

Location, location, location!

How do developers secure appropriate finance in a difficult property market? **Nick Parrett**, Head of Wilkins Kennedy's Property & Construction department offers some helpful advice

"When it comes to the financing of both residential and commercial property developments then location really is the key, with the financial institutions taking careful account of the current market values within a specific area, together with the anticipated resale value. The main clearing banks, which make a point of staffing their property teams with people who have the requisite levels of experience, are, on the whole, still continuing to support their existing clients.

In addition, some of the private equity companies are also investing equity into 'property funds' and such schemes can provide a useful alternative to the more traditional avenues of financing.

The message then, is to think more creatively when it comes to raising the necessary cash. Some developers have done this by entering into partnerships with investors, with each party sharing the funding, risks and future profits.

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However, whilst it is still possible to secure finance for residential developments in all of London's prime areas, the loan to value (LTV) proportions have been somewhat reduced, with the average LTV now standing at around 60 percent of the total value of the property.

For those seeking to fund working capital for construction firms, there are now many more niche lenders in the market who are prepared to fund applications for payment in a similar way to invoice discounting, albeit on reduced percentages. This relatively new source of finance can provide companies with much more funding than that raised by more traditional means and also reduces the need for directors and shareholders to provide tangible security.

In a difficult market it always pays to do your homework thoroughly...

Outside the capital though, it's a very different story, with developers reporting that they are finding it very difficult indeed to raise sufficient funding for residential development, particularly as the sluggish property market means that there are now large quantities of unsold stock and, in particular, a vast number of one and two bedroom apartments up for sale.

And, when it comes to funding commercial development by the traditional means, it is now almost impossible, unless the prospective units are either pre-let or pre-sold with good covenants.

The net result of this is the growth in the number of bespoke financing schemes. Given the current low level of interest rates, many private investors, are beginning to realise that speculation in the property market is a often a more attractive proposition than many other forms of investment, particularly when some developers are now offering double digit returns per annum, together with the opportunity to make such returns tax efficient, as well as providing some level of guarantee.



In a difficult market it always pays to do your homework thoroughly in order to secure the best possible deal for each individual project, and as well as identifying the most appropriate form of finance this should also include considering the precise structure of any proposed scheme and investor returns.

The property and construction industry forms a significant part of our business and thus we are continually furthering our knowledge and expertise so that we can provide our clients with the best possible help and advice, together with real long-term value."

For further information, e-mail: property@wilkinskennedy.com



Winter 2010/2011

wkproperty

Welcome

There is no doubt that the last year has been a difficult one for any company or individual operating within the property and construction sectors, which is why this special Property & Construction issue of WK News is designed to highlight some of the issues facing landlords, investors and developers as we move into 2011.

Wilkins Kennedy's specialist team is always ready to provide specific advice and help relating to any property and construction related problems, but here three team members provide more general information on some of the issues that are currently a cause for concern.

Tailoring the Service

As a leading provider of service charge certification and advisory services, Wilkins Kennedy's client portfolio incorporates many of the UK's leading Institutional Property investors, and it currently encompasses around 300 annual service charge inspections on behalf of landlords, management companies and property agents. **Anthony Seed**, the company's Service Charge Manager, explains the full scope of the company's activities.

"We provide a service for reconciliation and/or certification of service charge accounts, as well as certification of head rent accounts as deemed necessary by the head lease or landlord, together with any procedural inspection required by the landlord or agent.

Many Landlords now outsource the day-to-day asset management responsibilities to managing agents, who will be Chartered Surveying Practices and members of the Royal Institute of Chartered Surveyors (RICS). Increasingly, clients expect managing agents to achieve a high level of compliance with the RICS service charge code of practice, as although this is primarily intended to provide guidance, there is now also an expectation for the suggested reconciliation timetables to be met.

With our assistance, managing agents can achieve internal client key performance indicators and better compliance rates, thus demonstrating a proper appreciation of their overall responsibilities. Asset Management is an important element of the work that managing agents undertake, as other departments may benefit from the effects of good property management, for



The RICS service charge code of practice provides guidance towards an expected standard...

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example by receiving additional client instructions, including asset enhancement works.

Of course, there are many other issues facing agents and landlords these days. For example, tenants are increasingly querying service charge levels and are also using external agencies to review the accounts to ensure that the costs incurred are in line with the local square footage charges. These agencies generally charge a percentage of any savings made when accounts are successfully queried. External certification of accounts provides landlords and tenants with greater assurances that properties are being maintained effectively that the finances are in good order and that costs included within the account are as accurate as possible.

The longer an account remains open, the more likely it is that it will be queried. However, if the agent is managing the accounts effectively, there should be little reason for it to go beyond the three month target, or the four month RICS standard,

External certification of accounts provides greater assurance of good financial management...

so it stands to reason that the swift completion of accounts facilitated by additional preparation work, offers agents and landlords a double benefit.

Fortunately, we have more than 20 years of experience in service charge certification, during which time we have served both large and small agents and helped them to comply with either the RICS guidance for commercial property, or the Landlord & Tenant Act of 1985 for residential property. In the same way, we have worked on all types of properties, ranging from simple, single schedule accounts, to large office blocks, industrial and retail parks and shopping centres that need multi-schedule accounts amounting to millions of pounds. We also have experience in dealing with mixed commercial and residential developments.

Our approach is to tailor our services to meet the precise needs of each individual landlord or agent and to work closely with them to achieve their objectives. This usually involves outlining general timetables for our inspections, whilst also maintaining a high level of communication in order to fine-tune the suitable inspection dates and also to respond whenever our attention is required. Our standard process is to attempt to vouch 100 percent of service charge invoices in order to ensure that no non-recoverable costs are included



Stephen Grant

in the account, as well as ensuring consistency of coding and transparency of charges for regular contracts.

Head Rent and Income inspections would generally work on a sample basis, which is determined in conjunction with each agent's or client's requirements, together with any primary legal documentation.

In addition to the above services, we can, of course service all property accounting needs, including the provision of statutory accounts for management companies, company secretarial services and attendance at AGM's where necessary.

We are happy to visit client premises in order to undertake our inspections, as this also enables us to develop and maintain good relations with our contacts, but alternatively, we can also accept appropriate electronic data, either by e-mail or via the secure file exchange service that is currently under construction.

We welcome an initial consultation with all prospective clients so that we can provide a more detailed account of the services that we can offer."

The Wilkins Kennedy Service Charge team is currently headed by Stephen Grant FCA, ATII, MABRP, MIMgt (Partner) and Anthony Seed BA (Hons) Msc (Department Manager), both of whom are based in the Amersham office and who between them can boast more than 30 years of experience in this specialist area.

Staff Spotlight

Anthony Seed joined Wilkins Kennedy's Amersham office in July as Service Charge Manager, having previously worked for the company whilst studying for his BA at the University of Kent and his M.Sc at UCL. Having spent one year of his undergraduate degree at the Johannes Guttenberg Universität, in Mainz, Germany, Anthony also enhanced his ability and learned to speak German like a native, although he cheerfully confesses that his linguistic abilities are somewhat rusty these days!

Following graduation, he spent four and half years working for an international property consultant and managing agent, where he was responsible for dealing with large-scale institutional fund management.

Anthony says: "Despite the economic downturn and its effect on the whole of the property sector, an element of stability is now returning and there is a solid foundation upon which to build. I believe that this is the best time to expand our horizons and I'm greatly looking forward to demonstrating to both established and new clients how we can use our skills in this specialist area to their ultimate advantage."



VAT – no room for error!

When considering the purchase of land and buildings, the question of VAT needs to be considered at the earliest possible stage, as any errors made can later turn out to be very costly indeed.

Although the VAT law as it applies to this area last underwent a significant overhaul in August 1989, it is still subject to continuous change, which is why it is necessary to seek professional advice at the outset, if VAT payments are to be kept to the minimum. For example, consider the three following points

Future property developments

It is possible to make an 'Intending trader' VAT registration prior to the purchase of land and/or the planning of a development, thus enabling the purchaser to reclaim the input tax on professional fees and other standard rated costs as and when they are incurred. Such supplies can include:

> **The sale of a new commercial property up to three years following completion;**

or

> **The rental of commercial property after an 'option to tax' is made.**

If the development fails to reach fruition, there is normally no liability to repay the input tax that has been reclaimed.

Option to tax

The option is not transferred when the land or building is sold to a new owner. Businesses often refer to an opted building, but do not always realise that it is a person or a business that makes the option. Therefore, following any sale the new owners have to make their own option to tax in order to recover any attributable input tax.

Notifying an option

The option to tax must be notified to HMRC on form VAT1614A. Although HMRC does sometimes accept belated notifications, it is not possible to make an option belatedly and thus the owner is unable to reclaim attributable input tax.

Wilkins Kennedy is happy to advise on all of the above, plus the many other VAT issues that arise when buying or selling land and/or buildings.

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