

## **GUIDANCE NOTES – HOW TO PURCHASE A WOOD OR PLANTING SITE**

### **Introduction**

Buying a woodland site is not so very different from buying a house. You must thoroughly research and understand exactly what you are doing. You should avoid signing any document until you are entirely comfortable with what you are committing to. And never forget, once you have signed a purchase contract, there is no going back!

If possible, always take professional advice either from an independent adviser or an appropriately qualified member of your community group or association. You may be able to include any costs incurred in a subsequent application for project funding.

And remember, there's no such thing as the perfect site: be prepared to compromise.

### **Finding a wood or planting site**

- First decide upon your site criteria. This may be partially determined by (a) what your project is seeking to achieve, (b) your preferred geographical location and (c) how much money you have available. Are you looking for an existing wood or bare land on which to plant up a new wood? Is the main use of the site intended to be for public access, nature conservation or timber production? Or are you most concerned to prevent inappropriate use or development of the land? Finally, do you specifically want an ancient woodland site or are tree species not a major concern? Your local Environmental Records Office will hold records of the County Ancient Woodland Inventory.
- Are you looking to buy a woodland site for ever (freehold ownership) or to lease it for a fixed period of time, say 10 years? Or perhaps you simply want to enter a fixed period management agreement to look after or restore a site but not actually own it?
- Having set your parameters, one useful way of searching for both existing woods or bare land on which to plant is to buy the local newspaper serving your chosen location and to monitor the agricultural property section. This will provide you with an idea of land availability and prices whilst also identifying the main Land Agents operating in the area, who you can then contact to register your requirements. There are specialist agents for woodland and farms but for small or medium sites of less than 20 acres/8 hectares the local route is more likely to produce a suitable opportunity. Most woods and farmland tends to be offered for sale in the spring and summer rather than winter and, simply because of greater availability of bare land, it is usually easier to identify a site to plant on than to find existing mature woodland. Another useful method with local projects is to ask the project group members to put the word around your community or even knock on doors if you have a specific site in mind. Sometimes small pieces of land may be surplus to an owner's requirements.
- Land can be sold in a number of ways: it can be advertised on the open market or sold at auction. Open market sales can also be subject to informal (non-binding) tender or formal (immediately binding, as in an auction) tender. Auctions can be frustrating as you are committed when the hammer falls, and so need to have your funding confirmed and

your legal searches all carried out before the event, with the risk of substantial wasted time and abortive professional fees. Occasionally, you may be able to arrange a private sale with a sympathetic vendor.

## Site assessment

Having identified your site, you must now check that it really is suitable. An attractive wood seen briefly in the dappled sunlight of a balmy summer's evening can sometimes obscure problems that become more obvious in the cold light of a subsequent detailed inspection. This means walking all over your site, in particular perambulating the boundaries, in order to assess the following –

- Access – can vehicles reach the site from the public highway and, if you need to, can you drive management vehicles within the site? If you require new internal tracks, are they capable of being physically created? If appropriate, is the site accessible to visitor vehicles and where will they park?
- Are the boundaries identifiable on the ground – by hedge, bank, ditch or fence – and do they match up with the site plan? Are there any watercourses or ditches that will require maintenance to avoid flooding the site or neighbouring land?
- Are there any obvious liabilities such as mature trees near a public road or building structures that will need regular maintenance or steep roadside slopes and rock faces that could slip? Are there man-made hazards that will require safety fencing, such as quarries, old mine shafts, wells, lakes or ruined buildings and other archaeological features? Are there natural hazards, which attract a lesser responsibility of public protection, such as cliffs, natural ponds or exposed rock faces?
- Is there anything that you are likely to need to do to the site that will require planning consent, such as a new entrance or parking area? If this is essential to the success of the woodland project, planning consent must be obtained prior to completing the purchase. It may be possible to agree purchase terms subject to obtaining planning consent, so that the vendor is aware of potential delay. You do not need to be the legal owner of land to make a planning application on it.
- If it is a planting site, do you need a botanical survey from an ecologist to avoid destroying a valuable semi natural grassland habitat with woodland or can your local County Environmental Records Office provide the necessary information to check this?
- It can be useful to meet the site owner, rather than the selling agent, to ask about the physical characteristics, site history and old-field names.

## Financial appraisal

- The price negotiated is obviously the critical issue as property values can vary enormously dependent on a wide range of physical and legal factors. If possible, it is prudent to instruct a qualified Chartered Surveyor (to negotiate or value on your behalf. This can serve a dual purpose, as many funding applications now require an independent valuation of the land to be acquired.
- If your project funding is not fully in place, you should try to agree a price subject to a period of time in which to obtain it. Whilst agreeing 'heads of terms' for a purchase in writing does not constitute a contract, and the agents can legally sell to another party whilst you are still fundraising (like being gazumped in a house purchase), there is at least a moral obligation on both parties to honour the deal reached.
- As well as considering the purchase price, you should also assess the cost of looking after the site for the period of your ownership, whether it is a five-year lease or freehold ownership in perpetuity. This is usefully done by compiling a simple projected cash flow of annual expenditure (such as fence repair) and income (for instance, Forestry Commission grant aid) over time. A forester or arboriculturist can assist with this. If your site constitutes an existing wood, the main element will consist of ongoing management but, if it is a planting site, you should include the full costs of planting and establishing the trees (i.e. annual weeding, tree replacement etc). It is important to secure funding sufficient to cover both the purchase price AND the cost of future site management BEFORE you commit to the purchase. In the case of public grant aid, this means receiving and accepting a formal funding agreement in writing.

## Legal and other checks

Whilst the formal property conveyancing should always be carried out by a solicitor, there are other checks to be carried out and questions that should be asked –

- If the access to the site from the public highway runs across land belonging to someone else, check that the legal rights permit a right of way for management vehicles and the general public on foot. The latter is crucial if there are no designated public footpaths through the site. The preferred access rights should be along the lines of '*access is permitted at all times for all purposes*'. Check also whether there are any legal obligations to contribute towards repair and maintenance of the access route.
- Check whether there are any other rights over the land you are buying in favour of someone else, e.g. the right to cross over the land with farm vehicles or the right to run water pipes through it, both of which could affect where you plant trees. An old gate onto neighbouring property can, for instance, sometimes indicate the existence of a right of way through your site. Similarly there may be signs of drainage onto your land or an old septic tank.

- Check that the sporting (shooting, hunting and/or fishing) rights are included with the property that you are buying, and also the mineral rights. Not owning any of these can lead to contentious arguments with third parties. Similarly your solicitors should obtain confirmation from the vendor that there are no existing leases or other legal interests granted over the property and – of particular importance when buying farmland – that it is sold empty known as vacant possession.
- Are the physical boundary features owned by you or your neighbour? And who is responsible for repairing and maintaining them, with particular reference to fencing against livestock fields, as repair can be costly.
- Are there restrictions on the use of the site, either in terms of legal constraints (known as restrictive covenants) or statutory site designations? For instance, whilst your land may have been designated a Site of Special Scientific Interest (SSSI) in order to protect a valuable habitat, it may constrain you in creating new visitor facilities.
- It is always prudent to check with the Environment Agency and the local authority whether there are any records of landfill, tipping or contamination, particularly where watercourses are concerned, as a landowner can be held responsible for contamination carried out by a previous untraceable owner. If there is a river or lake on or near the site, the Environment Agency can advise whether it lies in a flood plain and whether there are any special management constraints on land use.
- Check with the County Council archaeology department whether there are any Scheduled Ancient Monuments or Listed Buildings on the site (old limekilns are a typical example and may be well hidden by years of vegetation growth) or any other historic features which, as a responsible conservation group, you may want to respect.
- Whilst your solicitor should carry out checks such as a Commons Search or Local Authority Searches as part of the normal conveyancing process, it is prudent to contact direct all the public utility providers (electricity, gas, water, sewage, telecommunications) to check that there are no unknown or belowground pipes and equipment. If there are, you need to ensure that they are documented and that the utility company pays you an appropriate fee for the privilege of using your land.
- Carry out check measurements on an accurately scaled plan to make sure that the land you are paying for, probably on a per acreage/per hectare price, really is the size that it is purported to be.
- And finally, carefully read the letter or report that your solicitors provide on their property title investigations and ask questions if you do not understand.

## Conclusion

Once all the necessary checks are carried out, the required funding is in place and the property transfer documents are prepared, formal completion can take place.

- As an organisation you will need to be constituted in a form capable of owning property, with an approval process capable of taking a decision to proceed. There will also need to be authorised signatories who can put their name to the documents.
- Make sure that the property is insured (public liability and reinstatement of any buildings) from the moment the contract is signed. Also check that gates are secure – change the locks if vandals or travellers are likely to be a threat.
- Now your project can begin!