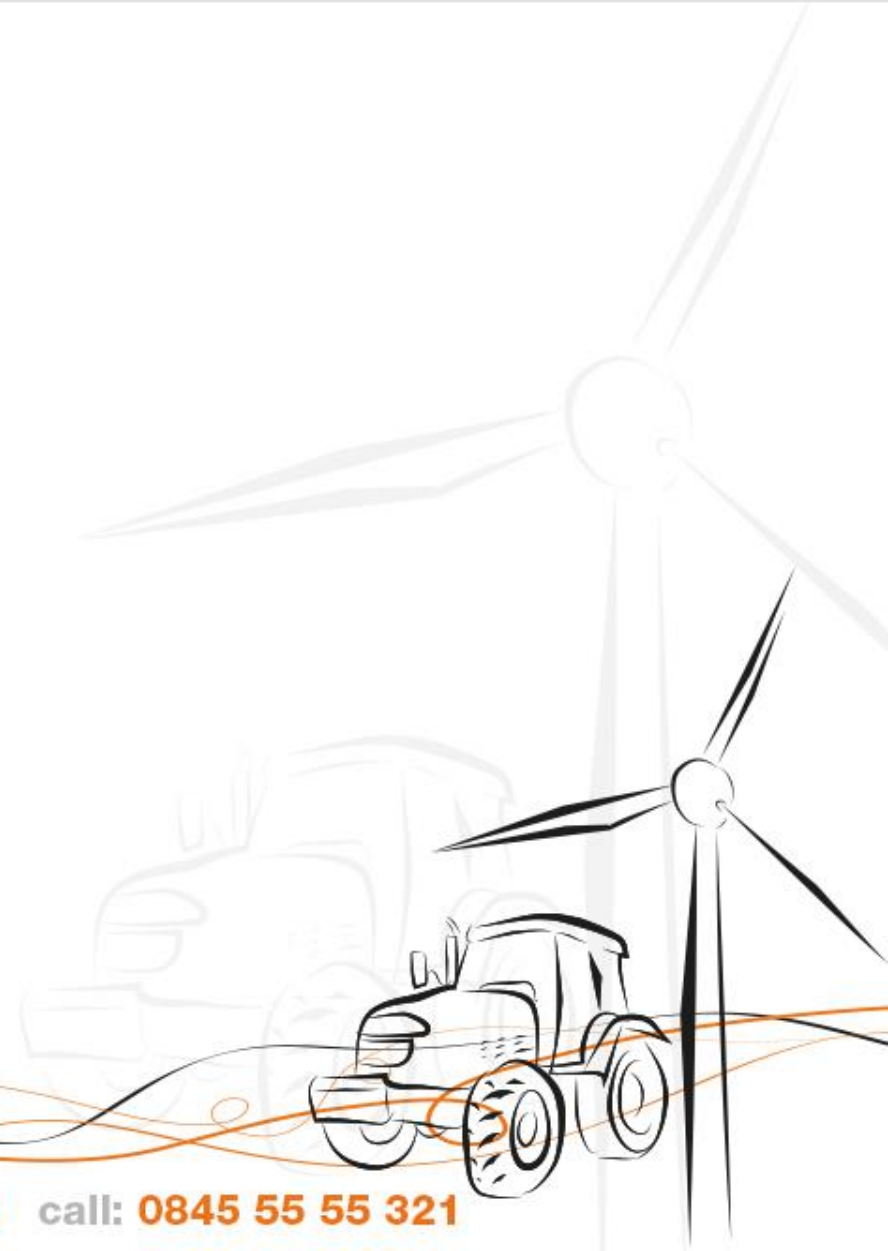
- Tax planning – how will the assets be held?
- What sort of business entity should be used?
 - Partnership → Partnership agreement
 - Limited company
- Accounts – separate or individual?

Points to consider Employment issues

- Will you be taking on any employees?
- Employment contracts?
- Housing requirements?
- PAYE – keeping required records
- Pension

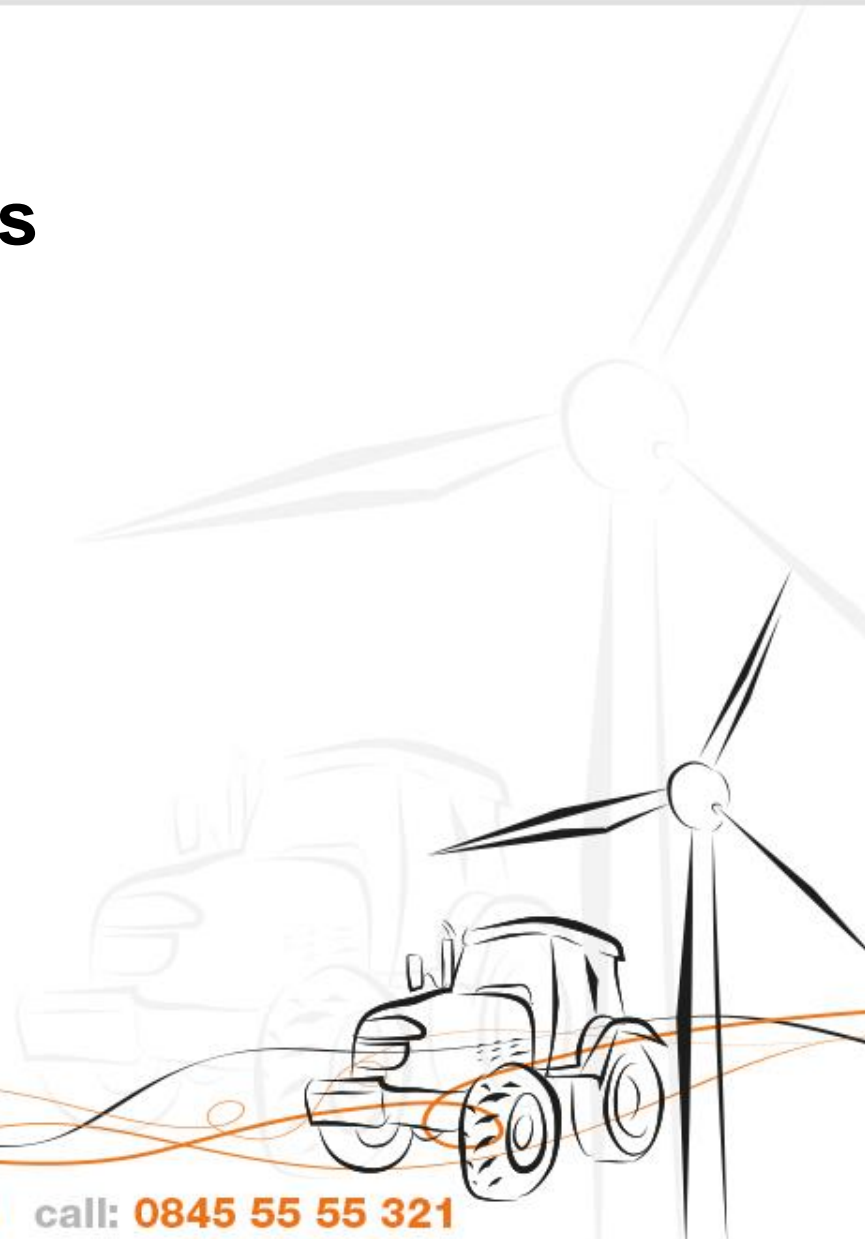
Points to consider Insurance

- Public Liability Insurance
- Employers Liability
- Product Liability
- Buildings and Equipment
- What if business grows?



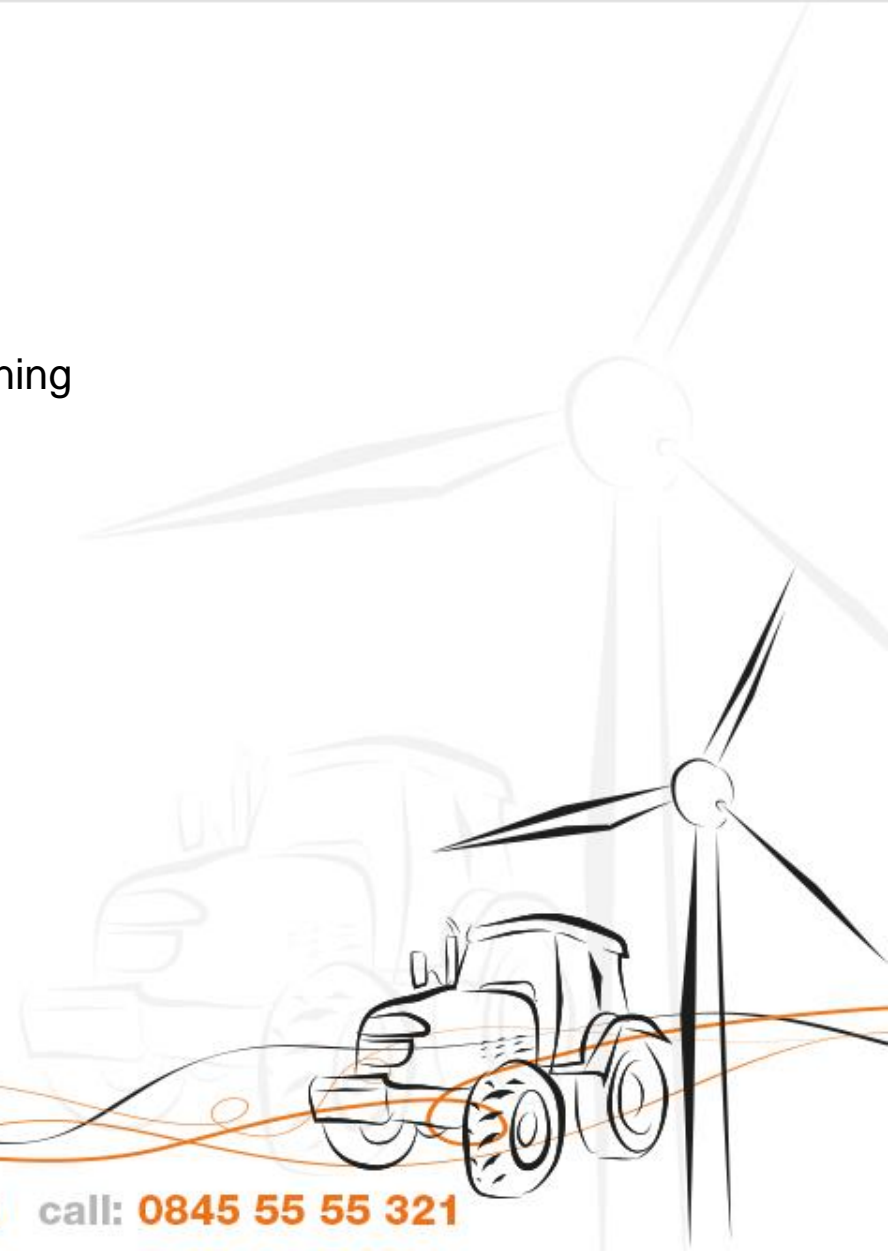
Points to consider Intellectual Property Laws

- Branding
 - Passing Off
- Logo
 - Trade mark / Service mark
- Copyright
- Patents



Points to consider Succession Planning

- Ideal opportunity to look at succession planning
- Bringing the next generation into business
- Responsibilities
- Succession Plan
 - Review every 5-10 years
 - Flexibility – Life happens!
- Realistic?



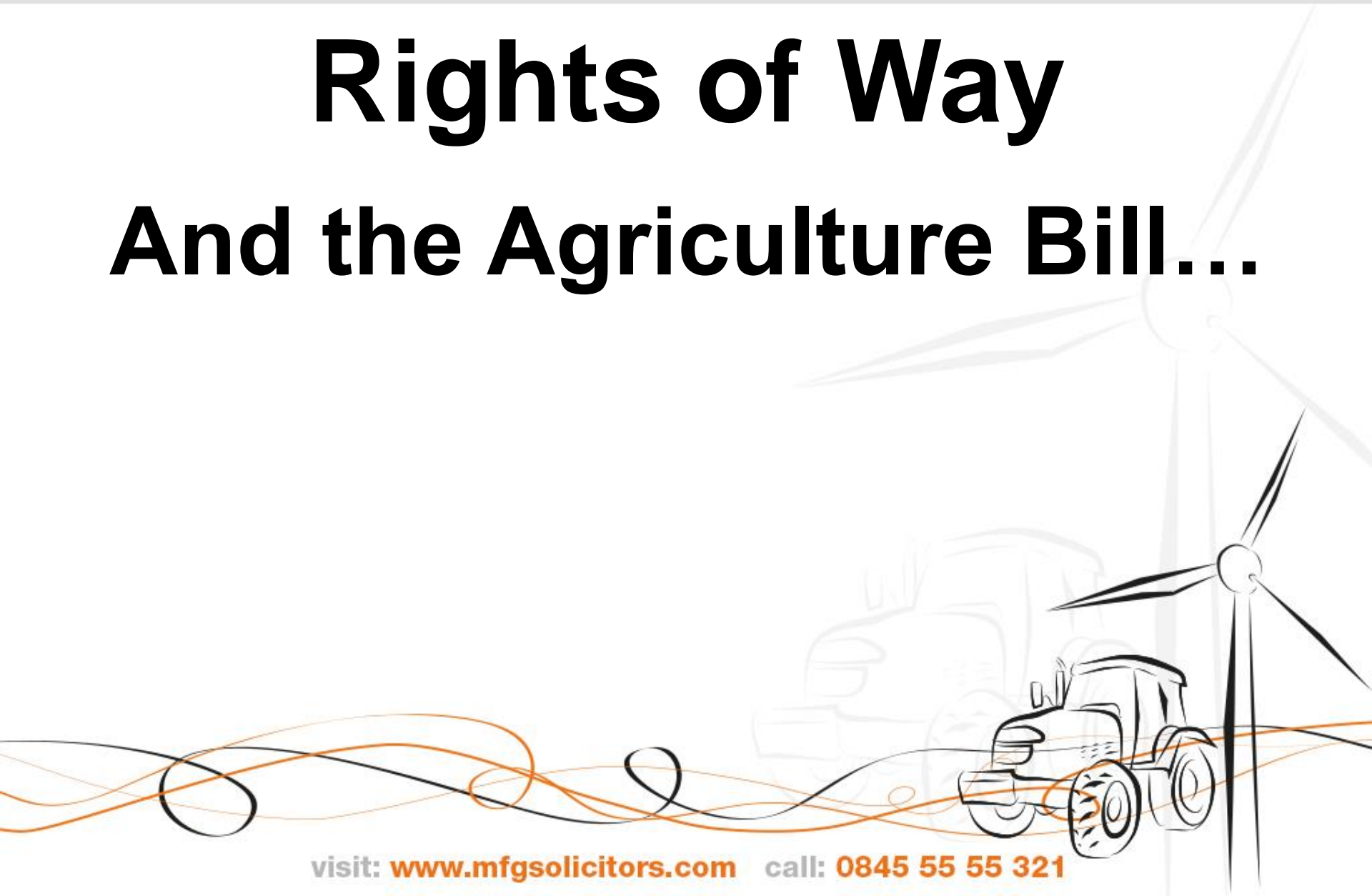


Hannah Taylor

Solicitor

hannah.taylor@mfgsolicitors.com

Rights of Way And the Agriculture Bill...



- Sale and purchase of agricultural property
- Sales of part which include granting & reserving of various rights
- Wayleave agreements
- Easements
- Adverse possession claims
- Applications for Certificates of Lawful Use
- Voluntary first registrations
- Transactions involving overage
- Restrictive covenants
- Highways
- Public rights of way including footpath diversions, footpath deletions
- Town village green applications
- Private rights of way
- Access to land
- Boundaries and title issues

Public & Private Rights of Way

A Brief Overview & Considerations on Potential Diversification

Agriculture Bill – Public Access

Public Rights of Way

What are they and how are they acquired?



Private Rights of Way

What are they and how are they acquired?



Rights of Way

Implications for Diversification



Rights of Way

Potential Difficulties for Diversification



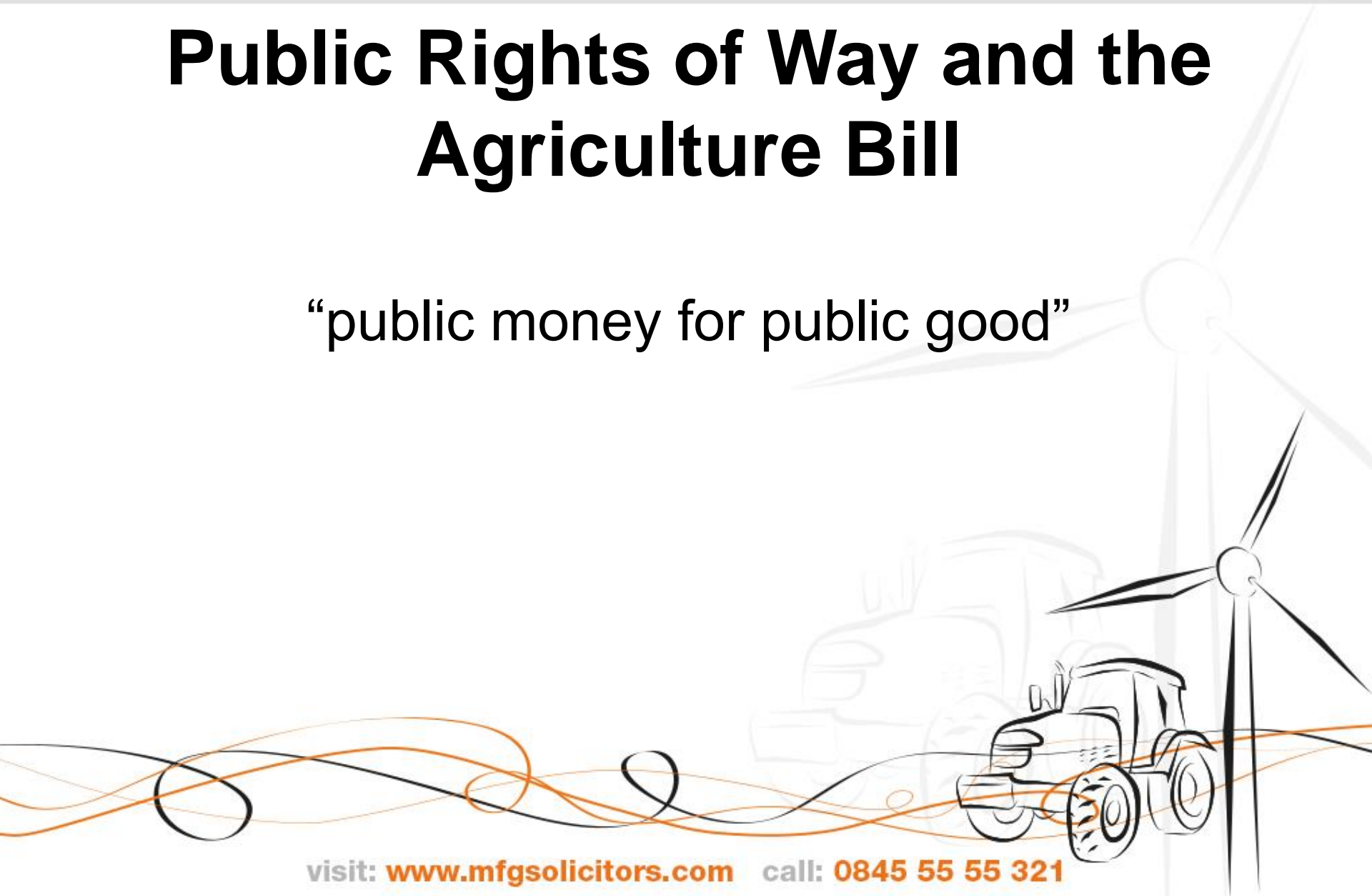
Rights of Way

Planning Ahead for Potential Diversification



Public Rights of Way and the Agriculture Bill

“public money for public good”



Public Rights of Way and the Agriculture Bill

The Secretary of State has the power to give financial assistance for
“supporting public access to and enjoyment of the countryside, farmland or woodland and better understanding of the environment”
(Clause 1(1)(b)).

Public Rights of Way and the Agriculture Bill





Sally Smith

Associate

sally.smith@mfgsolicitors.com

Tax consequences of diversification

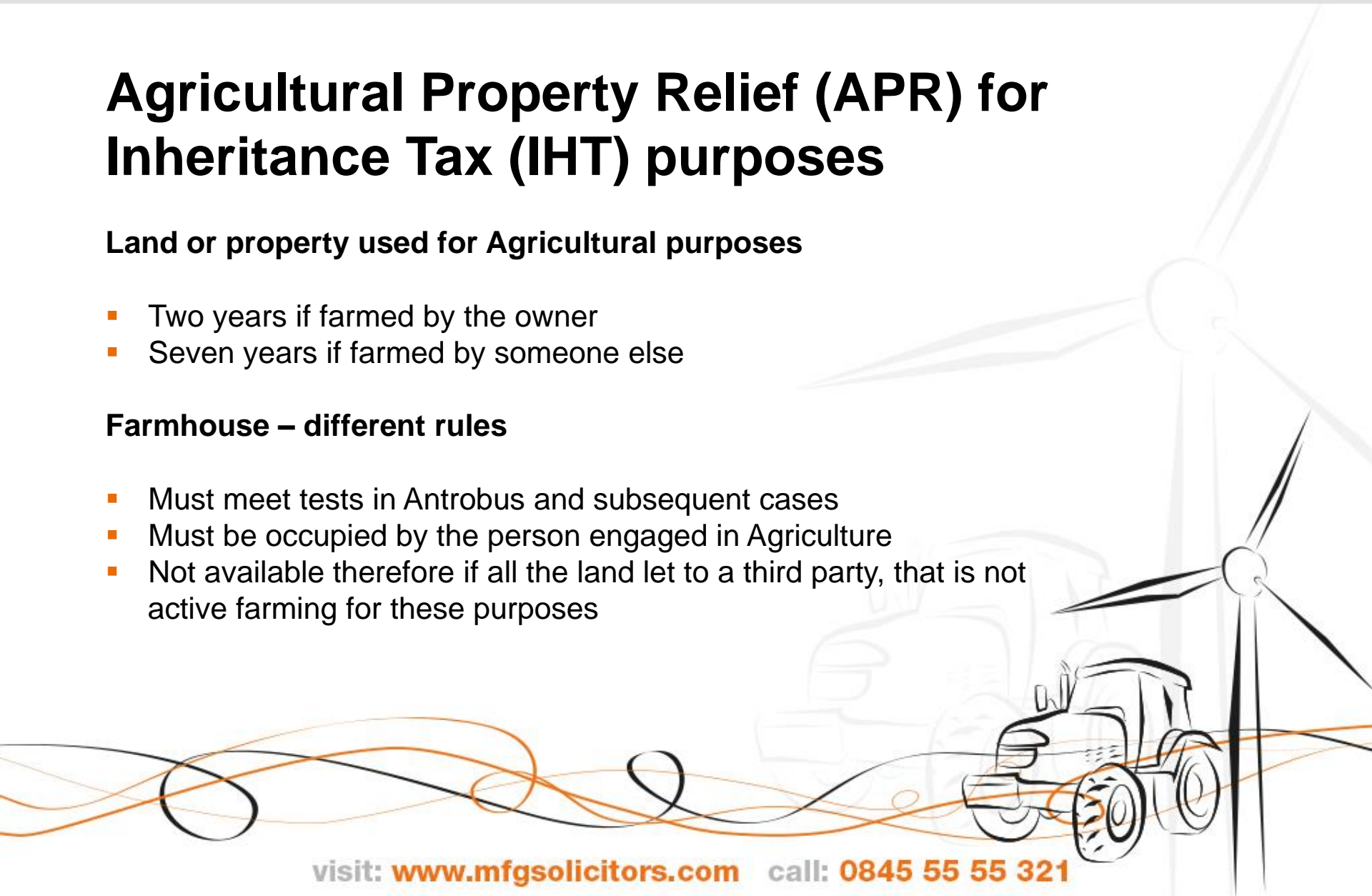
Agricultural Property Relief (APR) for Inheritance Tax (IHT) purposes

Land or property used for Agricultural purposes

- Two years if farmed by the owner
- Seven years if farmed by someone else

Farmhouse – different rules

- Must meet tests in Antrobus and subsequent cases
- Must be occupied by the person engaged in Agriculture
- Not available therefore if all the land let to a third party, that is not active farming for these purposes



Diversification can have an impact on the availability of APR

- Any part of the land that is used for non-APR purposes cannot qualify for APR
- Is there sufficient agricultural activity of the remaining land to allow a claim for APR on the Farmhouse?
- This will turn on whether the land used for agriculture is “character appropriate” to the Farmhouse

Business Property Relief (BPR)

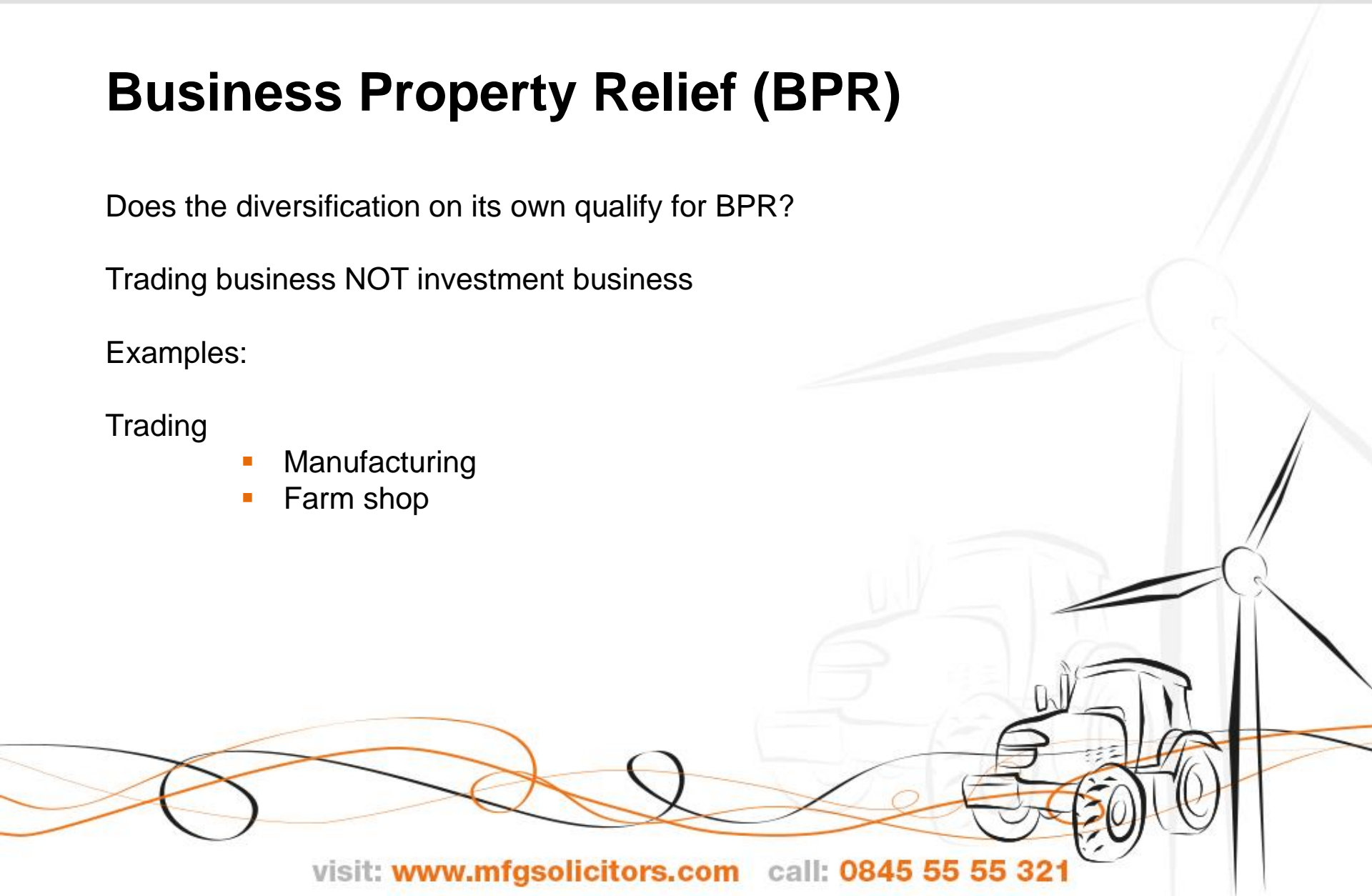
Does the diversification on its own qualify for BPR?

Trading business NOT investment business

Examples:

Trading

- Manufacturing
- Farm shop



Business Property Relief (BPR)

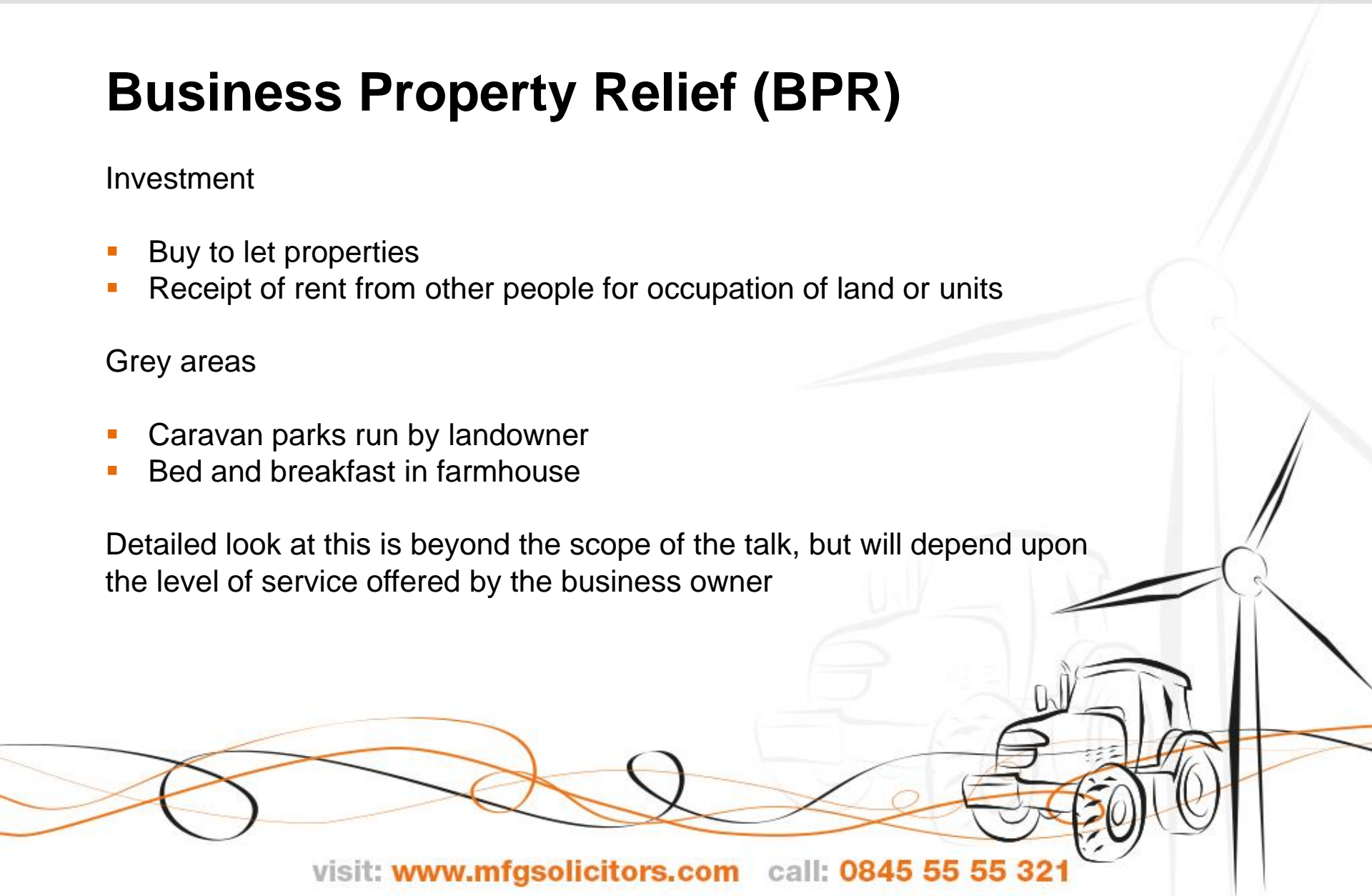
Investment

- Buy to let properties
- Receipt of rent from other people for occupation of land or units

Grey areas

- Caravan parks run by landowner
- Bed and breakfast in farmhouse

Detailed look at this is beyond the scope of the talk, but will depend upon the level of service offered by the business owner



Balfour

Can be used to claim BPR on a mixed business

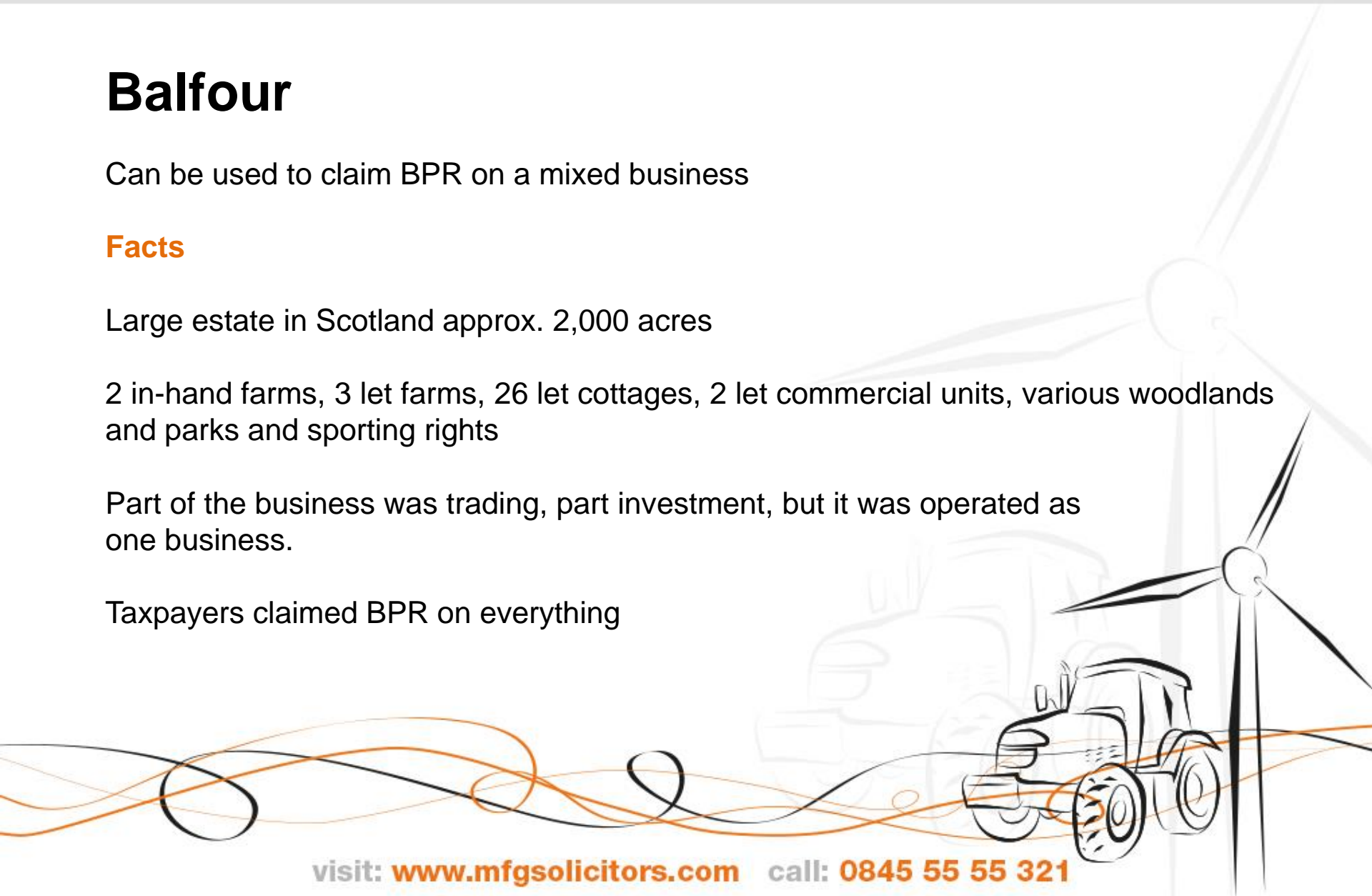
Facts

Large estate in Scotland approx. 2,000 acres

2 in-hand farms, 3 let farms, 26 let cottages, 2 let commercial units, various woodlands and parks and sporting rights

Part of the business was trading, part investment, but it was operated as one business.

Taxpayers claimed BPR on everything



Balfour continued ...

HMRC objected on several grounds, but in particular that the large number of rental properties did not amount to a business activity

The tax tribunal held that there was one business which contained various elements but which was predominately trading. Therefore BPR should apply

This view was subsequently upheld at the Upper Tax Tribunal following an appeal from HMRC

Balfour

Need to look at the following tests, a majority must be trading rather than investment

- Gross income
- Net income
- Capital values
- Time spent
- Overall – does it look like one business

If so, BPR can apply

Note – BPR cannot apply to the Farmhouse



Reform of IHT

Nothing concrete yet, but two recent reports so it is definitely on the political agenda

Office of Tax Simplification

Alignment of IHT with Capital Gains Tax (CGT)

Different definitions of what is trading for each tax

Recommendation that these be brought closer together

Potentially good news for businesses falling within the grey areas mentioned above

Potentially bad news for those relying on Balfour argument

Reform of IHT continued ...

The All Party Parliamentary Group on Inheritance and Intergenerational Fairness

Much more radical proposals

Reduction of rate of IHT from 40%

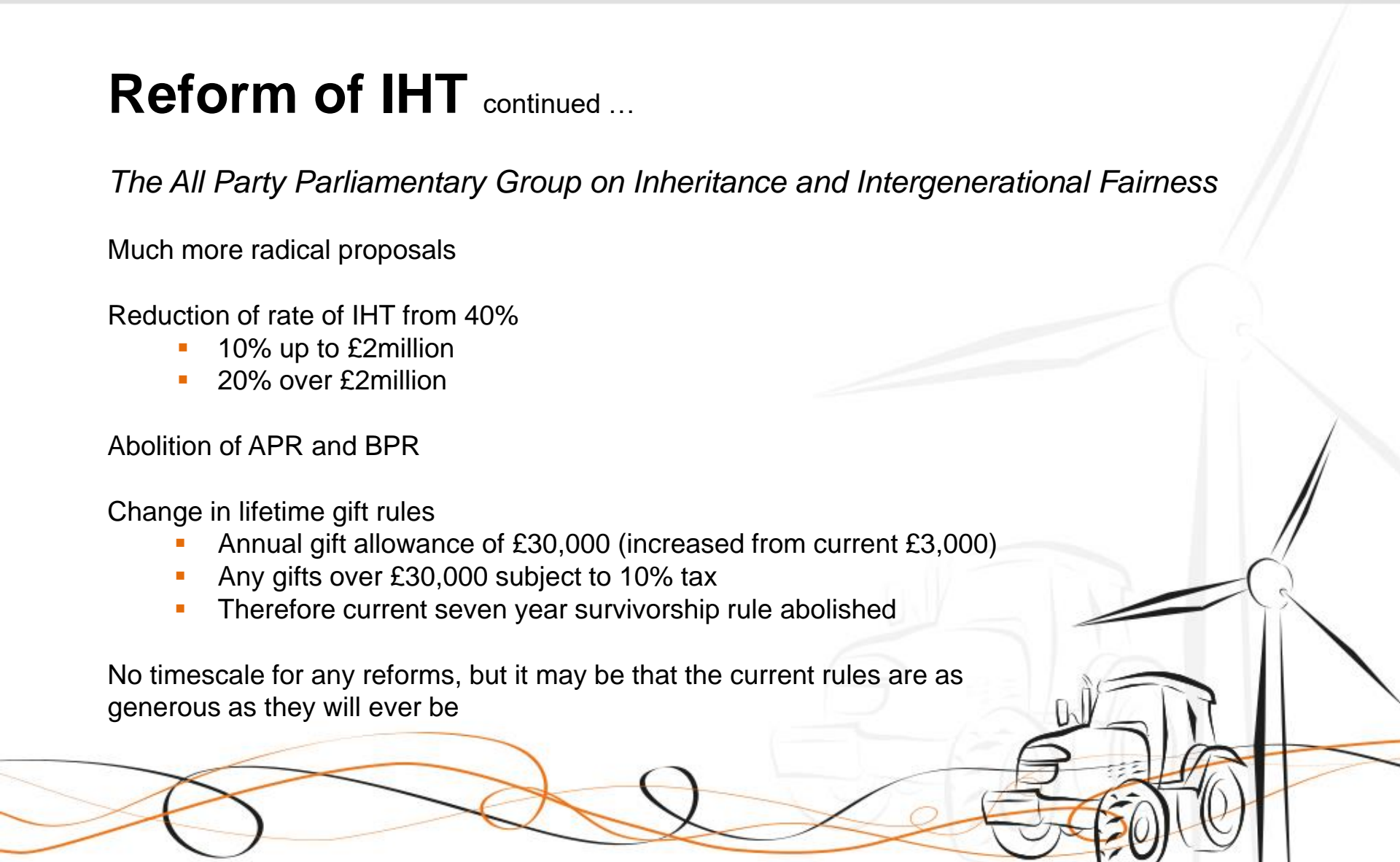
- 10% up to £2million
- 20% over £2million

Abolition of APR and BPR

Change in lifetime gift rules

- Annual gift allowance of £30,000 (increased from current £3,000)
- Any gifts over £30,000 subject to 10% tax
- Therefore current seven year survivorship rule abolished

No timescale for any reforms, but it may be that the current rules are as generous as they will ever be



Good housekeeping

- Partnership agreement
- Wills
- Powers of Attorney

Liz Nicholson
BSc(Hons) MSc DipTP MRTPI



Stansgate Planning Consultants Ltd

- Who we are
- What we do
- How we do it



Helping you with your plans

- Business plans: short, medium and long-term
- Making best use of existing buildings and land
- National: planning law, policy and guidance
- Local Councils: planning policies, priorities, political sensitivities
- Avoiding enforcement action
- Environmental benefits



Common Planning Issues

Land Promotion

- Can take several years
- Can be significant financial investment
- Can result in land being allocated for a significant amount of development
- Casualty rate is high
- Potential to enter into options agreement / joint venture /land promotion agreement with commercial developer

Permitted Development: agricultural notifications

- Types of development
- Impact on Class Q conversions
- Long term Class Q leg
years



Permitted Development: Prior Approvals / Class Q

- Some of the limitations and restrictions
- Structurally capable?
- Capable of conversion?
- Class Q is not the only class



Planning applications

- When you can't use permitted development rights
- Sensitive locations
- Other restrictions
- Development to support farming business
- Agricultural workers dwellings – “taking majority control”
- Development to diversify from farming business
- 5 year housing land supply and settlement boundaries
- Conditions: another 8 weeks



When you need more than a planning consultant

- Chartered surveyors: agriculture, equestrian, diversification of businesses
- Protected species and biodiversity
- Listed buildings, Conservation Areas, NDHAs
- Flood zones
- Areas of Outstanding Natural Beauty
- Highway safety



Lawful Development Certificates

- Can add value to the business/estate
- Can be used to enable new development that would otherwise be unacceptable
- Can be required when buying/selling property
- Time limit: 4 years
- Time limit: 10 years



When things go wrong

- Enforcement action: potentially very costly in money, time and emotions/thoughts
- Protected trees – criminal offence
- Protected species and their habitats – criminal offence
- Removal of hedgerows – criminal offence
- Listed buildings – criminal offence and no time limit
- Works carried out without planning permission – not a criminal offence
- Informal and formal action; negotiating with the Council; appeals
- Time limits



Looking ahead

- Climate change and heritage protection
- Biodiversity: development site assessment
- Biodiversity: potential landbanks needed
- Further relaxation of permitted development rights?
- Impacts of Brexit: EU laws absorbed into UK laws with or without change?

