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EPCs - ARE YOU READY?



KEY DEALS



Urban Regeneration

Kirkby & Diamond has acquired for Storey Property Developments both the former De Montfort University site, an 8 acre brown field site for regeneration north of Bedford Town Centre and the former MOD housing land in Cambridgeshire. K&D has been appointed as lead consultant to project manage the development of both sites including the sites' promotion in the policy process and the more detailed master planning of the areas.

More key deals on back page.

The impact of the EU Energy Performance of Buildings Directive is no longer restricted to residential property. As from OCTOBER of this year an Energy Performance Certificate (EPCs) must be provided for the construction, sale or rental of commercial buildings. If not, the premises owner, and Agent, may be subject to a fine.

A sceptical view is that nothing much will actually change except the cost of marketing the property; particularly unwelcome in the current climate. However, the intention is evidently to give new occupiers a clearer idea of their ongoing energy costs which would hopefully encourage them to improve the building's energy efficiency and hence not only save them money but reduce the country's energy debt.

Although their introduction has been phased in since April, it will apply to all buildings with a floor area over 50 square metres by October 2008. However, properties that were put on the market before 1st October have a grace period until 4th January 2009. The EPC must be made available to the prospective buyer or tenant so must be in place at the marketing stage.

The impact of energy certificates on the value of commercial properties is yet to be ascertained. Energy inefficient buildings tend to be of more dated construction, attracting a lower value as a consequence. However, it is possible that the marketability of newer buildings may be affected if they fall into inferior energy assessment bands. More so if there is a directly comparable option with a better rating available.

The cost of the energy certificates may also prove to be a prohibitive factor on decisions to market commercial property. If significant, this factor could reduce the supply of property to the market, which in turn would put upwards pressure on the value of commercial property generally. It is possible that vendors will cease to 'test the market' only putting their properties on the market after a final decision to dispose has been made.

However, with so many other factors having a strong impact upon property prices at the present time it is unlikely that any effect on prices would be significant. Occupants will decide for themselves how important energy efficiency is compared to location, accommodation or lease terms.

An EPC can only be prepared by an accredited assessor. It involves a site inspection and a subsequent assessment of the building fabric and its associated services.

Kirkby & Diamond can arrange for an EPC on your building or market your property. Contact Peter Wilson FRICS at Milton Keynes office on 01908 678800.

GET A SITE WASTE MANAGEMENT PLAN, NOT A CONVICTION!

New regulations came into force in April 2008 requiring all clients on any construction project in England costing over £300k (be it for new build, maintenance, alteration or services installation) to arrange for the preparation of a Site Waste Management Plan (SWMP).

The SWMP details the manner in which building materials, and construction waste, is to be managed during the project. The intent of the SWMP is to ensure that building materials are managed efficiently, waste is disposed of legally; and that material recycling, reuse and recovery is maximised. Done well, the plan should be seen as a way of potentially saving money through reduced landfill charges as well as increasing the environmental credentials of projects.

It is the client's responsibility to ensure a SWMP is initially written, together with being followed and updated during the project by the principle contractor. It should be noted that the plan is required to be in place and updated for the whole of the construction planning phase through to post completion.

There are two types of SWMP depending on the cost of the project with the more detailed version applying to projects worth over £500k.



Kirkby and Diamond now help clients and contractors ensure compliance within this largely self regulated area although site inspections can be made by local authorities and Environment Agency officials to check the existence as well as adequacy of plans. Failure to comply can lead ultimately to a prosecution under the Regulations.

The key principles applied to waste are now to Eliminate, Reduce, Re-use, Recycle and if necessary, to dispose.

For further information or advice on these new regulations please contact Piers Willmott MRICS or Peter Turner FRICS, in the Construction team at the Milton Keynes office on 01908 678800.

LEASEHOLD ENFRANCHISEMENT



The Deferment yield is a fundamental aspect in valuation for collective enfranchisements and lease extension valuations. A 5% rate, based on predominantly London properties is being argued as somewhat inequitable. Kirkby & Diamond Partner, Jean Howe is involved in a case arguing just this point.

Following the Lands Tribunal decision in *Cadogan v Sportelli*, deferment yields were set at 5% for all collective enfranchisement and lease extension valuations. This resulted in most ordinary tenants, having to pay an extra £3,000 - £8,000 to their landlords for an individual lease extension or collective enfranchisement.

Subsequently in October 2007 a Court of Appeal decision was issued on a number of Lands Tribunal decisions which considered the matter of the deferment rate.

As all of the cases considered concerned properties located in Prime Central London the comments of Lord Carnwath have "opened the door a chink" in respect of properties outside of Prime Central London.

He stated in his reasons:

"However it is possible to envisage other evidence being called, for example, on issues relevant to the risk premium for the residential property in different areas. That will be a matter for those advising future parties and for Tribunals, to consider as such issues arise".

Jean Howe is currently involved in a major case on a collective enfranchisement of 127 flats. She is representing the tenants to argue that a 5% deferment yield should not apply to lower value areas in Herts, Beds, and Bucks.

A hearing is scheduled as we go to print. More will be known about the Tribunal's reactions to such an argument when that decision is published.

For knowledgeable, current advice on the present situation of the law and valuations for lease extensions or collective enfranchisement, please contact Jean Howe FRICS at the Luton office 01582 738866 or jean.howe@kirkbydiamond.co.uk

Q&A



Empty Property Rates

Q: I own and let a number of factory buildings. How will the new rules for Empty Property Rates affect me?

A: Prior to 1st April 2008 factories and warehouses, which were empty, were exempt from business rates. The Government has now introduced new rules which mean that factories and warehouses will now be liable for full rates after being vacant for 6 months.

KIRKBY & DIAMOND SERVICES

Commercial Property

Purchase Sale and Lease
Property Management
Landlord and Tenant
Valuations
Development
Rating
Investment
Surveys
Dispute Resolution

Planning and Development

Strategic Planning
Land Use and Development Appraisals
Planning Applications, Appeals & Enforcement
Design & Access Statements
Project Management
Urban Regeneration
Option Agreements
Overage and Clawback

Compulsory Purchase and Compensation

Road Scheme Compensation
Objecting to Orders
Blight Notices
Disturbance
Pipelines and Powerlines
Telecoms
Remediation and Reinstatement
Wayleaves and Easements
Dispute Resolution
Ransom Strips and Strategic Land

Building Surveying

Project Management
Fire Regulation Survey
Asbestos Survey
Dilapidations and Schedules of Condition
Building Surveys
Party Wall Matters
Building Regulations
Dispute Resolution
Feasibility Studies

Quantity Surveying

Feasibility Studies & Cost Planning
Construction Procurement
Financial Management – Construction Projects
Project Administration
Contract Consultancy
Dispute Resolution
CDM Co-ordinator (Health & Safety)

Rural Practice

Purchase Sale and Lease
Estate Management
SPS, Grants and Subsidies
Agricultural Law
Dispute Resolution
Landlord and Tenant
Diversification
Planning and Development
Wayleaves and Easements
Valuations
Environment and Stewardship
Planning Applications

PLANNING UPDATE



At a time of increased pressure on the development industry the Government is pressing ahead with its housing delivery strategy.

However, in the current market the private sector may find it increasingly difficult to deliver significant levels of housing plus the levels of financial contributions and other benefits that Local Planning Authorities may be looking for. There is particular concern that unrealistic expectations are being placed on developers. This may lead to schemes at best being postponed or work becoming unviable in short and perhaps even longer terms.

The Government is again reviewing the planning system in terms of delivery and has recently announced a range of measures to assist developers. However, planning tariffs and financial obligations are going to need careful consideration by both developers and the Government, as will the increasingly higher levels of affordable housing that is being required. It is NOT the case that most developers wish to avoid necessary contributions, but in the current market, these are a greater burden than might normally be the case.

Review of the Planning Application Process

A review entitled 'Planning Applications: a faster and more responsive system' has been announced and will examine potential disruptions to the progress of an application. The study will report to Caroline Flint and Baroness Vadera and will:

- See where bottlenecks and delays occur and explore with stakeholders, such as local authorities, how the application process can be improved.
- Look at how technology such as e-planning can improve the process for people and planners.
- Look at how, for example, a more proportionate requirement for the supporting material required with an application might be better.
- Consider how statutory consultees like The Highways Agency, Environment Agency and Natural England engage sooner with the application process.

Planning application fees

Circular 04/2008, dated 9 April 2008, has replaced the older Circular 31/92 which sets out the planning fees and the method of calculation of these fees. Changes included in the new Circular:

Statutory application fees have increased by around 25% from 6 April 2008 due to the amendment to the Town and Country Planning (Fees for Applications and deemed applications) (amendment) (England) regulations 2008. The total limit on the amount of fee payable has been raised considerably.

Contact Andrew Wright FRICS FAAV - Planning & Development or Ross Leal MRTPI - Town Planning at the Milton Keynes office on 01908 678800

For more information or to view properties online go to www.kirkbydiamond.co.uk or call MK: 01908 678800 or Luton: 01582 738866

There is a limited number of exemptions:

- listed buildings;
- properties with a Rateable Value of less than £2,200;
- properties where the company is in liquidation or administration.

There are some possible ways of avoiding or reducing tax but these will depend on the individual property and include:

- Properties which are incapable of beneficial occupation. A property may be in such poor condition that it is incapable of economic repair. However, the Government are wise to any deliberate "constructive vandalism".
- Intermittent Occupation: When a property is occupied for at least 6 weeks and then becomes

vacant again it will be able to claim a further exemption period of 6 months (3 months for non-industrial property).

- Properties in the course of development or refurbishment. For a building to be assessed for rates it must be sufficiently complete to be capable of rateable occupation. However, merely leaving a building uncompleted may not be sufficient, as the rating authority can serve a Completion Notice which will, in effect, mean that an uncompleted building will be treated as if it was finished.

This is not intended to be an exhaustive list of possible tactics, each case is individual and there may be other viable solutions available.

Contact: Jean Howe FRICS, Luton office on 01582 738866 or Peter Wilson FRICS, Milton Keynes office on 01908 678800

KIRKBY & DIAMOND PEOPLE

K&D are pleased to confirm that they will be continuing to sponsor local team Woburn Lion Tornadoes in the 2008/9 season. According to the team manager the sponsorship has enabled them to buy new training equipment which has not only made the sessions more fun but improved enthusiasm, fitness and skill levels. Sponsorship has also enabled the players names to be printed on the backs of their shirts.

They players are all passionate about football and dedicated to their team. Their hard work has shown in their results as they have grown progressively stronger together since forming only a year and a half ago.

All at K&D wish them luck in the new season.

K&D U9s Sponsorship



Neil Fraser - MRICS FAAV

Neil Fraser joined Kirkby & Diamond's Milton Keynes office in July, as a Senior Rural Surveyor. Neil joins the firm from Strutt & Parker where he was responsible for the management of several large rural estates. His experience is varied, having worked at several of the larger rural surveying practices – notably Cluttons and Bruton Knowles.

In the past he has been involved in all aspects of compulsory purchase work – from water and gas pipelines to major road schemes and acted for both land-owners and acquiring authorities. He has, however, covered all aspects of rural property advice – including valuations, telecoms, lettings, diversification and planning. Neil's remit at Kirkby & Diamond is to further develop the firm's service provisions to its rural property owning clients.



Scott Oke - MRICS MBEng

Scott Oke joined the K&D Milton Keynes Office in May 2008 as a Senior Building Surveyor. Scott previously held similar positions at EC Harris' Birmingham office and Russen & Turner Chartered Surveyors based at Peterborough.

In previous years, he has been involved in a wide range of building surveying services including; building surveys, project management, contract administration and acting as surveyor appointed on a number of party wall matters for both public and private sector clients. Scott is keen to further develop building surveying at Milton Keynes to existing and potential new clients.



Gemma Templeman - MRICS

Eleven years ago, aged 16, Gemma Templeman started at Kirkby & Diamond as an office junior. Today she is a fully qualified building surveyor. Her interest started later when founding partner, Duncan Kirkby, decided that all support staff should have the opportunity to accompany surveyors on site to help them appreciate the impact their role has on the surveyor's job and the customer's requirements.

Consequently, Kirkby & Diamond paid for Gemma to take a Building Surveying degree part time, which she completed in 4 years with 1st Class Honours. In less than 3 years Gemma had completed her APC at the firm. During this time she had to prove her competence across all Building Surveying skills to an internal assessor then sit an external exam to become qualified as a Member of the Royal Institution of Chartered Surveyors (MRICS).

Kirkby & Diamond currently employs five graduate surveyors, working towards their APC, who enjoy a broad spectrum of work experience and benefit from close support and guidance, in particular from partner, Jean Howe, who is an external APC Assessor.

MORE DEALS

Rubicon West Plc

Acting on behalf of Rubicon West Plc Kirkby & Diamond have successfully let over 15,000 sq ft at Wigmore Park, Luton, after non - occupancy for 10 years of this bare concrete shell.

The client fitted out over 5,000 sq ft of the space on a speculative basis and K&D successfully found a tenant. K&D then found a tenant to carry out the extensive fit out of the remaining 10,000 sq ft. K&D's advice and involvement helped to realise the clients full asset potential, with both achieving an office rental level at the top end for passing rents in Luton.

Arnold White Estates

K&D sold to Arnold White Estates Limited the freehold of a property in Vimy Road Leighton Buzzard, a 2,116 sq ft modern office building. Arnold White are currently occupying the adjoining unit and were keen to acquire the adjacent freehold as part of a planned expansion.

2H Aqua Ltd

Acting for 2H Aqua Ltd, part of GEA the German industrial conglomerate, K&D have negotiated occupational terms for this established manufacturer and distributor of rainwater and waste water processing components. Brackmills Industrial Estate, Northampton was identified as the ideal base for the amalgamation and relocation of their factories in Upper Heyford, Oxfordshire and Huntingdon, Cambridgeshire. As well as acquisition expertise, K&D are also providing building and project management consultancy in addition to the town planning advice provided earlier in the acquisition.

Leighton/Linslade

K&D are involved in the master planning environmental impact assessment for an Urban Extension project. This involves 2 local Planning Authorities and other Public Agencies on this major residential mixed use development, planned to provide an exemplar for a Sustainable Urban Extension.

Measurement Technology Ltd

Work is now well underway on their new headquarters building at Butterfield Green, Luton. K&D are acting as Employer's Representative for the construction and outfitting work on this prestigious new development of 90,000 sq ft.

Salisbury House Surgery

Tenders are now in for the proposed conversions and alterations to this surgery in Leighton Buzzard, adjacent to Cox & Robinson Chemists. K&D are acting as Project Managers and Quantity Surveyors for the work which is due for completion in early 2009.

Contact Eamon Kennedy MRICS, Luton office 01582 738866 or Jay Raj, Milton Keynes office 01908 678800