

Highlighting 'red flags' in a large leasehold property



SBM provided a 'red flag' report to our client which outlined the steps that needed to be taken to ensure compliance with lease clauses and areas of concern for a large manufacturing property.

Our client's property scenario

A leading international manufacturer obtained UK property interests after acquiring a major global competitor.

SBM was commissioned to highlight any 'red flags' in the lease of a large, 220,000sqft factory along the M1 East Midlands Corridor.

Through the due diligence process, our team recognised an opportunity to bolster the protection of the Schedule of Condition (SoC).

We also advised on a complex break clause, repairing obligations as well as areas where further protection could be provided.

“SBM made our client aware of ‘red-flags’ to be acted upon before the acquisition took place, reducing our client’s future liabilities.”

Property challenges

At first glance, the schedule of condition was required to be drafted by an independent party, however upon review we discovered that it had been created by the landlord’s surveyor.

This created a conflict of interest and created a biased approach against which future liabilities would be judged. SBM re-drafted the Schedule of Condition (SoC), providing photographic evidence and tightening the definitions of repair.

The purpose of a SoC is to accurately and fairly record the condition of a building, which is then used as a reference against the tenant under their repairing obligations dependent on the specific lease clause.

The landlord was also less than forthcoming with key information including incomplete surveys which led to major items being omitted from the SoC. With little site history available, the condition of the site services was ambiguous.

Other challenges became apparent after the SoC was completed - due to the time taken to collate documentation which had to be amended retrospectively.

There were additional political aspects to the transaction as our client was also acquiring another unit from the same landlord which created additional challenges. A robustly commercial response had to be taken to certain elements so as to reflect the

negotiations of the overall commercial acquisition. As the transaction progressed there were immense time pressures which had to be effectively managed so as to ensure the smooth running of the overall acquisition.

Property solution

SBM provided a ‘red-flag’ report to our client which outlined the steps that needed to be taken to ensure compliance with lease clauses and areas of concern.

We appointed a Building Surveyor to undertake an in-depth review of the property, including the procurement and analysis of specialist surveys and identification of areas for concern.

We negotiated substantial reductions in our client’s future liability incorporating a number of areas into the SoC which limited any potential claims from the landlord.

Result

- ✓ **Successful completion of the SoC in line with the business acquisition - ensuring no delays to the overall corporate acquisition process**
- ✓ **Incorporated key areas into the SoC which limited the landlord’s future claim and subsequently our client’s repairing obligations**
- ✓ **Reduced future liabilities to the value of over £1,400,000**

SBM expertise applied



General Practice

Analysis of clauses and provision of ‘red-flag’ report to the client to be used within the overall commercial negotiations.



Building Surveying

An in-depth review of the property, successfully limiting our client’s future liability.



Lease Management

Amendments to the SoC to provide the best protection possible for our client at the end of their lease.



Financial

Substantial reductions in our client’s future liability of over £1,400,000.

