

## CASE STUDY: SALE OF FOUR-STOREY FREEHOLD PREMISES WITH ANCILLARY UNITS AND DEVELOPMENT OPPORTUNITY

VALUE: £1,325,000.00



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**Client:** LPA Receiver Client and Mortgage Lender Client

**Matter Type:** Freehold Receiver sale involving 10 flats (5 vacant, 5 already subject to long leases), two separate neighbouring freehold units and a plot of adjoining potential development land.

### Background

The LPA receiver was appointed by the lender to manage and sell the secured asset over which they held a charge following the default of the borrower on the loan.

The Receivers instructed us to assist with various matters relating to the ongoing management, dealings and sale of the property. This included agreeing a deed of variation in respect of the terms of one of the long leases of the residential flats that had already been put in place as well as the preparation of full auction packs (including auction contracts, Transfers of Part, searches, planning documentation and all relevant papers and documentation) to deal with the sale of the three separate parcels of land to maximise the sale potential of the property as quickly and efficiently as possible.



## Our Role:

Acting on behalf of the Receivers in a sensitive situation such as this, we take the time to review and understand the property and all matters affecting it. We carry out detailed reviews and investigations, raise any issues which we believe could impact on the sale, discuss objectives and propose solutions to deal with any problems. We stay in regular contact with the Receivers and provide a proactive rather than reactive service. We liaise with the relevant parties pre and post completion to achieve the desired outcomes.

## Key Responsibilities:

- Careful and detailed review of title and associated matters (including planning permissions, planning agreements and CIL aspects) relating to the property from the available information and documentation
- Proactive rather than reactive approach
- Assisting with the proposed disposal strategy
- Highlighting any issues which may hinder the sale but, more importantly, proposing solutions to deal with them
- Deal with the negotiation of new tenancies/leases/variations prior to the sale, and taking any other steps appropriate to the transaction
- Assist with the successful sale of the property/asset
- Maintaining contact with clients and providing regular updates
- Dealing with the appropriate distribution of the proceeds of the sale to relevant parties





## Key Challenges and Our Solutions

- Unusual property arrangement – We needed to assess how rights would be granted if the properties were sold separately by way of Transfers of Part. This involved ensuring Land Registry compliant plans were produced, identifying the boundaries of each property along with any amenity space and/or patio/garden area which may exist, and any access roads, car parking spaces and/or communal facilities that need to be referred to.
- Legal complexity- Consideration of whether Rights of First refusal apply under the Landlord and Tenant Act 1987 and whether Section 5 Notices needed to be served.
- Reviewing a Deed of Priority and dealing with any Notice requirements for the Second Charge Holder. Also ensuring that the correct form of Transfer is used in order to overreach the second charge if required to confer title on the buyer free from charges and encumbrances ranking subsequent to the first mortgagee's security.
- Reviewing Planning Permission, CIL position and Section 106 Agreement.
- Deed of Variation in relation to an existing lease and ensuring the required changes were made.
- Ensuring the contracts, deed of variation, transfers and all associated documents include the relevant Receiver protection provisions.
- The original contracting purchaser wished to purchase in another entity and as such a Deed of Novation needed to be put in place.
- The contracting party failed to complete on the contractual completion date resulting in the need to serve Notice to Complete.
- Complex completion statements required dealing with each of the properties and the required rent apportionments (including arrears) as well as interest and other costs payable as a result of the delayed completion.



## Outcome

- Successful completion of Deed of Variation
- Cost savings for the Lender and risk mitigation for the LPA Receiver.
- Successful completed sale of the property as a whole.
- Strengthened client relationship and continue to act on other matters

If you have any queries or require further information, you should seek full and comprehensive advice. Our commercial property team at Lightfoots Solicitors is here to provide expert legal guidance, please get in touch to discuss your specific needs.

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