

commercial property write news

Clear, pragmatic and commercial advice on all property issues faced by our clients.

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Is now the right time to buy property?

The value of commercial property reached a peak in late 2007 prior to the run on Northern Rock and the subsequent economic crisis and recession. Over the past four years the values of many properties have fallen quite significantly with some indexes putting values at up to 40% below peak.

A very significant factor in these reductions has been the reduced availability of credit. Banks are much less willing to lend than in the boom years and lending tends to be at a higher margin and require a lower loan to value ratio. However, for those businesses and individuals that are able to access credit now may just be the time to dip back into the property market.

Recent evidence suggests that the Bank of England is unlikely to increase base rate until at least 2013 and even then increases are likely to be modest by comparison to the long term trend. Accordingly, although Banks may be preserving their margins and lending less as a percentage of the value of properties the real price of credit remains cheap by reference to long term averages.

During the boom years many businesses and individuals were priced out of the property market by speculators and others who were accessing the large amounts of cheap credit which were then available. 100% mortgages and a rapidly rising market encouraged speculation and prudent purchasers and businesses often lost out on opportunities to buy property.

This has now all changed. In most instances property is now a buyers' market. Compared with a couple of years ago there is a greater supply of property available in the market and we are starting to see a structured programme of forced sales by the banks, particularly the Irish Banks that are now governed by NAMA and Royal Bank of Scotland and Bank of Scotland, all of which lent huge sums in the property sector, many loans of which are now in default.

In addition, changes to the pension rules in this years' budget mean that it is now possible to contribute greater sums each year to personal pensions, as well as the prospect of carrying back "lost" contributions from prior years. This means that those with Self Invested Personal Pension Schemes (SIPPS) are able to introduce much more substantial sums of money into their pension and accordingly we may start to see a return of many business owners using their pensions as a means of purchasing the property from which their business operates. This can prove to be an extremely tax advantageous structure for business owners.

SIPPS are limited to borrowing a maximum of 50% of their asset value and so borrowing is unlikely to be at levels which give Bank's cause for concern. A Bank's primary focus in such circumstances will often be the ability to service the loan. Assuming that leases are in place to the business owners' company then rents payable should more than cover servicing of loans and all surplus rent will be accruing in the pension scheme tax free.

Whilst property prices may not appreciate significantly over coming years those businesses and individuals with access to funds might wish to consider investing in property as a long term investment strategy and one which might allow access to property ownership where it has not been possible previously.

Neil Myerson LLP have substantial experience of acting in connection with the purchase of property on behalf of clients, whether through a company, LLP, a hybrid combination of a company/LLP, individually or through a pension scheme. We are also able to deal with the requirements of any Bank that might be assisting with the purchase.

A tenant's market?

You only have to look along any high street or on many industrial estates to see the increased number of vacant properties that are now in evidence. Many businesses have been hit hard over the past few years and occupation rates have fallen quite significantly.

This isn't good news for landlords but it does present some opportunities for tenants.

Landlords are increasingly keen to ensure that tenants remain in properties and continue to pay rent. The reduction in the availability of empty property business rates relief means that were a tenant to vacate a property at the end of its lease then a landlord is faced with the possibility of a double whammy – not only the loss of rental income, but the possibility that the landlord themselves will have to pay business rates for the property. This is a prospect that many landlords simply cannot afford.

Accordingly, upon the expiry of a lease the balance of negotiating power between landlord and tenant may have shifted somewhat in the tenant's favour. Whereas a rent reduction was once upon a time unthinkable, this is now a very real possibility and when faced with a threat of a vacant property that could prove difficult to let at any higher rent, the landlord may be prepared to agree to a much more attractive deal for the tenant if he stays and takes a renewal lease.

Tenants may also wish to take advantage of any break clauses that might be in leases, simply as a means to cause a renegotiation of the rent or the

other terms of the lease. Whilst this is not without its risks it can prove highly financially desirable, particularly if the property is rented at a rate substantially above the present market rent or contains other onerous terms.

With the property market remaining depressed there are opportunities for tenants to agree terms that were unheard of several years ago – substantial rent free periods; landlord's contributions to fit-out works; reduced rents; increased flexibility with break rights etc.

Tenants should seize these opportunities while they can as they are unlikely to persist in the long term. Once the property market recovers, and perhaps if the Government bows to pressure from landlords and alters the rules on empty property relief, the balance of power will swing firmly back into the landlord's court.

The correct tactics and timing are vital to a successful renegotiation of lease terms and so we would advise you seek professional advice from both a solicitor and a surveyor before taking action.



Key Contacts



Richard Lloyd

Richard has many years' experience of dealing with a wide range of commercial property matters, including acquisitions and disposals of property, landlord and tenant work, property development, secured lending and restructuring work and the property aspects of corporate transactions. He is described by the independent legal directories as having "good technical knowledge and commercial common sense" and is recommended in particular for his security work and work for SME's.

Richard gained an upper second class honours degree in Law before specialising as a commercial property lawyer at North East commercial firm Muckle, and then working at national law firm Hammonds. He joined Neil Myerson in 2000.

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Chris Porter

Chris studied Law at the University of Leeds before working as a specialist in commercial property law at Eversheds and Addleshaw Goddard. He joined Neil Myerson in 2004.

Chris has experience in a wide range of commercial property matters including the acquisition and disposal of commercial property, acting for both landlords and tenants in lease negotiations, secured lending work and handling development sites. Chris also has particular expertise in agricultural property work.

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Joanne Perritt

Joanne studied Law with German at the University of Nottingham and gained a first class honours degree before working in the commercial property department of DLA Piper in Manchester. She joined Neil Myerson in 2007.

Joanne has experience in a wide range of commercial property matters. She also has particular expertise in dealing with all types of insolvency and corporate recovery matters.

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Tim Norman

Tim is a Partner of the firm and is an experienced property litigator. Tim is especially adept at obtaining results for clients in property litigation matters.

Tim gained an upper second honours degree in Law at Leeds Metropolitan University before working at Mace & Jones and Chafes. He joined Neil Myerson in 1995, becoming a Partner in 1999.

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