

# GUIDE TO BUYING COMMERCIAL PROPERTY

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From our experience in selling commercial properties over many years, we have prepared a simple guide to assist purchasers in this process.

The information provided below is offered for guidance purposes and buyers should always seek professional advice from their advisors (solicitors, surveyors etc) before committing to purchase.

## Who is actually buying the property?

- The Company or business.
- Some or all of the Directors of the Company individually.
- Private Individual (see note on VAT, stated below)
- SIPP or other Pension Schemes.

We recommend that Buyers should take advice from their accountants (or other Independent Financial Advisors) as to the most effective method of purchasing a property.

## Tenure

Freehold – effectively an outright ownership of the property with no superior control above, so the Buyer will be usually directly responsible for all repairs, maintenance and insurance, possibly in conjunction with other owners.

Long Leasehold – usually offered where the property forms part of a larger complex which is in turn controlled by another party who has a “superior” interest (often the freeholder) who may in turn be responsible for providing common services, building maintenance and management.

If buying a long leasehold interest then the Buyer must consider the following: -

- Lease Term – ie how many years until it expires (a new lease could typically be anything from 99 up to 999 years).
- Ground Rent - how much is payable each year to the Superior Landlord/Freeholder – this can be anything from “a peppercorn” (which is effectively nothing) upwards – typically in the region of £500 per annum or more in many cases.
- How often the ground rent is reviewed – it may typically be increased every 5, 10 or 25 years.

Please note that some of the following points may not relate to freehold properties and may specifically only relate to long leasehold properties.

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## The Premises

There are various physical aspects to consider when purchasing property as follows:-

- The extent of the boundary of the premises – ie exactly what is or is not included in the sale (this may include forecourt areas for example).
- Are the premises being bought as seen?
- Does the property require any form of structural survey?
- Is the vendor doing any further works to the property?
- Many commercial properties in mixed use developments are sold in shell condition and the Buyer will be entirely responsible for the cost of fitting out the premises so that they can be occupied.
- Fitting out works may need to be a minimum standard in order to comply with BREEAM or other building standards.
- A Buyer needs to undertake space planning exercise to ensure the unit big enough to accommodate their needs and allow for any anticipated or foreseeable growth?
- Has the Seller provided capped off Services, Utilities (including telecoms and data connections) and drainage?
- What provisions have been made for the Buyer to install Air conditioning and Ventilation? (What provision has been made for the siting of external chillers outside - space or plant rooms etc).
- Does the Superior Landlord (if applicable) have to approve the Buyer's alterations and or proposed fit out works?
- Detailed plans and a Specification of Works are pretty much vital in any event before any fit out works are undertaken and a Superior Landlord/Freeholder will require this to be approved and documented by way of Licence for Alterations.
- Do the Buyer's proposed works require any additional planning permission or Building Regulation approval?

## Planning Permission

Buyers must ensure the property has the benefit of the correct planning consent for their proposed use.

Further information relating to planning uses can be found on the following Government website: -

<http://www.planningportal.gov.uk/permission/commonprojects/changeofuse>

If a change of use is required this will usually be the responsibility of the Buyer, we would recommend that a planning consultant or architect is employed to undertake an appropriate Planning Application.

In certain circumstances, Sellers may consider deferring completion of the purchase, until the Buyer's planning consent has been granted.

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### Agreeing the Deal

As part of agreeing the sale the Seller's (or their agents) will produce Heads of Terms setting down all of the salient points relevant to the transaction, including the agreed sale price.

Before agreeing to instruct their solicitors, however the Seller will usually require the Buyer to provide some evidence of funds which could be via the Buyer's bank statements and written confirmation of funding from the Buyer's bank, or other funding arrangements. (NB Banks will subsequently appoint a surveyor to inspect and value the property on their behalf and the Buyer will be responsible for their fees and charges).

### Stamp Duty

The purchase price will be subject to Stamp Duty Land Tax (SDLT), payable by the Buyer as follows: -

Property or lease premium or transfer value	SDLT rate
Up to £150,000 - freehold or leasehold with annual rent under £1,000	Zero
Up to £150,000 - leasehold with annual rent of £1,000 or more	1%
£150,001 to £250,000	1%
£250,001 to £500,000	3%
Over £500,000	4%

Please refer to the website <https://www.gov.uk/stamp-duty-land-tax/nonresidential-and-mixed-use-rates>

### VAT

Commercial properties are frequently subject to 20% VAT on the sale price and Stamp Duty and the Seller will usually be able to confirm if VAT is payable. If so make, the Buyer must make sure that funds are available to cover this, although VAT is usually able to be reclaimed.

There are schemes in existence which will provide short term funding for VAT, independent of any other bank finance, subject to qualifying conditions. One such example includes Bloom Smith - [www.bloomsmith.co.uk](http://www.bloomsmith.co.uk)

If the property is being bought personally by an independent person or non VAT registered company, please note VAT cannot be reclaimed.

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## Exchange of contracts/Completion

The Seller and Buyer will exchange contracts to sell and purchase the property within an agreed time scale (usually 4 weeks from agreeing terms) whereupon, the Buyer will pay the purchase deposit of 10% of the purchase price (plus VAT if applicable).

Completion of the transaction will take place at a date to be agreed between the parties, usually up to 4 weeks of exchange of contracts, during which time the Buyer's solicitor will arrange for all relevant funds to be collected and ready for transfer.

We recommend that the Buyer confirms with their solicitor that the timescales that have been agreed between the parties in the Heads of Terms can be adhered to.

## Holding deposit

In some instances, the Sellers may request the Buyer to place a non-refundable holding deposit as a sign of good intent, which is usually non-returnable unless the Seller cannot provide good title to the property.

This deposit will also provide a period of exclusivity for the purchaser to enter into an exchange of contracts, during which time the vendor will not accept any other offers for the property.

## Solicitors

Buyers should retain the services of an appropriate solicitor who specialises in commercial property transactions to represent them in any purchase, in order to ensure that their purchase is correctly transacted and that all obligations and restrictions contained in the title or head lease are fully explained.

## Business Rates

The Buyer should verify if the property has a rateable value and what business rates are then payable. This is usually provided by the Local Authority's business rates team.

All Rateable Values are listed on the Valuation Office Agency website -

[www.gov.uk/government/organisations/valuation-office-agency](http://www.gov.uk/government/organisations/valuation-office-agency)

If the property is new and has not yet been assessed for rating purposes (ie does not yet have a Rateable Value), the Seller may be able to provide some examples of Rateable Values of similar properties nearby, but in any event the Buyer should make their own enquiries to satisfy themselves to the potential rates payable.

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### **Service Charge**

If the property shares amenities or facilities in common with other premises, the Buyer will be required to pay a due proportion of the any Service Charge (or Estate Charge).

This charge is usually paid on account, often via a firm of managing agents who look after the property on behalf of the Superior Landlord/Freeholder.

The Seller should provide evidence of the current Service Charge budgets and any recent Service Charge accounts if available.

The Service Charge is reconciled at the end of each financial year.

### **Building Insurance**

If purchasing freehold, the Buyer will usually be responsible for building insurance cover from exchange of contracts and their solicitor will advise them accordingly.

In the case of long leasehold properties, building insurance is usually provided by the Superior Landlord/Freeholder and the Buyer will be responsible for the payment of a proportion of the insurance premium.

### **Energy Performance Certificate (EPC)**

It is a legal requirement that every commercial property is sold with an Energy Performance Certificate and the vendor must provide this as part of the transaction. The purchaser should apply to have this updated upon completion of any initial fit out or subsequent alterations, as appropriate.

### **Buyer's Associated Costs**

Disregarding the costs of any fit out works or other alterations to be undertaken to the property, the Buyer should allow for the following associated purchaser's costs: -

- Survey Fees.
- Valuation/Bank Fees.
- Legal Fees.
- Stamp Duty.
- VAT (see foregoing).
- Superior Landlord's costs in respect of Licence for Alterations (if applicable).