

Top Tips When Acquiring a New Commercial Property

Have you outgrown your existing commercial premises or are you looking at acquiring premises for the first time? With a number of different factors to consider when leasing commercial property, this can be rather daunting for the uninitiated. Jo Pusey, Associate Partner at Franklins Solicitors LLP who heads up the Bespoke & Commercial Property Team in their Northampton Office sets out her top tips to help guide you through the process.

1. Employ a Commercial Agent

The majority of Landlords will have instructed a Commercial Agent to market their property for them and to negotiate the terms of the deal with the prospective Tenant. These Agents act in the best interests of the Landlord. Consider appointing your own Commercial Agent, not only to assist with finding the premises in the first instance for you, but also to help with negotiating the terms of the letting on your behalf. The involvement of a Commercial Agent at this early stage can even up the balance of power and could result in you obtaining much more favourable terms in the long run.

2. Obtain a Survey

You wouldn't purchase a residential property without carrying out a survey so why would you take the risk with commercial premises?

A high proportion of commercial properties are let on a "fully, repairing and insuring basis" meaning that the Tenant takes on the burden of repairing the premises after completion. Whilst the lease may require the Tenant to pledge to keep the premises "in repair" this also includes an obligation "to put" the property into repair if it is already in disrepair at the start of the lease. A Surveyor will be able to advise you on any potential problems with the property such as issues with the roof or the main structure, so that the cost of any works can be factored into your offer. They may also recommend negotiating a Schedule of Condition which is annexed to the lease to limit the extent of your repairing obligations, so that you do not have to put the property in any better state of repair than it was in at the start of the lease.

3. Security of Tenure

Unless specifically excluded, a commercial lease will usually have the benefit and protection of Sections 24 to 28 of the Landlord and Tenant Act 1954. If these rights are not excluded, the Tenant would have a statutory right to renew the tenancy at the end of the term unless the Landlord was able to oppose the renewal by relying on a number of grounds.

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This right can be particularly significant if the location of your premises are key to the operation of your business.

4. Look into Break Clauses

Do you know where your business is going to be in the next few years? Is the market relatively stable or is there a possibility that you may need to move to larger or even smaller premises in the future?

A Tenant's break clause may help to lessen some of the uncertainty as it would enable you to bring the lease to an end before the expiry of the contractual term if your circumstances were to change. You should bear in mind however that Stamp Duty Land Tax would be payable until the end of the contractual term and you would not be entitled to a refund if you were to break the lease before then.

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