

# LPC BUDDY

Advanced Real Estate  
2024



THE DEFINITIVE,  
DISTINCTION QUALITY  
STUDY GUIDE FOR THE LPC

CUT DOWN YOUR READING.  
EASE YOUR EXAM STRESS.  
GET THE GRADE YOU NEED.



Preview file only.

Features available in the full version of LPC Buddy, such as copying, pasting, and printing, have been disabled



### Advanced Real Estate

<b>1. Site Acquisition - Preliminary Steps</b>	
1. Joint Property Ventures	1-5
2. Features of Different Joint Venture Structures	6
3. Methods of Financing a Property Development	7
4. Key Issues for Commercial Developments	8-9
5. Essential Searches - Table	10-17
6. Non-Essential Searches - Table	18-21
7. Investigation of Title	22-36
<b>2. Managing Environmental Risks</b>	
1. Protections in Relation to Contaminated Land	37-42
2. Contaminated Land - Is the land contaminated	43-53
3. Contaminated Land - What happens if the land is contaminated	54-60
4. The Law Society Practice Note on Contaminated Land	61-65
5. Nuisance & Trespass	66-68
6. Asbestos	69-73
7. Other Environmental Regulation	74-80
<b>3. The Contract</b>	
1. The Contract	81-87
2. Report on Conditional Agreement for Sale	88-91
<b>4. Planning Permission</b>	
1. When is Planning Permission Needed	92-103
2. Permitted Development Rights	104-110
3. Steps to take Before Applying for Planning Permission	111-114
4. Planning Application Procedure	115-123
5. Planning Conditions	124-128
6. Planning Obligations (s106 Agreements)	129-134
7. The Community Infrastructure Levy	135-142
8. Planning Appeals	143-149
<b>5. Enforcement of Planning Control</b>	
1. Lawful Development Certificates	150-151
2. Methods of Enforcement of Planning Control	152-163
3. Advising a Local Planning Authority on Breaches of Planning Permission	164-168
<b>6. Procurement of the Construction and Design Team</b>	
1. Parties to a Design and Construction Team	169-172
2. Forms of Construction Procurement	173-179
3. Methods of Calculating the Price Payable under a Building Contract	180-181
4. Analysing an Architect's Appointment	182-183
5. Protection of Third Parties	184-189
<b>7. Defects in Design &amp; Construction - a Tenant's Perspective</b>	
1. Agreements for Lease	190-194
<b>8. Repair, Insurance and Service Charge in Commercial Leases</b>	

1. Tenant's Repairing Covenant	195-198
2. Insurance	199-205
3. Leases of Part	206-212
4. Lease Repairs - Exam Technique	213-218
5. RICS Professional Statements and Codes Relevant to Commercial Leases	219-222
<b>9. Rent Review Clauses</b>	
1. Types of Rent Review Clause	223-225
2. Key Provisions in Rent Review Clauses	226-235

<b>Colour Coding Guide</b>	<ul style="list-style-type: none"> <li>❖ <b>Blue Text</b> – Reference to statutes and case law.</li> <li>❖ <b>Green Text</b> – Reference to textbook<sup>1</sup> paragraphs, workshop tasks<sup>2</sup> and other notes in this guide.</li> <li>❖ <b>Orange Text</b> – Reference to Land Registry and property search forms.</li> <li>❖ <b>Red Text</b> – Reference to the Standard Commercial Property Conditions ('SCPC').</li> </ul>
----------------------------	---

[www.lpcbuddy.com](http://www.lpcbuddy.com)  
[support@lpcbuddy.com](mailto:support@lpcbuddy.com)



<sup>1</sup> Textbook references are to the CLP Legal Practice Guides by CLP Publishing.

<sup>2</sup> References to Workshop tasks are to University of Law workshop tasks (which may be adopted by other LPC institutions). The content and structure of Workshops is subject to change at short notice and so task references should be treated as a general guide only.

---

# 1. Site Acquisition - Preliminary Steps

---



1. Joint Property Ventures	1-5
2. Features of Different Joint Venture Structures	6
3. Methods of Financing a Property Development	7
4. Key Issues for Commercial Developments	8-9
5. Essential Searches - Table	10-17
6. Non Essential Searches - Table	18-21
7. Investigation of Title	22-36

**Joint Property Ventures**

❖ [Commercial Property; 1.3-1.4](#)

<p><b>What is a joint venture?</b></p>	<ul style="list-style-type: none"> <li>❖ A joint venture is a <b>commercial arrangement between two or more economically independent entities</b>, through which they will undertake business activities and projects.</li> <li>❖ Most larger property developments will be joint ventures, principally due to the <b>high level of financial risk</b> involved.</li> <li>❖ A joint venture has no specific meaning in English law; they are <b>not legal entities in and of themselves</b> (unlike a partnership or limited company). An initial question, therefore, for the participants is <b>how to structure their arrangement</b>. Often, this will be by way of <b>establishing a separate legal entity as a vehicle for the joint venture</b>. Various options for structuring the venture are set out below.</li> <li>❖ The laws that apply to the joint venture will <b>depend on the chosen structure; no law in England and Wales</b> relates specifically to joint ventures.</li> </ul>
<p><b>Benefits of structuring as a joint venture.</b></p>	<ul style="list-style-type: none"> <li>❖ Costs and risks are <b>shared</b>.</li> <li>❖ A developer may find it <b>easier to obtain funding</b> when they are not taking on all risk alone.</li> <li>❖ Enables those <b>wishing to invest funds to become parties to the venture</b>, allowing them to <b>share profits</b> and obtain a <b>degree of control</b> over the nature of the development.</li> <li>❖ Enables <b>landowners and those without skills in a particular aspect of property development</b> to undertake them competently through <b>specialists being parties to the venture</b> (such as environmental contractors).</li> </ul>
<p><b>Matters to be agreed before commencement.</b></p>	<ul style="list-style-type: none"> <li>❖ Before commencing the joint venture, the parties will need to agree on various matters, including:             <ul style="list-style-type: none"> <li>➤ Detailed business plan.</li> <li>➤ Possible exit strategies.</li> <li>➤ Duration.</li> <li>➤ Terms of dissolution.</li> <li>➤ Management arrangements.</li> <li>➤ Confirmation of the financial credentials of proposed joint venturers.</li> <li>➤ Profit/loss shares for each party.</li> <li>➤ Financial contributions between each party.</li> <li>➤ Each party’s involvement in the development works.</li> <li>➤ The form the venture will take.</li> </ul> </li> </ul>

**Structures<sup>1</sup>**

❖ [Commercial Property; 1.4](#)

<b>Overview</b>	❖ There are a <b>variety of structures that can be used</b> to allow multiple parties to participate or contribute to the venture, including:
-----------------	---

Structure	What is it?	Pros	Cons
<b>Private limited company.</b>	<ul style="list-style-type: none"> <li>❖ The parties will set up a new company (known as a “special purpose vehicle” (SPV)) and become shareholders in it.</li> <li>❖ This allows the shareholders <b>to invest different amounts into the company.</b> <i>The company then purchases the property and enables each shareholder to receive a differing profit share in the form of dividends.</i></li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>Quick and easy</b> to set up.</li> <li>❖ In default of a shareholder agreement, the <b>arrangements will be governed by company law</b> which is tried and tested.</li> <li>❖ <b>Limited liability.</b> Risk is capped to the extent of the shareholder’s capital contribution.</li> <li>❖ On completion of the development, <b>ownership can be transferred by the developer selling shares</b> in the SPV. Subject to anti-avoidance rules, this <b>brings a potential tax benefit</b> to a <b>buyer</b> of the development (the basic position is that a purchase of land will be subject to an SDLT charge at 2% over the value of £150,000, and 5% over the value of £250,000, however a purchase of shares attracts Stamp Duty at 0.5% on the consideration).</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>Double taxation:</b> <ul style="list-style-type: none"> <li>➤ The joint venture limited company will be <b>subject to corporation tax on its income and capital gains</b> from property held as investment.</li> <li>➤ Shareholder companies will also then be <b>subject to corporation tax on the dividends</b> issued by the SPV.</li> </ul> </li> <li>❖ <b>Admin</b> (e.g., annual returns and accounts filings at Companies House).</li> <li>❖ <b>Lack of privacy</b> (due to the need to file documents at Companies House).</li> <li>❖ <b>Stamp Duty Land Tax:</b> if the property is owned by a participant and has to be transferred to the SPV when the joint venture is formed, a <b>charge to SDLT will arise when the property transfer takes place</b> (which may disincentivise buyers).</li> </ul>
<b>General partnership under the <a href="#">Partnership Act 1890.</a></b>	<ul style="list-style-type: none"> <li>❖ The participants enter into a partnership agreement to purchase the property, which regulates the way in which</li> </ul>	<ul style="list-style-type: none"> <li>❖ The partnership agreement is <b>flexible and can be tailored to meet the needs of the partners.</b></li> <li>❖ <b>Tax transparency:</b> Partners will be taxed on their own share of the</li> </ul>	<ul style="list-style-type: none"> <li>❖ The <a href="#">Partnership Act 1890</a> will apply, meaning that whatever the agreement says, the <b>participants will have statutory obligations</b> which, to the extent that they cannot be overridden by the contractual arrangement</li> </ul>

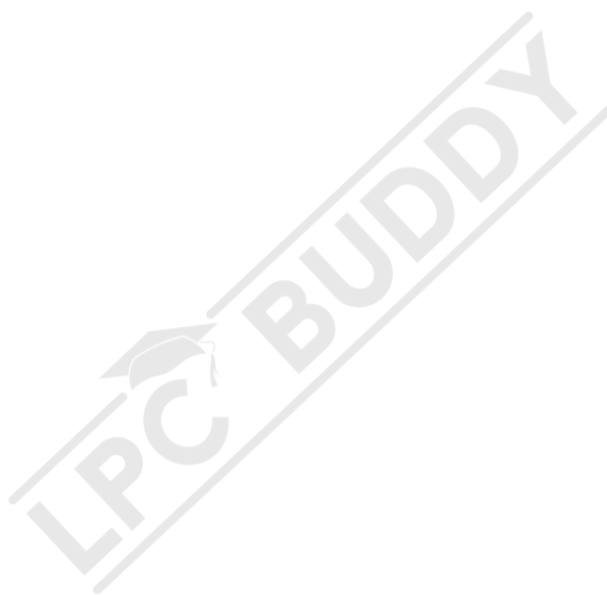
<sup>1</sup> [Workshop 1, Task 2](#)

	<p>risks and profits are shared, and the responsibilities of each partner.</p> <ul style="list-style-type: none"> <li>❖ The property will then be <b>held in the name of the partnership.</b></li> <li>❖ It is far less frequently adopted than an SPV due to the <b>number of disadvantages</b>, principally the absence of limited liability.</li> </ul>	<p>profits and capital gains separately, and will be able to choose how to best use their own deductions and reliefs.</p> <ul style="list-style-type: none"> <li>❖ The fact that the <a href="#">Partnership Act 1890</a> applies gives certainty of a default position should unexpected events occur (vs a joint venture contract where no such default provisions will apply).</li> <li>❖ No requirement to file annual returns, etc.</li> <li>❖ Privacy of accounts.</li> </ul>	<p>between the parties, will affect the duties of the participants to each other and third parties.</p> <ul style="list-style-type: none"> <li>❖ <b>Unlimited liability.</b> Each partner will be wholly liable for the debts and obligations of the partnership, so the partners must know and trust each other to a very high degree.</li> <li>❖ There is <b>no legal vehicle</b> with its own externally recognisable management structure and indefinite life in which the <b>assets and liability of the venture can be vested.</b></li> <li>❖ <b>Difficult to change participants</b> due to (a) rules on dissolution, and (b) the fact that partnership shares are non-assignable.</li> <li>❖ A <b>charge to SDLT</b> will arise when property is <b>transferred to the partnership</b> (if one of the participants already owns the property, this would be avoided with a joint venture contract).</li> <li>❖ The <b>legal interest in the property can only be held by up to four people</b>; if there are more than four partners, only the beneficial interest will vest in all of the partners.</li> </ul>
<p><b>Limited Liability Partnership (LLP).</b></p>	<ul style="list-style-type: none"> <li>❖ An LLP is a form of corporate business entity, which: <ul style="list-style-type: none"> <li>➤ Is legally separate from its members;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>Offers the flexibility and tax transparency of a partnership whilst offering limited liability for its members.</b></li> <li>❖ Member’s agreement can remain private.</li> </ul>	<ul style="list-style-type: none"> <li>❖ The <a href="#">Limited Liability Partnerships Act 2000</a> will apply, meaning that whatever the agreement says, the <b>participants will have statutory obligations</b> which, to the extent that they cannot be overridden by the contractual arrangement</li> </ul>



	<ul style="list-style-type: none"> <li>➤ Has the tax status of a partnership;</li> <li>➤ Has limited liability for its members.</li> </ul> <ul style="list-style-type: none"> <li>❖ The property would be held by the LLP.</li> </ul>		<p>between the parties, will affect the duties of the participants to each other and third parties.</p> <ul style="list-style-type: none"> <li>❖ Similar <b>accounting and filing requirements to a company</b>, but the member’s agreement itself is private.</li> <li>❖ <b>Lack of a transferable shareholding.</b></li> <li>❖ A <b>charge to SDLT</b> will arise when property is <b>transferred to the LLP</b> (if one of the participants already owns the property, this would be avoided with a joint venture contract).</li> </ul>
<p><b><u>Contractual joint venture (a “co-operation agreement”).</u></b></p>	<ul style="list-style-type: none"> <li>❖ Alternatively, the parties may not choose to set up a separate legal entity at all, but will merely <b>enter into a contract that sets out the terms of their agreement.</b></li> <li>❖ The rights and duties of the participants, and the duration of their legal relationship, will derive from the provisions of the contract and the general common law.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Flexible and responsive to parties’ individual needs; each party's financial commitment and duties are set out in the contract.</li> <li>❖ Allows participants to have a direct interest in the relevant assets and revenues whilst avoiding the relative formality and permanence of a corporate structure, or the degree of integration of a partnership.</li> <li>❖ SDLT is avoided if one of the parties already owns the property, as there is no need to transfer the ownership of the site to a separate legal entity.</li> <li>❖ <b>“Tax transparent”</b>: each party will be responsible for payment of income tax on its profits and capital gains tax (CGT) on its capital gains, and will get</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>Unlimited liability.</b></li> <li>❖ <b>No separate legal vehicle</b> in which assets and liability of the venture can be vested.</li> <li>❖ <b>Risk of a partnership being created accidentally</b> if the definition in <a href="#">s1 Partnerships Act 1890</a> is satisfied.</li> </ul>

		<p>the direct benefit of any tax deductions and reliefs.</p> <ul style="list-style-type: none"><li>❖ Limited likelihood that a party may end up liable for the actions of another participant (unlike in the case of, for example, a company, where the SPV itself would have a claim brought against it).</li></ul>	
--	--	--	--



**Features of Different Joint Venture Structures – Summary Table**

<b>Overview</b>	<ul style="list-style-type: none"> <li>❖ This table is an alternative means of displaying the information contained in our note on <a href="#">Joint Property Ventures</a>, set out in the manner required by the <a href="#">University of Law, Workshop 1 Consolidation task</a>.</li> <li>❖ A green cell denotes an advantage, and a red cell denotes what is generally a disadvantage.</li> </ul>
-----------------	---

Feature	Joint Venture Contract	Joint Venture Partnership	Special Purpose Vehicle Company
<b>Ability to negotiate written terms.</b>	Yes	Yes	Yes
<b>Statutory codes.</b>	Limited; subject to common law and statute only where applicable to contracts.	Yes ( <a href="#">Partnership Act 1890</a> ).	Yes ( <a href="#">Companies Act 2006: Model Articles</a> etc.).
<b>Is there a charge to tax on a transfer into/out of JV?</b>	No	SDLT is payable if the property is transferred from a third party to the Joint Venture Partners, or from a single partner to the Joint Venture Partnership.	SDLT is payable where property is transferred to/from the company (because the company is a separate legal entity).
<b>(a) The participants and (b) the Joint Venture vehicle are taxed separately?</b>	Yes (each party is subject to Income Tax and CGT separately).	Yes (each partner is taxed separately on its share of the profits and capital gains).	Yes (SPV pays corporation tax; each shareholder will pay income tax on any dividends issued).
<b>Choice to sell the Joint Venture vehicle or the Property.</b>	No	No	Yes (can sell Company Shares).
<b>Unlimited liability for losses.</b>	Unlimited	Unlimited	Limited
<b>Liability for defaults of other parties.</b>	Unlimited	Unlimited	Limited
<b>Statutory registration and reporting requirements.</b>	No	Yes	Yes

## Methods of Financing a Property Development

### ❖ [Commercial Property; 2.1](#)

<b>Overview</b>	❖ There are various methods by which a buyer of property may fund an acquisition of commercial property. The main options are as follows:
-----------------	---

Method	Explanation
<b>Share capital.</b>	<ul style="list-style-type: none"> <li>❖ If the buyer is a company, it may be able to raise capital by issuing more shares (i.e., <b>creating new shares in the company and offering these for sale to investors</b>).</li> <li>❖ This is a method of raising finance that <b>avoids indebteding the buyer</b>, but can result in <b>“dilution” of current shareholders</b> whereby their dividends may be reduced, as well as their voting power and capital rights.</li> <li>❖ If the company is publicly listed, it must comply with additional regulations before it can consider issuing new shares.</li> </ul>
<b>Forward funding.</b>	<ul style="list-style-type: none"> <li>❖ “Forward funding” is where an <b>institutional investor</b> with large reserves of capital (such as a pension or life insurance fund) <b>finances the development</b>.</li> <li>❖ The institutional investor finances the development from the start and pays for everything, in return for a <b>lower purchase price than if they had invested in a completed development</b>.</li> <li>❖ The developer <b>reduces their risk and receives a fee</b>, but will only receive a share of the profits once the development is completed and let.</li> </ul>
<b>Equity funding.</b>	<ul style="list-style-type: none"> <li>❖ Similar to forward funding, equity funding is where an institutional investor and developer form a joint venture company, with the investor <b>taking preference shares to ensure a priority return on their investment</b>.</li> </ul>
<b>Sale and leaseback.</b>	<ul style="list-style-type: none"> <li>❖ An owner of a freehold property can raise funds by selling the property and <b>immediately leasing it back at market rent</b>.</li> <li>❖ This allows the owner to raise capital for other purposes, while the buyer receives a return on their investment through the rent paid by the former owner.</li> </ul>
<b>Debt finance.</b>	<ul style="list-style-type: none"> <li>❖ Debt finance refers to <b>borrowing money from banks or alternative credit providers</b>.</li> <li>❖ Even if a buyer has sufficient cash to purchase a property, if it can achieve a higher <b>return by investing that cash than the interest it pays on a loan, then it makes sense for the buyer to fund through borrowing</b>.</li> <li>❖ The drawbacks are that the borrower will run the risk of default, must be able to provide security, and will have to pay fees and interest.</li> </ul>

**Key Issues for Commercial Developers to Consider<sup>1</sup>**

❖ [Commercial Property, Chapter 9](#)

<b>Overview</b>	❖ A commercial property developer should be mindful of several matters when conducting its searches and enquiries. The following table briefly outlines such matters.
-----------------	---

<b>Local Search and Enquiries</b>	<ul style="list-style-type: none"> <li>❖ The developer will generally want to pay for and ask all optional enquiries in the <a href="#">CON29Q</a>, covering matters such as:             <ul style="list-style-type: none"> <li>➤ The location of <b>public footpaths or bridleways</b>.</li> <li>➤ The location of <b>gas pipelines</b> to see if any run under or near the property.</li> </ul> </li> </ul>
<b>Planning Matters</b>	<ul style="list-style-type: none"> <li>❖ Is there <b>planning permission in place?</b></li> <li>❖ Have there <b>been any past applications</b> which have been unsuccessful?</li> <li>❖ What <b>type of land use</b> is currently indicated by the Local Planning Authority (LPA) in its development plan?</li> <li>❖ Are there any existing or proposed <b>tree preservation orders?</b></li> </ul>
<b>Drainage</b>	<ul style="list-style-type: none"> <li>❖ How does foul and surface water <b>currently drain away</b> from the property to public sewers? Will this be able to <b>cope with drainage from the developed site?</b></li> <li>❖ Conduct a search on <a href="#">CON29DW</a> to be able to estimate this.</li> </ul>
<b>Highways</b>	<ul style="list-style-type: none"> <li>❖ Can the site be accessed sufficiently from the public highway?</li> <li>❖ Is there any risk of land in private ownership becoming a ransom strip?</li> <li>❖ Are any new highways proposed which could affect the development?</li> </ul>
<b>Railways</b>	<ul style="list-style-type: none"> <li>❖ Is there a railway near the property, or is one proposed?</li> <li>❖ Noise issues?</li> <li>❖ Land vulnerable to compulsory purchase?</li> <li>❖ Possibility of contamination?</li> </ul>
<b>Utilities</b>	<ul style="list-style-type: none"> <li>❖ Is there <b>electricity, gas, or telecommunications equipment</b> in, on or under the property?</li> <li>❖ Will this <b>affect the development plans?</b></li> <li>❖ Conduct specialist searches for each type of utility.</li> </ul>
<b>Contaminated Land</b>	<ul style="list-style-type: none"> <li>❖ Have any past uses of the land increased the risk of contamination?</li> <li>❖ E.g., industrial uses?</li> </ul>

<sup>1</sup> [Workshop 1, Prep Task](#)

	<ul style="list-style-type: none"> <li>❖ Where land is deemed to pose an unacceptable level of risk of contamination, a statutory regime exists by which a Local Authority can <b>require the incoming developer to remediate the land.</b></li> <li>❖ Consider notes on <a href="#">Contaminated Land</a>.</li> </ul>
<b>Commons Registration</b>	<ul style="list-style-type: none"> <li>❖ The developer needs to consider if the site is designated as common land; if it is, this is likely to inhibit development.</li> <li>❖ This is found out by optional enquiry 22 on the <a href="#">CON290</a>.</li> </ul>
<b>Rights of Way and Access Land</b>	<ul style="list-style-type: none"> <li>❖ Any <b>public rights of way which might inhibit development?</b></li> <li>❖ Found out by a search of the Local Authority’s development map.</li> </ul>
<b>Enquiries of the Seller</b>	<ul style="list-style-type: none"> <li>❖ In particular, the developer should seek to discover: <ul style="list-style-type: none"> <li>➤ Further information about the <b>planning status</b> of the site;</li> <li>➤ The location of <b>public drains and highways</b>;</li> <li>➤ The <b>suitability of the land for building purposes</b>;</li> <li>➤ Possible <b>past contamination</b> of the land.</li> </ul> </li> </ul>
<b>Flood Searches</b>	<ul style="list-style-type: none"> <li>❖ Flooding can cause extensive damage to properties, and the level of risk will affect whether the property is mortgageable.</li> <li>❖ Details are normally uncovered by instructing a <b>commercial provider to produce a flood report.</b></li> </ul>
<b>Survey and Inspection</b>	<ul style="list-style-type: none"> <li>❖ This is normally recommended. The surveyor should: <ul style="list-style-type: none"> <li>➤ Assess the suitability of the land for <b>building</b> purposes (e.g., stability, access, drainage).</li> <li>➤ Assist in establishing ownership of, or responsibility for <b>boundary walls, hedges and fences</b>.</li> <li>➤ Discover evidence of the existence of <b>public or private rights of way</b>.</li> <li>➤ Spot <b>overhead electricity power lines</b> which would prevent or impede development.</li> <li>➤ Discover evidence of any <b>rights of persons in occupation</b> of the land (e.g., grazing rights; or an agricultural or farm business tenancy).</li> <li>➤ Ensure that adjoining landowners do not enjoy the benefit of <b>easements of light or air</b> which would impede the buyer’s proposed development.</li> </ul> </li> </ul>
<b>Investigation of Title</b>	<ul style="list-style-type: none"> <li>❖ The developer client should check, in particular, that: <ul style="list-style-type: none"> <li>➤ The property enjoys the <b>benefit of all necessary easements</b> and rights of access and drainage.</li> <li>➤ There are <b>no covenants restricting the proposed development</b> or use of the land. If there are, these will need to be released, removed, or modified, or appropriate insurance made available.</li> <li>➤ Any <b>easements</b> which burden the property will <b>not prevent or restrict the proposed development or use.</b></li> </ul> </li> </ul>

## Searches and Enquiries – Essential Searches

❖ [Property Law & Practice, 17.5-17.9](#)

❖ [Commercial Property, Chapter 9](#)<sup>1</sup>

<b>Overview</b>	<ul style="list-style-type: none"> <li>❖ Certain searches need to be carried out in <i>every</i> case, however, some searches only need to be carried out where specific circumstances apply which necessitate that search being conducted. The searches that are most important to buyers of land for development are highlighted in blue.</li> <li>❖ The following table contains details of the searches that <b>should be carried out in EVERY transaction</b>.</li> </ul>
-----------------	--

Essential Searches (to be Undertaken Every Transaction)			
Search	What is it?	What Does the Search Reveal?	Factors to Look Out For/Action
<b>Land Charges Register - LLC1</b>  <a href="#">Property Law &amp; Practice, 17.5</a>  <a href="#">Commercial Property, 9.1 (Local Searches Generally)</a>  <a href="#">Commercial Property, 9.2 (Planning Matters)</a>	<ul style="list-style-type: none"> <li>❖ <b>A search of the Local Land Charges Register.</b></li> <li>❖ Local Land Charges are financial charges or restrictions on the use of the land imposed by a local authority.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Financial charges for the <b>adoption of estate roads</b> by the Local Authority.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Is there an estate road nearby?</li> <li>❖ The Local Authority may charge the landowner a <b>fee to bring that road up to standard on adoption</b>.</li> </ul>
		<ul style="list-style-type: none"> <li>❖ <b>Tree Preservation Orders (TPO)</b>.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Is the client planning <b>development works which a TPO might interfere with?</b></li> </ul>
		<ul style="list-style-type: none"> <li>❖ <b>History of planning permissions</b> granted.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Has the buyer indicated that works have been done in the past?</li> <li>❖ If a search reveals that planning permission has been granted, the <b>buyer should obtain a copy</b> to check whether or not the permission was granted with any conditions.</li> </ul>
<b>CON29</b> <b>“Enquiries of</b>		<ul style="list-style-type: none"> <li>❖ Whether the building is <b>Listed</b>.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Is the client planning development works which <b>listed building status might interfere with?</b></li> </ul>
		<ul style="list-style-type: none"> <li>❖ <b>Any planning/building regulations consents that have been granted/rejected.</b></li> </ul>	<ul style="list-style-type: none"> <li>❖ If any planning consents/building regulation consents are rejected, does this <b>inhibit a potential use or works</b> that our client wants to do with the property?</li> </ul>

<sup>1</sup> Searches that are specifically highlighted in Chapter 9 of [Commercial Property](#) have been highlighted in blue.

Essential Searches (to be Undertaken Every Transaction)			
Search	What is it?	What Does the Search Reveal?	Factors to Look Out For/Action
<p><a href="#">the Local Authority</a><sup>2</sup></p> <p><a href="#">Property Law &amp; Practice, 17.6</a></p> <p><a href="#">Commercial Property, 9.1 (Local Searches Generally and Public Footpaths).</a></p> <p><a href="#">Commercial Property, 9.4 (Highways)</a></p> <p><a href="#">Commercial Property, 9.5 (Railways)</a></p> <p><a href="#">Commercial Property, 9.2 (Planning Matters)</a></p>	<ul style="list-style-type: none"> <li>❖ The <a href="#">CON29</a> contains standard enquiries of the Local Authority.</li> <li>❖ This should be used in every case (contrast this with the <a href="#">CON29O</a> which deals with more specific enquiries which should be asked if relevant to the transaction).</li> <li>❖ It is a broader search than the <a href="#">LLC1</a> which only unveils specific categories of incumbrances which are classified as land charges.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>Any roads maintainable at public expense.</b></li> <li>❖ <b>Any public rights of way.</b></li> <li>❖ Private roads to be <b>adopted by the Local Authority</b> and made up at the cost of the frontagers under <a href="#">s38, Highways Act 1980</a>.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Roads near the property which are not already in public ownership.</li> <li>❖ Do we have the necessary <b>private rights</b> to use these?</li> <li>❖ Is there a public right of way? Might this inhibit development?</li> <li>❖ Does the <b>property front the road</b>? If so, this may incur a charge from the Local Authority.</li> <li>❖ Buyers of land for development will be particularly concerned to ensure: <ul style="list-style-type: none"> <li>➤ They have full legal rights of access for developing the land, immediately.</li> <li>➤ There is no land between the development land and the public highway which could become a ransom strip.</li> <li>➤ There are no new highways in the vicinity of the site which could adversely affect the development.</li> </ul> </li> </ul>
		<ul style="list-style-type: none"> <li>❖ <b>Public Footpaths</b></li> <li>❖ Will unveil the <b>approximate route</b> of any public footpath across the property.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>This search should be done in most cases.</b></li> <li>❖ Are there any trackways etc. running across the property? Does the client want to develop? Will these affect those plans?</li> </ul>

<sup>2</sup> [Practical Law Practice Note: Searches: Enquiries of a Local Authority](#) is extremely useful: <https://uk.practicallaw.thomsonreuters.com/8-107-4840>



Essential Searches (to be Undertaken Every Transaction)			
Search	What is it?	What Does the Search Reveal?	Factors to Look Out For/Action
		<ul style="list-style-type: none"> <li>❖ <b>Any nearby Road or Railway Schemes</b> (e.g., HS2).</li> </ul>	<ul style="list-style-type: none"> <li>❖ Reveals whether the property is, or will be, within <b>zoom of the construction of a new road or railway.</b></li> <li>❖ A positive reply may mean that:                             <ul style="list-style-type: none"> <li>➤ The property may be <b>liable to compulsory purchase</b> at some stage in the future, and if not acquired, may be blighted either because <b>planning permission for development may be difficult</b> or the value may be adversely affected by its proximity to a new or altered road.</li> <li>➤ Access will need to be <b>granted for construction.</b></li> <li>➤ The railway itself may make the <b>property less attractive to buyers of development land;</b> consider, in particular, views and noise.</li> </ul> </li> </ul>
		<ul style="list-style-type: none"> <li>❖ <b>Contraventions of building regulations.</b></li> </ul>	<ul style="list-style-type: none"> <li>❖ Has work been done to the property in the past? Check whether <b>this had Building Regulations approval.</b></li> <li>❖ If it did not, an <b>incoming purchaser may inherit liability</b> and could be served with an enforcement notice by the Local Authority.</li> </ul>
		<ul style="list-style-type: none"> <li>❖ <b>Planning enforcement or stop notices:</b> If present, enforcement notices indicate that something, historically, was done in breach of planning law/Building Regulations which the Local Authority had to take action against.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Have there been any <b>past building works</b> or changes of use?</li> <li>❖ If Notices appear:                             <ul style="list-style-type: none"> <li>➤ <b>Ask the seller</b> about them.</li> </ul> </li> </ul>

Essential Searches (to be Undertaken Every Transaction)			
Search	What is it?	What Does the Search Reveal?	Factors to Look Out For/Action
		❖ These could <b>impose liability on a new owner</b> if the Notice has not been complied with.	➤ <b>Obtain copies of the notices from the Local Authority</b> to ensure any conditions within them have been complied with.
		❖ Whether the property is in a <b>Conservation Area</b> .	❖ Will likely <b>place restrictions on development</b> . ❖ Search is likely to be relevant for country-side locations.
		❖ <b>Compulsory Purchase Orders (CPOs)</b> .	❖ This seeks to <b>elicit information about pending CPOs</b> which have not yet been implemented. ❖ If a property could be subject to a CPO, this <b>may deter a prospective purchaser</b> .
		❖ <b>Contaminated Land:</b> Reveals whether there is an entry on the Contaminated Land Register or that a decision has been made to make such an entry.	❖ Is there anything on the Title which indicates that the land is <b>susceptible to contamination?</b> ❖ E.g., a factory (metal works) petrol station, landfill site etc. nearby? ❖ If the land is contaminated, the liability to remediate <b>may rest with the purchaser</b> . This can be extremely expensive.
		❖ <b>Radon Gas:</b> Reveals whether the property is in an area affected by radon gas (naturally occurring radioactive gas emitted by the soil).	❖ High levels of radon exposure can <b>increase the risk of developing lung cancer</b> . The Client should be made aware. ❖ This may also impact new builds, extensions, etc. Might need to comply with <b>additional building regulation requirements</b> aimed at reducing radon exposure.

Essential Searches (to be Undertaken Every Transaction)			
Search	What is it?	What Does the Search Reveal?	Factors to Look Out For/Action
			<ul style="list-style-type: none"> <li>❖ Ask the seller for the <b>results of the most recent radon test</b> carried out at the property and details of any mitigation works.</li> </ul>
		<ul style="list-style-type: none"> <li>❖ Whether the property is an <b>“Asset of Community Value”</b>.</li> </ul>	<ul style="list-style-type: none"> <li>❖ If the property is an Asset of Community Value, <b>community groups must be given a fair chance to prepare a bid</b> to purchase it first.</li> <li>❖ If it is, <b>ask the seller:</b> <ul style="list-style-type: none"> <li>➤ Has there been notification of disposal or any expressed interest from a community interest group?</li> <li>➤ If so, this <b>may hold up the purchase.</b></li> </ul> </li> </ul>
<p><a href="#">CON290 “Optional Enquiries of the Local Authority”</a></p> <p><a href="#">Property Law &amp; Practice, 17.6</a></p> <p><a href="#">Commercial Property, 9.1 (Pipelines)</a></p> <p><a href="#">Commercial Property, 9.8 (Commons Registration)</a></p>	<ul style="list-style-type: none"> <li>❖ More <b>specific</b> enquiries of the Local Authority which <b>should be asked if relevant to the transaction</b><sup>3</sup>.</li> <li>❖ There is a <b>cost per search</b> so must <b>justify</b> why each search is carried out.</li> <li>❖ Not all questions will be relevant in every transaction, however, the <b>potential need</b> for a search must be</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>Road Proposals.</b></li> </ul>	<ul style="list-style-type: none"> <li>❖ Asks about proposals for new roads and alterations and improvements to existing roads by private bodies or developers adjoining or adjacent to the property.</li> <li>❖ Will the <b>client’s business premises be severely disrupted</b> by this?</li> </ul>
		<ul style="list-style-type: none"> <li>❖ <b>Restrictions on Advertisements.</b></li> </ul>	<ul style="list-style-type: none"> <li>❖ Will reveal <b>restrictions on advertisements being displayed on the outside of the property.</b></li> <li>❖ Does a commercial client want to use the building for <b>advertising</b>?</li> </ul>
		<ul style="list-style-type: none"> <li>❖ <b>Pipelines</b></li> </ul>	<ul style="list-style-type: none"> <li>❖ Will unveil any maps deposited under <a href="#">the Pipe-Lines Act 1962</a> or the <a href="#">Gas Act 1986</a> laid through or within 100 feet of the property.</li> </ul>
		<ul style="list-style-type: none"> <li>❖ Whether the Property is in an <b>Area of Outstanding Natural Beauty</b> (AONB).</li> </ul>	<ul style="list-style-type: none"> <li>❖ Will place <b>potential restrictions on development.</b></li> </ul>

<sup>3</sup> The [Practical Law Practice Note](#) is extremely useful and explains what this search is and why it is carried out far better than the textbook.

Essential Searches (to be Undertaken Every Transaction)			
Search	What is it?	What Does the Search Reveal?	Factors to Look Out For/Action
	considered in every case.	<ul style="list-style-type: none"> <li>❖ <b>Noise Abatement Notices</b></li> <li>❖ <b>Whether the land is Common Land or Village Green.</b></li> </ul>	<ul style="list-style-type: none"> <li>❖ Search is likely to be relevant for <b>country-side locations.</b></li> <li>❖ What <b>use</b> does our client want to make of the property?</li> <li>❖ If they are a developer, or they want to make a particularly noisy use of the property, this <b>could inhibit this.</b></li> <li>❖ If the reply is positive, we need to obtain details to identify <b>whether the matters revealed are likely to restrict the intended use of the property.</b></li> <li>❖ If the land is Common Land or Village Green, this will <b>inhibit development.</b></li> <li>❖ This is more likely to be necessary where a rural site is being acquired.</li> </ul>
<p><a href="#">CPSE “Commercial Property Standard Enquiries”.</a></p> <p><a href="#">Property Law &amp; Practice, 17.7</a></p> <p><a href="#">Commercial Property, 9.10</a></p>	<ul style="list-style-type: none"> <li>❖ Pre-Contract Enquiries of the Seller.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Information, mainly relating to the physical aspects of the property, which is <b>known to the seller, but they are not bound by law to disclose.</b></li> <li>❖ <b>Reveals:</b> <ul style="list-style-type: none"> <li>➤ Property disputes.</li> <li>➤ Current occupants.</li> <li>➤ Any past alterations or building works.</li> <li>➤ Any past known changes in use of the property.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ Where the response given does not directly address an issue raised, we may need to <b>raise additional queries</b> with the seller.</li> <li>❖ Has the seller indicated that <b>works have been carried out?</b> Cross-reference this with other searches. Have the works got <b>Planning and Building Regs approval?</b></li> <li>❖ For development land, common areas of enquiry will include: <ul style="list-style-type: none"> <li>➤ The planning status of the site.</li> <li>➤ The location of public drains and highways.</li> <li>➤ The suitability of the land for building purposes.</li> </ul> </li> </ul>

Essential Searches (to be Undertaken Every Transaction)			
Search	What is it?	What Does the Search Reveal?	Factors to Look Out For/Action
		<ul style="list-style-type: none"> <li>➤ The VAT status of the transaction.</li> <li>➤ Whether any services pass through the property or adjoining land.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Possible past contamination of the land.</li> </ul>
<p><b>Water and Drainage Searches</b></p> <p><i>Property Law &amp; Practice, 17.8</i></p> <p><i>Commercial Property, 9.3</i></p>	<ul style="list-style-type: none"> <li>❖ Reveals the properties' drainage arrangements.</li> <li>❖ For development sites, this will take the form of the <a href="#">CON29DW Commercial</a>.</li> </ul>	<ul style="list-style-type: none"> <li>❖ Unveils whether the: <ul style="list-style-type: none"> <li>➤ Has water or foul water <b>drainage to a public sewer</b>; and</li> <li>➤ Is <b>connected to the mains</b>.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>❖ If the property does not drain into a public sewer, the <b>buyer will be liable for the costs of maintaining the drains and sewers</b>.</li> <li>❖ The buyer may also be liable for the costs of <b>bringing them up to adoption standard</b> if the Water Company intends to adopt them.</li> <li>❖ If there is a public sewer, the <b>Water Company's consent will be required for development</b>.</li> <li>❖ For Development Property: <ul style="list-style-type: none"> <li>➤ The client will need to consider whether the <b>current drainage system will be able to cope</b> with the foul and surface drainage demands from the developed site.</li> <li>➤ If the site is vacant land, the developer will need to know the <b>location of the nearest public sewer</b> to connect newly constructed drains.</li> </ul> </li> </ul>
<p><b>Environmental Search</b></p> <p><i>Commercial Property, 9.7</i></p>	<ul style="list-style-type: none"> <li>❖ Under <a href="#">s78E of the Environmental Protection Act 1990</a> an "appropriate person" can be compelled by</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>Whether the Land is Contaminated or not.</b></li> </ul>	<ul style="list-style-type: none"> <li>❖ Initial search is known as a "desktop" search and concludes from available <b>documentary evidence</b> as to the risk of contamination.</li> </ul>

Essential Searches (to be Undertaken Every Transaction)			
Search	What is it?	What Does the Search Reveal?	Factors to Look Out For/Action
<a href="#">Property Law &amp; Practice, 17.9</a>	<p>the Local Authority to <b>remediate any contamination on the land.</b></p> <p>❖ <a href="#">s78F(4)</a> provides that if the person who caused the contamination to be present on the land, after reasonable enquiry, <b>cannot be found, the current “owner or occupier” is an “appropriate person” under s78E.</b></p>		<p>❖ If the <b>initial search indicates that there is a risk</b> of the land being contaminated, the client will need to decide whether he wishes to have an <b>environmental survey commissioned</b>, where samples of the soil will be taken and analysed to discover the extent and nature of any contamination.</p> <p>❖ If the land is contaminated, the client should consider:</p> <ul style="list-style-type: none"> <li>➤ Requesting as a term of the contract that the seller <b>remedies the contamination</b>, or alternatively:</li> <li>➤ Obtain <b>insurance</b>.</li> </ul>

LPC Buddy