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The Common Misconception that Listed Buildings are exempt from the requirement to obtain an Energy Performance Certificate



Maria Hearne
Senior Solicitor

The Minimum Energy Efficiency Standard 2015 requires all commercial properties to have a minimum energy rating of an 'E'. Section 5 of the Energy Performance of Buildings (England and Wales) Regulations 2012 confirms that an EPC is **not** required for a **listed building** where compliance with the minimum energy performance requirements would "*unacceptably alter the character or appearance of a building*". However, the only way to properly assess whether there are any works that could be carried out to the property which could improve its energy rating is to commission an EPC which will confirm whether or not improvements can be made.

It is only once the EPC is commissioned that an assessment can be made as to whether any of the measures suggested in the Recommendation Report would *unacceptably alter the character or appearance of the property*. Evidence must be produced confirming that the minimum energy rating cannot be achieved. This includes obtaining evidence from the local planning authority confirming that the recommended works are not permitted under planning law.

An exemption would then need to be obtained **before** the new lease is granted by completing an online application at <https://prsregister.beis.gov.uk> and uploading a copy of the EPC and

Recommendation Report with the relevant planning/surveyor's evidence before a 5 year exemption certificate is issued.

For further information see the article [The Common Misconception that a Listed Building is exempt from the requirement to obtain an Energy Performance Certificate](#) or contact Maria Hearne on 01223 447445 or [click here](#) to email her.

EMA and Canary Wharf Settle case relating to Brexit Frustration.



Dominic Hopkins
Partner

Although you may continue to be frustrated about the lack of clarity in the Brexit negotiations, the European Medicines Agency (EMA) has withdrawn its appeal against the High Court ruling that Brexit did not frustrate (in the legal sense) its lease of property. It has been reported that following a deal to sub-let the property at 30 Churchill Place to WeWork for a term to expire with EMA's lease in June 2039, EMA has settled the ongoing litigation with Canary Wharf Group. The High Court decision that Brexit did not frustrate the lease will therefore stand.

For further information contact Dominic Hopkins on 01604 233233 or [click here](#) to email Dominic.

Bat Boxes allowed under Landlord's reservation.



Joe Taylor
Associate

In a recent High Court case the scope of broadly worded rights of entry reserved to a landlord under a lease were considered.

The Landlord had retained ownership of neighbouring land and in the process of developing it, wished to install bat monitoring devices on the land he had leased to his Tenants. The leases had reserved to the Landlord very broadly worded rights of entry: "*for all reasonable purposes*" and "*inspecting... making roads... and any other purposes connected with his estate*". Notwithstanding the reservations, the Tenant's had refused access. The Landlord obtained a temporary injunction to gain access which it then applied to make permanent.

The court held that the Landlord did have the right to erect the bat boxes. Although, ultimately, an extension to the injunction was refused, being regarded as unnecessary now that the extent of the Landlord's rights had been clarified. The Judge stressed that the "*irreducible minimum*" of rights granted to the Tenant cannot be eroded except where the lease sets out express and very clear limitations on the Tenant's rights.

Though the Landlord ultimately got what he wanted, this case highlights the potential perils (including costly litigation) of relying on imprecise broadly worded drafting. In order for rights to be secure, the drafting should be precise and specifically tailored to meet the client's particular objectives.

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do for you please contact Joe Taylor on 01223 532723 or [click here](#) to email Joe.

More and Smarter Charging Points for Electric Vehicles?



Simon Wain
Partner

Two new government consultations have opened relating to charging points for electrical vehicles. The first proposes:

- Every new residential building with an associated car parking space has a chargepoint.
- Every residential building undergoing major renovation with more than ten car parking spaces has one chargepoint and cable routes for EV chargepoints in every car parking space.
- Every new non-residential building and every non-residential building undergoing a major renovation with more than ten car parking spaces has one chargepoint and cable routes for an EV chargepoint for one in five spaces.
- At least one chargepoint in existing non-residential buildings with more than 20 car parking spaces, applicable from 2025.

The consultation does propose some exemptions from these requirements mainly on financial grounds. Most of the changes would be introduced through Building Regulations. To comment [click here](#).

The second consultation is that charging points should include smart charging functionality. Smart charging varies the cost of charging at different times of the day and so this would encourage off-peak charging. To comment [click here](#). Both consultations close on 7th October.

For further information contact Simon Wain on 01908 247019 or [click here](#) to email Simon.

Airbnb Landlord Evicted and ordered to pay over £100,000



Julian Bishop
Partner

A council tenant who let out his flat on Airbnb was evicted by Westminster City Council and ordered to pay an unlawful profits order of over £100 000. An investigation by the council discovered over 300 reviews of the Vauxhall Bridge Road property on the site going back to 2013 and evidence that the tenant had received regular payments from Airbnb.

The case involved social housing where it is illegal to sublet property. However, this case is a reminder to anyone who wants to let their home through sites such as Airbnb to ensure that any restrictions against short term lettings are complied with. Many leases restrict the use of leasehold premises to occupation by one household and prohibit short term lettings. Many mortgages also contain restrictions as to the use of the mortgaged property.

Westminster City Council have set up a specialist team to tackle tenants breaching the terms of their tenancies and increasingly private sector landlords are seeking to enforce covenants when they become aware of such practice.

For further information contact Julian Bishop on 020 7400 6583 or [click here](#) to email Julian.



This Bulletin is produced by Hewitsons for clients and contacts of the firm to provide them with a useful summary of recent cases, journal reports, developments in the law and dates to be aware of. It is not a definitive statement of the law in any area.

Advice should be sought from a solicitor in the Real Estate Team at Hewitsons in respect of any information contained in this bulletin that affects any matter with which you may be concerned.

Hewitsons offers a full real estate service which includes expertise in property acquisition and disposal, planning, construction, environmental issues, development and property management. This Bulletin will help to keep those involved in property up to date with the latest developments.

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