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#### Budget Changes in relation to Land Value Capture



Deborah Sharples  
Partner

In the budget earlier this week the chancellor announced some changes in relation to land value capture.

He announced proposals to allow combined authorities and joint planning committees to impose a Strategic Infrastructure Levy to finance strategic infrastructure. This would be a low level universal levy on development similar to the London Mayor's levy which was used successfully to raise money for Cross Rail. There is to be a simplified power to raise an increased zonal CIL charge in areas of high land value uplift.

He has also proposed an end to the restrictions on pooling s106 contributions which were imposed by the CIL Regulations and which have proved to be unhelpful in the efforts to raise money for infrastructure.

This is in line with expectations for this budget. The tone of the debate on land value capture remains that no fundamental changes are needed and that s106 works well as long as the system is played fairly. There is a strong move towards discouraging developers and landowners from

"gaming the system" or negotiating too hard with a threat of increased use of CPO with reduced compensation as the stick to encourage cooperation.

This is of interest to all who have land which may benefit from public policy decisions and is of course a hot topic in the Oxford –Milton Keynes- Cambridge Arc (as it is called in the budget).

For further information contact Deborah Sharples on 01223 5323747 or [click here](#) to email Deborah.

### **'Noticing your notices' – s.25 Notice - Law of Property Act 1925**



Patricia Kempson  
Partner

Few would contend that the most common rent review clause in a commercial lease only permits an upwards review.

However, the decision of a recent County Court case has shown that the Court may not be so restrained when determining the terms upon which a renewal lease is granted when it has not previously contained a rent review clause.

In the same case, the Court also had to determine the validity of a section 25 notice which was addressed to the wrong company, albeit one which was in the same group as the tenant. When drafting the notice, the landlord's solicitor carelessly omitted a crucial element of the tenant company's name and as a result, the tenant claimed that the section 25 notice was invalid. The judge disagreed and instead took the view that this was a careless mistake which would have been perfectly obvious, and a reasonable recipient would have had no reasonable doubt as to how the notice was to operate and in respect of which company.

To learn more [click here](#) to see Trish Kempson's full article.

## Recent case held flat owner in breach of lease for letting flat on Airbnb



Ceri Riddell  
Senior Associate

Ceri Riddell (a Senior Associate in our Cambridge Real Estate Department) considers a case from earlier this year that has demonstrated the potential legal dangers in letting out your flat on Airbnb.

Mr. Conway the long leaseholder of a flat in Bermondsey was served with an injunction by the freeholders of his warehouse flat to prevent him from advertising his flat on Airbnb. Click on this [link](#) to read Ceri's article.

## Do your due diligence early



Christopher Duffy  
Solicitor

In a recent case the tenant applied to court for an injunction preventing its neighbour from increasing the height of its building and infringing its right to light. The neighbouring owner applied for summary judgment on the basis that the claim was not genuine and that the tenant only wanted money. The neighbouring owner relied on the provisions of a right to light deed made between the tenant, the current landlord and the former landlord, which provided that in the event of a proposed increase to the height of the neighbouring owner's building it was agreed that the tenant and the former landlord would be allowed to enter into negotiating over a settlement. The court refused to decide the matter without a full trial and concluded that the tenant was entitled to seek an injunction and have its case determined at full trial.

Whilst the terms of the deed did not assist the neighbouring owner here, if the deed had been drafted differently perhaps referring to a specified sum of money then the result may have been different. The case does highlight the importance of careful drafting of such deeds so that the ability to obtain an injunction is not lost. It also underlines the importance of developers carrying out due diligence to their site and neighbouring properties early to ensure that they are aware of all relevant deeds and documents. Such investigation will be of value in identifying problems with the potential to cause delays to the development schedule at an early stage.

For further information please contact Christopher Duffy a solicitor in our London office on 0207 7400 5039 or [click here](#) to email Christopher.

## New rules on pre-commencement conditions come into force



Gemma Dudley  
Senior Associate

The new s100ZA of the Town and County Planning Act 1990 was brought into force on 1<sup>st</sup> October. From now on, planning conditions which must be complied with prior to the commencement of development can only be imposed where the applicant has agreed to such conditions in writing. This requirement does not apply where an applicant has been notified of the intention to impose a pre-commencement condition and has not responded by the date set out in the notice. These new rules arose out of the Government's concerns that the imposition of pre-commencement conditions on development, when it is not justified, unnecessarily delays the delivery of development and drives up costs.

### **Government Proposes New Permitted Development Rights**

The Government has issued a consultation on "*a package of measures to make best use of land and speed up the delivery of new homes*", including new permitted development rights. They are proposing new permitted development rights to allow existing premises in typical high street uses (such as A1 and A2) to change to office use (B1), and for hot food takeaways (A5) to change to residential use (C3). They are also proposing rights to extend certain existing buildings upwards to provide new homes. Also, they wish to explore the feasibility of a new right to allow for the demolition of existing commercial buildings and their redevelopment as residential. The Government is also proposing to make the existing rights for change of use from storage or distribution to residential use, and for larger single storey extensions to houses, permanent. The consultation will run until 14 January 2019.

Gemma Dudley is a Senior Associate in our Planning and Environment Team. To contact Gemma [click here](#) or call 01223 532747.



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Reg No: OC334689

