

Regeneration and leveling up – High Street auctions set for green light



Despite industry objection (including the British Property Federation referring to the plans as a “political gimmick”) it appears proposals to give local authorities the right to let vacant premises on their high streets by way of a rental auction process will now be given the green light under the Levelling Up and Regeneration Bill (first laid before parliament on 11 May 2022 and currently at committee stage).

Under the new plans a local authority will be able to designate areas as either a ‘high street’ or ‘town centre’ location. Such areas are those considered important to the local economy due to a high concentration of ‘high street uses’ (broadly shops, offices, restaurants and light industrial – but not warehouses). In such locations, where premises remain vacant for either a full year or at least 366 days in any two year period, the local authority would then be able to instigate the rental auction process.

What does the process entail?

To instigate the process, the local authority would need to serve an “initial notice” on the owner of the premises – which remains effective for 10 weeks and during which time the owner is prevented from letting the premises or granting any licences to occupy without local authority consent. Unless the owner has already entered into an agreement to lease, for example, any attempt by the owner to grant a lease or licence without the consent of the local authority will automatically be void.

If not let by the owner during the initial notice period, the local authority can then serve a “final notice” (which can be served at any time after eight weeks following service of the initial notice), which then remains in place for

a further 14 weeks – during which time the local authority can arrange for the rental auction to take place.

Can a property owner object?

Whilst it is possible for a property owner to object and, if necessary, appeal against the issue of a final notice, any such objection must be made in writing within 14 days of the final notice being issued, and must state the permitted grounds of objection which the owner is seeking to rely on. The permitted grounds of objection are broadly:

1. the relevant conditions to exercise a rental auction process have not been satisfied (i.e. vacancy periods, local benefit condition, the local authority has unreasonably withheld consent to a proposed letting or the premises are not suitable for proposed high street uses);
2. the owner intends to carry out substantial works to the property (i.e. construction, demolition or reconstruction); or
3. the owner intends to occupy the premises for their own business or residential purposes.

If a final notice is not withdrawn by the local authority following an objection being lodged then the owner can make an appeal to the County Court within 28 days of lodging the initial objection.

Whilst the specifics around the rental auction process are still to be confirmed, following a successful rental auction the local authority will then be permitted to enter into a contract (as if it were the owner) with the successful bidder for a short-term tenancy of between one to five years. Again, whilst detail on the specific terms of such tenancy are awaited, the Bill makes clear that such tenancies will automatically fall outside of the security of tenure protections under the Landlord and Tenant Act 1954 and must include express provisions to cover repair and maintenance, alterations, insurance, alienation, rental deposits and rights of re-entry (and will automatically be deemed to hold any required superior landlord, lender or third party consents).

What does this mean for the industry?

Whilst the proposals clearly give rise to potentially significant powers, only time will tell whether local authorities will ultimately take up the option to use these powers and/or whether the new measures (if used) will have a significant impact on the Government's aim for regeneration.



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