Linklaters

Real Estate Legal Outlook 2025

Contents

Introduction

As we head into 2025, we naturally reflect on 2024; a year characterised for real estate, at least in part, by its distinct lack of character. There was no dramatic reduction in interest rates (they are creeping down slowly but are unlikely to stay there long term), no surge in insolvencies (although there were some) and no sudden opening up of the investment market (wishful thinking!). Rather than the "ready, steady, go!" sprint start predicted by many for the year just gone, we have witnessed more of a "slow and steady wins the race" approach, one of gradual progress and cautious optimism for the road ahead.

One of the predictions that is playing out is the continued shift away from interest in traditional asset classes (retail, offices etc.) towards what were previously referred to as "alternative" asset classes – these are now not so much alternative as increasingly established at front and centre stage in their own right. The real estate market is now fully alive to the importance of infrastructure for its ability to thrive, with digital and energy infrastructure currently topping the charts.

Another aspect of the real estate market recently brought into focus as an inevitable consequence of elections taking place home and away is the ability of regulation (or indeed lack thereof) to manipulate and influence the direction of travel. With immediate post-election market impacts usually signalling nothing more than relief at a certain result, we will all have to wait to see the actual effects of changes in leadership across the globe. In this country there is an ambitious agenda for planning reform to "get Britain building" again – certainly, the provision of 1.5 million new homes requires an awful lot of building (and a properly functioning planning system)! And we are certainly not short of prominent real estate-related bills making their way through Parliament, particularly in the residential field with significant leasehold and renters' rights reform on the horizon, as well as potential for a change in approach to security of tenure for business tenancies not far behind. In the US, it will be interesting to see whether Trump's previous support for deregulation continues into his second term, and how the imposition of tariffs may impact broader economic trends and investor sentiment.

On the basis that "mood moves markets", we remain optimistic for the months ahead, and ready for some new challenges. The following pages aim to provide a helpful insight into some of the activity we expect to see and potential opportunities that you may wish to explore – enjoy!

With very best wishes from the Linklaters Real Estate Team for a successful 2025.

Imogen Jones
Counsel, Real Estate, London
Tel: +44 20 7456 3663
imogen.jones@linklaters.com

2025 market update – turning the page

The real estate market is like a best seller. You never know quite where the story will take you, but you do know that it will continue to unfold and be a page-turner. Some of the unpredictability is relatively predictable – inflation and interest rates rise and fall, supply and demand will fluctuate – but we have also faced once-in-a-generation plot twists over recent years, such as Brexit and the pandemic. Nevertheless, it feels like we have reached a new chapter – one where the plot thickens with renewed opportunities. Interest rates and inflation appear to have peaked and much of the recent uncertainty feels to be subsiding. Much like a resilient protagonist, the market is rallying as we venture into 2025, returning to pre-pandemic levels.

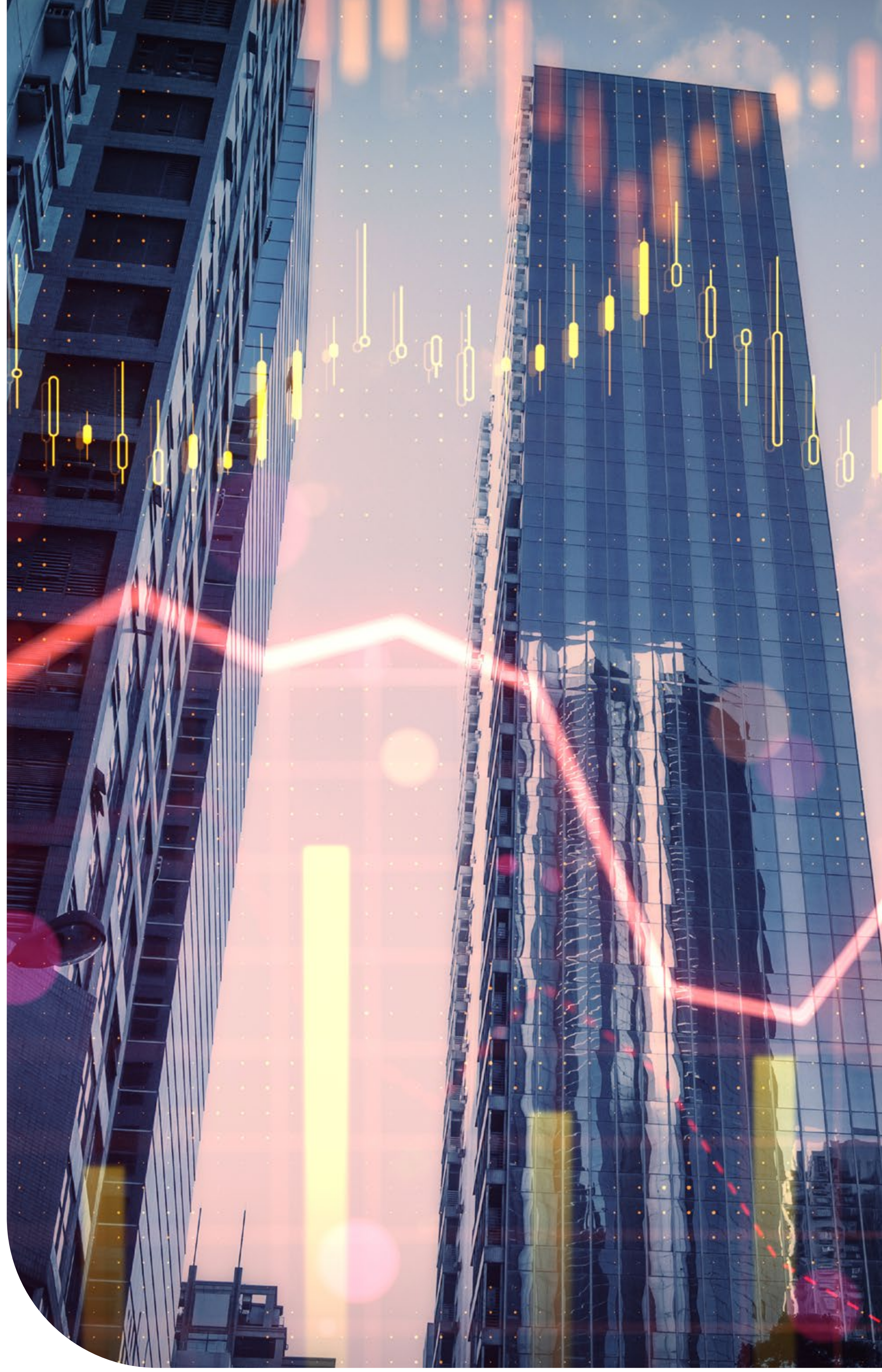
We expected 2024 to be an exciting show and, whilst we have seen sparks of action, the market is not yet back at full strength. It is reminiscent of a writer in the throes of writer's block – key deals are emerging, but the full narrative has been elusive. There have been some landmark transactions, but the pace has been slow and a subdued market, in itself, creates hurdles. Valuers face the challenge of setting values with scant market evidence in some parts of the sector and pricing remains difficult as a result. This in turn leads to a lack of confidence and urgency with some deals. It will likely take some more time for pricing to fully play out, but we are heading in a good direction. Interest rate stability is key to unlocking the narrative, and falling rates this year are a welcome sign. Some commentators have called the bottom of the market for most asset classes and this will hopefully prove to be correct. Changes in economic policy in the UK and the US will surely have an impact – there is potential for increased spending and tariffs in the US to fuel inflation which could lead to interest rate climbs again, or perhaps real estate will offer a safer haven if other sectors face new challenges.

It's not quite the "Best of Times", but no longer the "Worst of Times" either – perhaps a cautiously optimistic interlude.

Bifurcation of this market seems to have taken a strong hold and may answer the question of which way the plot will twist next. On the one hand, "stranded assets" remain an enduring conundrum. These are commercial properties that have fallen behind, either because they are no longer needed for how we live and work in today's world, or because they are not up-to-date with technological and environmental advancements. Certain retail assets have long been in this group, and the pandemic has meant many offices have joined them. Sustainability is now much more than just a sub-plot. Sustainable retrofitting could still offer a way out of obsolescence for these assets, but sustainability also threatens to leave some stranded if the costs involved in developing them are too high when taking into account the rents they could attract. An alarming proportion of commercial premises in England and Wales hold an EPC rating of C or below. With the necessity to achieve a B rating by 2030, unless current regulations change, investors must take heed. Promisingly, we have been seeing a shift in the narrative on green lease clauses over recent years, with landlords and tenants taking these more seriously than ever. Will this arc continue to bend towards a future of positive change and sustainable growth, or will we be left reading the same old story?

But every good narrative has its heroes and in this story properties pivotal to connectivity and energy transition are emerging as central characters. Society now depends on these and it is difficult to see this changing. The new Government intends to invest in green energy, and telecoms infrastructure and data centres present opportunities to consider alternative real estate. Underwater data centres? Data centres powered by nuclear (see here)? But these assets also pose challenges – planning collaboration (see here), greater access to Crown land (see here) and vast resources (see here) are required to drive forward. Life sciences also continue to be a promising asset class and the recent Budget promised funding to help realise Cambridge's potential as a life sciences hub.

The upcoming chapters will see the commercial real estate market not merely rebuild, but potentially redefine itself, opening the door to a sequel. Success will hinge upon discerning opportunities and embracing sustainability, and technological progression will be paramount. So, as we pen the pages of 2025, let's hope for a tale filled with more triumph than tribulation, more brilliance than bleakness – may it be a bit less Dickensian and a lot more Jane Austen.



Kathryn Griffiths
Managing Associate,
Real Estate, London
Tel: +44 20 7456 4156
kathryn.griffiths@linklaters.com

Infrastructure critical: data centres as real estate?

The world is increasingly online, but where actually is that "online" in our world? Every email, podcast and Instagram reel exists somewhere. Companies and governments rely on information and software systems that are increasingly complex and integrated. Artificial intelligence inveigles itself into all aspects of our lives. Your smart speaker listens, poised to play your favourite song. Your phone diligently fetches your emails. Your word processor finishes your sentences (or even writes your articles…). This all requires vast amounts of data to be stored, accessed and transferred.

The digital infrastructure required to support our economies – and our lives – has now more than piqued the interest of real estate investors. Data centres (DCs) are a notable example of this. Globally, there are more than 50 real estate funds currently capital raising and actively seeking exposure to DCs, with a combined target size of over US$50 billion. 40% of this total capital is being raised specifically to invest in DCs.

Real estate investment markets have had a torrid time since Covid. The travails of traditional real estate asset classes, such as offices and retail, are well documented. As investors, managers and developers grapple with the evolution of these assets; some are diversifying into digital infrastructure and DCs. Excitement and enthusiasm is understandable, but should not obscure the myriad challenges.

The DC tenant pool is shallower than for an office block or a shopping centre. The "hyperscapers" – household names like Google, Amazon and Microsoft – comprise a significant chunk of the occupier market. And they use their heft. Their specifications are exacting and their terms stringent. Engaging legal and commercial advisers who understand the market and the complex documents will be key.

The utilitarian appearance of DCs belies their complexity. The technical and operational expertise required to build and run these assets should not be underestimated. Programming delays during development, or service interruptions during operations, can have huge financial consequences. DCs are also expensive to build. Joint ventures and co-investments facilitate the required marriage of expertise and capital, leading to what is now a bonanza of investment activity from private equity and institutional funds. As the DC investment market matures, a trend has emerged of segregating operational assets from those under development. This allows investors and funders to take exposure to different stages of the DC life cycle. Applying discipline from the outset – both in corporate structuring and physical independence of DC assets – will maximise future investment potential and growth.

DCs are hungry. Servers, network equipment and other apparatus consume power voraciously. Pivoting from petrochemicals to electricity for transport and heating is central to the energy transition strategy of many governments (see for example the Government's 'Great British Energy' project discussed in the energy transition section (see here)). Competition for grid connections and electricity supply and storage is fierce. Delays in securing power threaten DC build programmes globally. The peaks and troughs – or sun and shade – of renewables does not transpose onto DCs' 24/7 power requirements. The answer may be innovation: Google has already commissioned small modular nuclear reactors (SMRs); Amazon has a acquired a stake in a company that builds SMRs. Perhaps we are going back to the future with a renewed faith in nuclear.

DCs are also thirsty. All that kit needs cooling. According to Dgtl Infra, in 2023, DCs in the US alone consumed as much water as London. Large DC campuses mean demand is often concentrated, putting strain on water supplies and pitting DCs against other consumers, including homes and agriculture. Technologies requiring less water-intensive cooling strategies may help. Where water is still required, heated wastewater could be used to warm nearby homes and businesses.

DCs have benefited from their anonymity so far. People know they are using roads, railways and other infrastructure. Few realise they are using DCs. But as DCs encroach more visibly on people's lives and feature more prominently in governments' thinking, regulators too are paying more attention. This will bring both challenges and opportunities. DCs' perceived energy profligacy makes them an easy target for climate legislation. Germany's Energy Efficiency Act introduced specific requirements on energy efficiency for DCs. Meanwhile, the Government now classes DCs as 'Critical National Infrastructure', putting them on par with traditional utilities and emergency services: ensuring government support to anticipate and recover from critical incidents. The likely trade-off in the UK is still stricter regulatory oversight and compliance with security measures. For an industry that has grown at breakneck speed, pausing to ensure compliance may not always come naturally. With great power, however, comes great responsibility.

Jack Shand
Managing Associate,
Real Estate, London
Tel: +44 20 7456 2508
jack.shand@linklaters.com

Planning reform: land ahoy or more choppy waters ahead?

In the words of Christopher Columbus, "You can never cross the ocean unless you have the courage to lose sight of the shore". Planning reform has been the flagship policy of successive governments, and this continues to be the case as the new Labour Government grapples with a planning system which is generally considered to be creaking at the seams. The question is whether this Government will be able to weather the storm in which previous governments have floundered.

The Government has wasted no time in hoisting the sails, with significant proposals already consulted upon. Notably, the National Planning Policy Framework consultation has concluded, with the Government committing to a response by the end of the year but looking very likely to reintroduce strategic planning across England with the standard methodology becoming mandatory, and probably resulting in increased housing targets nationwide.

We can now confidently expect another planning bill in the form of the Planning & Infrastructure Bill, further changes to affordable housing, and potential major revisions to national green belt policy, compulsory purchase order compensation and viability calculations for planning gain. The ambitions of the Government for the planning system are undeniably bold.
Even if only some of the reforms succeed, they will need to be underpinned with increased capacity in local planning authorities, enhanced skills among ecologists, architects, and housing officers, recapitalised registered providers and support for statutory consultees, not to mention finding the much-needed construction workers and other professionals to implement them. It goes without saying that delivering 1.5 million homes during the next Parliament demands a planning system functioning at peak efficiency, which is a significant challenge given our current situation.

With the wind in their sails, the Budget provided further opportunity to double down, focusing heavily on planning and social housing, critical areas that demand both immediate attention and long-term vision.
This Budget aims to address chronic issues within the housing sector while laying the groundwork for future development and sustainability.

Highlights included a £500 million boost to the Affordable Homes Programme, a new social housing rent settlement consultation, changes to the Right to Buy scheme, and various housing investments, such as £56 million for 2,000 homes in Liverpool and £25 million for 3,000 affordable homes nationwide. Crucially, the Government wants to work in partnership with local authorities, housing associations and registered providers of all stripes to improve affordable housing standards and increase supply. Local authorities are set to benefit from £47 million to meet nutrient neutrality requirements (so that certain stalled projects can move forward), and additional support includes £68 million from the Brownfield Release Fund for several local projects. While there was a promised 3.2% real terms increase in local government spending, much of this targets homelessness and social care.

The Government's ambitious planning reform agenda, underscored by substantial financial commitments and strategic initiatives, illustrates a determined effort to address the longstanding challenges with the planning system. However, the successful implementation of these reforms hinges on a multi-faceted approach involving not only legislative and policy changes but also a concerted effort to enhance the capacity and capability of local authorities and stakeholders, so it must be all hands on deck. Most planning authorities would, we suspect, prefer to have increased resources to hire and train planning officers and support staff rather than a new set of rules to implement. As the Government navigates these turbulent waters, its ability to foster collaboration, innovation and resilience simultaneously within the planning system will be critical. Whilst reform will be slow, we believe that this Government, with its comfortable majority largely drawn from urban constituencies, is less susceptible to the whims of countryside backbench MPs, and therefore might have a better shot than previous governments at crossing the ocean that is planning reform.

Rory Bennett
Head of UK Planning and ESG Lead,
Real Estate, London

Tel: +44 20 7456 5558
rory.bennett@linklaters.com

Making waves in a sector once safe as houses: the need for certainty in the residential leasehold market

In 2024, we have started to see the latest instalments in the series of changes to the residential leasehold system. From the enactment of the Leasehold and Freehold Reform Act 2024 (“**LAFRA**”) to the Renters’ Rights Bill (the “**RRB**”), these sweeping reforms and proposals are far-reaching in their effect, benefitting both long leaseholders and private renters. The Government’s intention is clear: to tip the scales in favour of leaseholders – no surprise, as this has long been in the pipeline. But in this article, we will turn the focus onto how all this has rocked the boat for landlords and investors, and what it might mean for them.

The living sector has traditionally been considered to be as safe as houses, offering both stable returns and the potential for capital appreciation. But, if implemented, the latest proposals in the RRB will bring a sea change and will need careful consideration by both current and prospective players in the residential investment market.

Some key areas to consider are:

- **Income**: the RRB **proposes to ban rental** “**bidding wars**”, compelling landlords to stick to an advertised “asking rent” without accepting higher bids, and rent increases will be limited to once a year. The British Property Federation has warned that this may backfire, as it raises the risk of asking rents being artificially inflated to hedge for rental gains – surely an unintended consequence. Landlords and investors will, however, be pleased to hear that rumours of further rent controls (which could clearly have a profound impact for them) have so far proved to be unfounded. The Government has made it clear that it does not support the introduction of rent controls, and the RRB does not restrict landlords raising rents annually (though increases are capped in line with market prices and must follow the statutory procedure, with tenants able to challenge proposed increases at a tribunal). There are some concerns that the courts will become overwhelmed by tenants challenging these annual increases, so it will be crucial that this framework has sensible parameters.
- **Value**: there are also concerns around the **proposed ban of Assured Shorthold Tenancies** (“**ASTs**”) (bringing with it a lack of a fixed or minimum term), as this reduces the certainty of income for investors. Might this mean that lenders and investors will expect higher returns to offset the increased risk profile of these assets? This could be an underwater current which may ultimately have an unintended circular effect, putting an upward pressure on rents as operational costs rise. It is not surprising, therefore, that the National Association of Residential Landlords has called for the reforms to be as balanced as possible.
- **Control**: grabbing the headlines has been the **proposed abolition of** “**s.21 no-fault evictions**” making recovery of possession more difficult and time-consuming for landlords, who will have to demonstrate they have a valid reason (as defined in section 8 of the Housing Act 1988) for ending the tenancy. This will hand over more control to tenants and may lead to landlords being more risk-averse when selecting renters.

One silver lining for investors: purpose-built student accommodation is expected to be exempt from the ban on ASTs, meaning student tenancies can continue on a fixed-term basis based on the academic year.

LAFRA, too, has sparked concerns within the residential leasehold investment market, albeit different ones. A ban on new leasehold houses, an overhaul of the lease extension process to create longer terms, changes to the “non-residential” limit in mixed-use properties reducing the scope for development plans to override enfranchisement rights, and the abolition of “marriage value” all feature and will shake up the market – see our recent Talking Points article for further detail.

On top of all this, following a 2024 housebuilding market study, the Competition and Markets Authority has recommended Government intervention to improve consumer protections on private estates – in particular, aiming to reduce costly private management of public amenities. In the Government’s recently published response to these recommendations, a consultation is promised on the best way to reduce the prevalence of unfair management charges and the injustice of “fleecehold” estates – bringing yet more uncertainty for investors.

Despite the Government’s intentions, it actually remains to be seen which way the scales will tip: whether this wave of proposed reforms will see investors start to withdraw from the residential market due to a lack of certainty and control or whether, conversely, as residential ownership becomes more attractive for tenants (whether long leaseholders or renters), the potential investment upside will in fact increase. Our view is that the first scenario is more likely, and these reforms have the potential to cause serious damage to the sector and risk lowering supply unless they can be implemented in such a way as not to undermine investors’ confidence.

With the Leasehold and Commonhold Reform Bill (“**LCRB**”) on the horizon for the 2024-25 parliamentary session as well (which we have written about in more detail in our Talking Points article “Commonhold explained: the future of leasehold property ownership?”) and a White Paper expected in early 2025, there is plenty more to come in this area and with it, of course, potential for further movement in the balance. As well as attempting to reinvigorate commonhold, the LCRB is expected to ban forfeiture as a means of ensuring lease compliance in the residential context and introduce some long-promised regulation of ground rents for existing leaseholders (noting that the ban on ground rents already introduced by the Leasehold Reform (Ground Rent) Act 2022 only applied to new leases). (continued..)

With the Housing and Planning Minister having issued a ministerial statement in November 2024 setting out the Government's plans for the coming year on how it will 'end the feudal leasehold system for good', residential leasehold reform looks set to remain firmly on the agenda for 2025. As we brace for the next legislative wave, the call for a beacon of certainty remains loud and clear – but, as that next wave draws nearer and the investment community prepares for the new tide, landlords and tenants alike might be thankful that clarity, at least in some areas, is finally on the horizon.

Read more

We've written about residential leasehold reform in further detail in these Talking Points articles:

Residential leasehold reform: last minute legislation – The Leasehold and Freehold Reform Act 2024

Residential leasehold reform: the first wave breaks in a swelling tide of residential leasehold reform proposals

Residential leasehold reform: is change on the horizon?

Imogen Jones
Counsel, Real Estate, London
Tel: +44 20 7456 3663
imogen.jones@linklaters.com

Hannah O'Malley
Managing Associate,
Real Estate, London
Tel: +44 20 7456 5276
hannah.omalley@linklaters.com

Commercial ground rent financing: long-lost cousin?

Commercial ground rent financing ("**CGRF**") is increasingly gaining traction in the commercial real estate market: we expect this trend to continue over the year ahead. Offering an alternative way to finance property ownership, CGRF strikes a balance for commercial property owners looking to unlock significant capital whilst paying an inflation-linked rent and continuing their operations at the same location.

What is CGRF in a nutshell?

In this financial structure, an investor provides a capital sum to the owner of a property; in return, the property is transferred to the investor and a lease is granted by the investor to the previous owner of the property as tenant (the "**Previous Owner**"), with the Previous Owner agreeing to pay ground rent to the investor as landlord. As such, CGRF allows the Previous Owner to raise capital from a property whilst remaining in occupation of and operating from the property. The investor benefits from a stable, inflation-linked income stream throughout the lifetime of the lease – a win-win situation?

Notwithstanding the "financing" label, CGRF is, in fact, a creature of land law – and so it is all about the transfer of the real property and the grant of the lease (as opposed to the entry into a suite of finance documents, as would be the case with a traditional debt finance transaction). CGRF should not be confused with residential ground rent, which is still controversial and the subject of anticipated legislation (as to which see Reform of Residential Leasehold) – the two are very different.

CGRF differs markedly from sale and leaseback transactions and traditional loans, but each still has its unique place in the ecosystem of financial strategies. One big happy family?

CGRF and sale and leasebacks – identical twins?

Whilst the kinship between CGRF and sale and leaseback transactions may seem close, they actually tread on very different ground: it is best to think of them as being like cousins, as opposed to identical twins.

In a sale and leaseback, rents are generally set at open market rates and subject to regular reviews. In contrast, CGRF rents are a finance market-driven beast: based on a percentage of the Previous Owner's EBITDA and adjusted annually according to inflation indices, often with caps and collars for predictability, providing the dual benefit of certainty and perhaps a lower-cost method of borrowing. Moreover, unlike a standard sale and leaseback where the seller typically loses ownership unless it is bought back at market value, CGRF usually allows the Previous Owner to retain the option to reacquire the freehold at the end of the lease term for a nominal sum. This mechanism makes CGRF more akin to a form of fixed (albeit very long) term financing because the investor effectively gets repaid through the lease's rent, which includes an interest component, before the property is sold back to the Previous Owner.

Traditional loans – the black sheep of the real estate finance family?

Absolutely not. Traditional loans have been the cornerstone of property financing for years: a lender simply gives the property owner a loan and, in return, the owner provides the lender with security over the property often by way of a legal mortgage. If the owner defaults, the lender can take enforcement action, including selling the property, to recover the outstanding loan amount. So, what is different about CGRF? With CGRF, the long-term nature coupled with the bullet capital sum released by the investor at the inception of the financing mean that the Previous Owner does not need to be concerned with refinancing risks that come with short-term traditional loans and, whilst there is rent to pay under the lease, there is no debt to service (therefore the Previous Owner does not need to be concerned about interest rate fluctuations). (continued..)

There is also no need for a security package because the investor already has ownership of the freehold title. Therefore, if the Previous Owner breaches the lease terms, the investor can (subject to the terms of the lease) take steps to forfeit the lease, thereby terminating the Previous Owner's interest in the property – this pressure will certainly keep the Previous Owner on its toes as to rent payments.

CGRF is for those seeking long-term, stable investments, while traditional loans offer agility and shorter-term solutions – both products can even complement one another in a well-rounded financial strategy.

This all sounds great – so what is the catch?

Despite its benefits for financial restructuring, CGRF does come with challenges. For the Previous Owner, it must face the long-term obligation of ground rent payments which, although typically low, remain a constant financial commitment that can span generations. For the investor, becoming both a property owner and a landlord means it will be subject to all relevant laws and regulations in those capacities, including property registration requirements at HM Land Registry. Additionally, existing property debt and tax structuring considerations must be addressed, and the impact of IFRS accounting treatments on the Previous Owner's balance sheets evaluated.

CGRF: a growing market trend

Traditionally the investment territory of pension funds and insurance companies, CGRF structures have steadily been gaining traction with a broader range of investors.

Given that CGRF alleviates the borrower refinancing risks that come with shorter-term traditional loans and can provide investors/lenders/finance providers with a long-term inflation-linked rental income, we expect that the use of CGRF will continue to grow in popularity with commercial property owners and investors/lenders/finance providers looking to partner on slow-and-steady, long-term and foundational investment structures over the year ahead.

Needless to say, CGRF, traditional real estate loans and sale and leaseback transactions will each continue to have their unique place in the family of real estate finance products.

Cousin – yes. Long-lost? Not so much.

Robert Daboul
Managing Associate,
Real Estate, London

Tel: +44 20 7456 2182
robert.daboul@linklaters.com

Energy transition: winds of change

What is changing in the UK energy landscape?

To say there is a lot going on in the energy sector is a bit of an understatement: prolific growth of renewable energy resulting from a necessary acceleration of the race to net zero, questions around the future structure of the electricity system in the UK and grid stability generally, each against a backdrop of rising energy prices – the Government certainly has its hands full. In this article, we look at a couple of recent initiatives to come out of Whitehall and offer our view on the extent to which they are likely to achieve their aims.

Great British Energy

The new Government's flagship project is Great British Energy ("**GBE**"), a publicly-owned and Aberdeen-based "company" that will invest in renewables in conjunction with the private sector. GBE is not an energy generating company, but rather a type of investment scheme, giving companies the opportunity to partner with it to unlock new energy projects and technologies, and it is seen as a key tool for enabling the Government's highly ambitious (perhaps somewhat idealistic) target to totally decarbonise the UK electricity system by 2030. Let us not forget, they want to double onshore wind, triple solar power, and quadruple offshore wind by 2030. In the long run, the Government wants GBE to be a key investor in major renewables projects in the UK and overseas, in a similar way to France's EDF or Denmark's Orsted.

GBE's establishment comes in the wake of a tumultuous period marked by escalating energy prices, numerous provider collapses, and increasing pressure on consumers; GBE is a strategic response aimed at addressing persistent volatility in energy prices and offering consumers more stable and affordable options by leveraging the UK's increasing renewable energy capacity and integrating it within consumer offerings.

Will it work? The mission of GBE is worthy and, as cited by Octopus's Greg Jackson, a potential benefit will be for GBE to partner with private companies when they invest in new technologies, taking on some of the risk which might otherwise deter an independent firm from going it alone. Jackson's comments strike at the heart of the issue which is that the investment strategy relies heavily on private sector buy-in, with a target of raising three times as much private investment as the Government puts in (£8 billion, with initial funding in 2025-2026 of £125 million). GBE needs to maintain a keen commercial focus and concentrate on tangible wins that deliver immediate value – if it can do that, it has real potential to enhance energy security, sustainability and consumer protection.

Crown Estate Bill

As the owner of the seabed, the Crown Estate develops, prepares and leases out plots of seabed to offshore wind and other developers (for example, those looking to build carbon capture infrastructure or wind farms). The pace at which the Crown Estate can continue to do this will help or hinder the Government to deliver on its mission to become a "clean energy superpower".

The Government has therefore introduced a bill to modernise the Crown Estate, setting a new, faster pace by granting it the power to borrow and widening its investment powers. Key provisions of the Crown Estate bill include:

- **Increased autonomy for the Crown Estate**: the bill proposes greater autonomy for the Crown Estate in managing its assets and seeks to provide it with the ability to invest more widely in new growth opportunities, particularly those concerning offshore wind generation.
- **Borrowing**: the bill recognises that, to engage in more capital-intensive activity in the long term, the Crown Estate needs the ability to borrow. The bill provides for borrowing from the Government at commercial rates, meaning the interest it will pay outweighs the Government's cost of borrowing, with the aim of being a net benefit to public finances.
- **Revenue allocation**: the bill potentially allows a proportion of the revenue generated from Crown Estate activities to be reinvested into renewable energy projects, with a view to creating a financial cycle that continuously supports renewable energy initiatives.

Modernising the legislation that governs the Crown Estate will be welcome, especially where this serves to unlock significant investment in public infrastructure. Moreover, the Crown Estate's increased borrowing powers are anticipated to help it bring forward a massive 20-30 gigawatts of new offshore wind seabed leases by 2030. It will also be exciting to see how the partnership between the Crown Estate and GBE plays out – with both incentivised to drive greater investment into the future of our energy supply, we are optimistic that the union should result in positive, tangible progress. (continued..)

Conclusion

One cannot fault the spirit of the Government's ambitious objectives for the energy sector, further supported in the recent Budget by confirmation of significant funding for Carbon Capture, Utilisation and Storage ("CCUS") and green hydrogen projects across England, Scotland and Wales as well as the Chancellor's Mansion House announcement of pension "megafunds", aimed at unlocking billions of pounds of investment for infrastructure projects.

However, we should not pretend that succeeding in those objectives will serve to overcome the countless other significant challenges faced. Chief among these challenges is the more mundane but desperate issue of increasing grid capacity and connections. Doubt has been cast over the ability of the National Grid to meet the increasing demands of the latest class of "Critical National Infrastructure": data centres, at least on the timetables required by users (and investors), see further here. Simply put, the grid does not currently have the capacity to store the energy required to support an electricity mix dominated by intermittent renewables. The infrastructure of the UK transmission network was designed and built to distribute electricity generated from a series of centralised, accessible, large-scale coal, gas and (coastal) nuclear power stations around the country – not from far flung and relatively small wind farms in the Hebrides. We do not mind betting that this is where the race to 2030 will be lost or won.

Imogen Jones
Counsel, Real Estate, London
Tel: +44 20 7456 3663
imogen.jones@linklaters.com

Hannah McCorkell
Managing Associate,
Real Estate, London
Tel: +44 20 7456 3021
hannah.mccorkell@linklaters.com

Contacts

Andy Bruce
Partner, Global Head of
Real Estate, London
Tel: +44 20 7456 4888
andrew.bruce@linklaters.com

Siobhan Burton
Partner, Real Estate, London
Tel: +44 20 7456 4568
siobhan.burton@linklaters.com

Patrick Plant
Partner, Real Estate, London
Tel: +44 20 7456 4718
patrick.plant@linklaters.com

Matthew Plaskow
Partner, Real Estate, London
Tel: +44 20 7456 2275
matthew.plaskow@linklaters.com

Imogen Jones
Counsel, Real Estate, London
Tel: +44 20 7456 3663
imogen.jones@linklaters.com

Rory Bennett
Head of UK Planning and ESG Lead,
Real Estate, London
Tel: +44 20 7456 5558
rory.bennett@linklaters.com

Robert Daboul
Managing Associate,
Real Estate, London
Tel: +44 20 7456 2182
robert.daboul@linklaters.com

Kathryn Griffiths
Managing Associate,
Real Estate, London
Tel: +44 20 7456 4156
kathryn.griffiths@linklaters.com

Hannah McCorkell
Managing Associate,
Real Estate, London
Tel: +44 20 7456 3021
hannah.mccorkell@linklaters.com

Hannah O’Malley
Managing Associate,
Real Estate, London
Tel: +44 20 7456 5276
hannah.omalley@linklaters.com

Jack Shand
Managing Associate,
Real Estate, London
Tel: +44 20 7456 2508
jack.shand@linklaters.com

Tracey Kennedy
Senior Associate (Knowledge),
Real Estate, London
Tel: +44 20 7456 4717
tracey.kennedy@linklaters.com

linklaters.com

GC34231_F/10.25