

Deciding on the right commercial property

Choosing the right commercial property is an important decision which should not be rushed into and one that has to meet the needs of your business, customers, clients and your staff. Before you sign on the dotted line, do make sure you consider a few crucial issues. Jeff Elphee, a specialist in commercial property law and a partner at IBB Solicitors, gives some important pointers to business owners

Is your business ready for the commitment of a long lease or freehold?

Remember your commercial premises are there to help you run your business effectively but without putting undue financial strain on the company. If you are running a start-up or your business is relatively small, spending £££ on swanky offices with a 10-year lease may not be the best option, even if the design is state-of-the-art and the office space has impressive views.

How we work and where we work has changed over the past 10 years. For example, small and growing businesses needing the footfall of the High Street may be better suited to taking out a lease for a pop-up shop to test the waters before making the commitment of a short-term lease of, say, two years or even mid to longer of a five to 10-year lease.

Equally what might be the right location or premises for current business requirements may not work in say five or 10 years' time if you have ambitious plans to grow or diversify your business. If you are running a more mature business and are pretty certain of the mid to long-term future then taking out a longer lease or even buying a freehold property may be the better option. Although buying a property freehold obviously has serious financial implications, consider whether the capital is better deployed in the business rather than tied up in property.

Planning permission

Before you go any further than a site view, make sure you check the property has the necessary permission for your business needs – this applies to both new-build and older properties.

Getting help on the lease agreement

If your business takes a turn for the worse or change in direction, you might want to move out of the premises sooner than envisaged. Getting a break clause, after say two or five years included in your lease allows you to manage your commitment and liabilities. However, as many lawyers will tell you, the devil is in the detail so do get expert advice to ensure the break clause will be enforceable in all situations.

Don't cut corners – do get the help of a surveyor

Most commercial property leases operate on full repairing and insuring terms. This means your business will be responsible for not only keeping it in the same state of repair at the day your business takes on the lease but will be responsible for making good any repairs needed at that date and then in that better condition throughout the lease period. Enlisting the help of surveyor before you commit to specific premises, will help to shed light on any potential problem areas. For example, a surveyor could identify whether a roof might need to be repaired during the lease period and approximate timing. Armed with this knowledge, you could agree that the landlord agrees to meet the cost,



does the repair or that the rent is significantly reduced to factor in the potential costs.

Surveyors may also identify both hidden structural problems or those around mechanical/plant machinery. Whilst a Schedule of Condition gives a record of the existing condition (by reference to photographs) defects which are not apparent in photographs may not be covered, such as the future need to replace air-conditioning units and the like.

Do factor in the costs of service charges

If your business is only taking a lease for part of the building, then you will be liable for the cost of service charges incurred on repairs for the whole building. Get advice on how you can get a cap on your service charge liability so you are not out of pocket years down the line.

Get warranties on new-build properties

If you are considering moving in to a new-build property, do make sure you get warranties from the construction team involved with the development. Normally these last for 12 years (although most defects arise in the first couple of years of the build being completed).

Finally – check the history and environmental liability

Make sure you get your advisers to do the necessary due-diligence to ensure the site you move into does not have risk of contamination. As a tenant/occupier you could be liable for paying to clean up any contamination, even if your business did not cause it.

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