

NHS Capital Development



Real Estate Checklist

Your Trust may be in the planning stages of a capital project. This might be a CDC, a major capital development under the New Hospital Programme or using STP funding or a business-as-usual project.

If the project is being carried out on the Trust's own premises then real estate issues may be overlooked at an early stage and become problematic during later stages. In order to ensure your project is legally deliverable and to provide the necessary assurance to Trust Boards and for business cases, we recommend carrying out due diligence

Our simple starter checklist will allow you to begin to consider the key real estate issues at an early stage and obtain legal input, where necessary.



TENURE

- (a) Do you own all of the site within the planning redline?
- (b) Is the development site freehold or leasehold?
- (c) Is any part of it leasehold and, if so, what is the remaining lease duration and do the lease terms restrict or prevent development in any way?
- (d) Are site compound areas, access ways and other supporting areas freehold or leasehold?



ROADS

- (a) What are your access routes into the site? Do you own them or are they public highway?
- (b) If you are relying on any third party roads, do you have sufficient rights over them and will the new development affect those rights?
- (c) Are there any ransom strips or other issues with proposed access routes?



EASEMENTS

- (a) Have you considered all new service runs and whether they are direct to adopted services or over third party land? Do you have the necessary rights to use third party services?
- (b) Will your new development impact on the rights to light or any other rights enjoyed by neighbouring owners?

"As Head of Property, I wanted to make sure that our New Hospital Programme scheme was legally deliverable as part of the business case development process. I was concerned that the programme might be overlooking key site development constraints. I therefore commissioned James and his team to carry out some strategic title overview work for us, with specific reference to the NHP development. The resulting report was very user-friendly and focused on our specific proposal, rather than being the sort of general title overview that other law firms produce"

Head of Property, Cohort 3 NHP Trust



MINES AND MINERALS

- (a) Is ownership of mines and minerals excluded from the Trust's title?
- (b) If mines and minerals are excluded, who owns them and should insurance be placed?



OCCUPIERS

- (a) Are there third party occupiers (like other clinical providers) making way for the new development or moving into the completed facility?
- (b) Do any of the third parties have the ability to delay or frustrate the project? Are they all on legally robust agreements and can they be relocated?



RESTRICTIVE COVENANTS

- (a) Is your site subject to any restrictive covenants, which benefit other land, which might stop, delay or alter your development plans?
- (b) If so, are the covenants enforceable, who are the beneficiaries and what is the best course of action?

At Hill Dickinson our experienced and approachable Health Real Estate team are able to offer a fixed price review of underlying real estate issues, ahead of any planned capital project.

For further information, please contact:

James Atkins

Partner

+44 (0)113 487 7933

james.atkins@hilldickinson.com

Andrea Proudlock

Partner

+44 (0)191 823 0542

andrea.proudlock@hilldickinson.com

Emma Brecknock

Partner

+44 (0)113 487 7943

emma.brecknock@hilldickinson.com