



OWEN WHITE
S O L I C I T O R S

BUYING DEVELOPMENT LAND

A GUIDE TO THE PROCESS AND GLOSSARY OF TERMS

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**THE CONVEYANCING PROCESS
AND THE USE OF SEARCHES**

CONVEYANCING PROCESS AND USE OF SEARCHES

Summary of a Transaction

1. The seller and the purchaser agree heads of terms
2. The title to the land is investigated
3. Searches are carried out and enquiries are made.
4. The contract and associated documents are drafted and agreed
5. Contracts are exchanged
6. Completion of the sale and purchase takes place

1. Investigation of Title

This is the starting point for most transactions, once you have had an offer accepted on the property.

Essentially we check that the seller is entitled to sell the land, that there are no factors that will prevent you from being registered as the owner of the land or from accessing, building on and then selling it.

Two types of land exist: registered and unregistered.

Registered land

Registered land is land the details of which are held on the Land Registry's database. This means that details of the ownership of the land and details of certain rights or restrictions affecting the land are listed in a document known as the "register", under a unique "title number".



We can look at the register relating to a particular title number in order to check who owns the piece of land and what rights/restrictions affect that land.

Generally, when you instruct us on a purchase you provide a plan showing the full extent of the land you wish to buy. We then carry out a search of the Index Map, which involves the Land Registry checking the plan against their records. If the land is registered they provide a title number from which we can obtain “official copies” of the register.

We would then check through the official copies to see if there is anything that affects the title to the land. Examples of common “entries” on the register are:

- Easements – such as rights of way or rights to light
- Restrictive covenants - such as a prohibition on building on the land
- Charges - such as a mortgage in favour of a bank to secure the payment of a loan

When we look at the register we check for anything that may adversely affect your use of the land.

For example, if there is a restrictive covenant preventing flats being built on the land, this could significantly affect your use of the land.

If the register reveals easements or restrictions that may affect your use we will consider whether there are ways of preventing them from being a problem.

In some cases it may be possible to obtain a release or consent from the person benefiting from the restrictive covenant or easement. Usually, they will want to be paid for the release. The amount will vary depending on the age and terms of the restrictive covenant or easement and the value of your development.

In some circumstances it may be possible to obtain insurance against the risk of someone enforcing a restrictive covenant or easement.

It may also be possible to make an application to the Lands Tribunal for a restrictive covenant to be discharged or modified if it is considered that the covenant is no longer applicable (if it is very old and appears to serve no purpose, for example). However, the process can be extremely time consuming and expensive and there is no guarantee of success.

Unregistered Land

Where land has not yet been registered at the Land Registry, it is necessary to look through all of the title documents that prove that the seller owns the property and reveal any rights and restrictions and to carry out a Land Charges search.

These documents and old conveyances are known as “the deeds”. It is necessary to check through all the deeds relating to a piece of unregistered land, as they are not neatly summarised on a register as with registered land.

With unregistered land there is no search that we can do to ascertain ownership of the land.

2. Searches

The title register does not show things such as planning permissions or nearby road schemes, which might affect a decision whether to buy.

We, therefore, carry out various other searches.

Local Search

The “local search” is actually two separate searches; the Local Land Charges search and the Enquiries of the Local Authority.

Local Land Charges search

This is a search of the registers maintained by the Local Authority. A search of these registers will reveal things such as:

- planning permissions that have been granted
- Section 106 Agreements (i.e. agreements which impose obligations on the owner of the land to do certain things or make certain payments in the event that they implement a planning permission)
- Tree Preservation Orders (preventing certain trees being cut down or trimmed)
- Smoke Control Orders (restricting the use of non-smokeless fuel)
- Conservation areas.
- Financial charges (e.g. money owed to the Council in respect of work they have carried out)
- Restrictions on permitted development

Enquiries of Local Authority (CON29)

In addition to the information that the Local Authority is required to keep on a register, there is further information which is not revealed by the Local Land Charges search, but is just as important.

The type of things revealed by this part of the search are:

- Whether the roads serving the property are public highway
- Roads and railways proposed within 200m of the property
- Planning applications that have been made (not just those which are granted)

- Proposed tree preservation orders
- Proposed compulsory purchase orders
- Whether any notices have been served in respect of remedying contamination
- Proposed road schemes (such as pedestrianisation, one way streets etc)
- If the property (or part) is registered as common land or a village green. We also submit an enquiry to ascertain whether any applications have been made to register the property as common land or a village green.

Part 2 Optional Enquiries

These are enquiries that are not all applicable to every transaction. Generally speaking, we would use this section to find out

- if there are any road proposals by private bodies
- if there is any record of hazardous substances being stored at the property
- if any notices have been served in relation to environmental matters and pollution.

Highways Search

This search is to check, by use of a plan, whether or not the property abuts the public highway.

The public have rights of way over roads that are public highway and can, therefore, use such land to access their property.

There may be a gap between the designated public highway and the property. This could mean that there is no right to access the property from the highway as it is necessary to cross someone else's land. Often the only way around this would be to pay the owner of the strip of land for a right of way (if they are prepared to grant such a right – they do not have to). Such gaps between the highway and the property are often called “ransom strips”.

It is obviously essential to check that you will have all the necessary rights to actually gain access and run service media to the property otherwise the property will be land-locked.

The highways search will also reveal information on whether a particular highway is maintainable at public expense or privately maintained.

If a highway is privately maintained and you have a right to use it you may be liable to contribute towards the cost of repair. We would have to carry out further enquiries to see who was responsible for maintaining the road.

Chancel Repair Search

Properties falling in certain parishes may be liable to contribute towards the cost of repairing the chancel of the parish church. These costs can be very substantial and we, therefore, carry out a search to determine whether there is any possibility of such liability.

It is generally possible to arrange insurance for a few hundred pounds, should there be potential liability.

Pre-Contract Enquiries of the Seller

These are enquiries made of the seller, generally relating more to the physical aspects of the property such as:

- The responsibility to maintain boundary fences



- Whether anyone else has any rights over the property
- Whether anyone else uses the property
- What services (ie water, gas, electricity) are connected to the property
- Whether there have been any disputes in respect of the property

We can also raise any issues that have arisen from our inspection of the title register and the Local Search. For example, if the title reveals a right of way over the property, we can ask the seller whether it has ever been used.

The enquiries of the seller may also reveal whether there are any unregistered rights. In certain circumstances people can have valid rights over land even though there is no formal agreement and no record on any register.

For example, if someone has, without express permission walked across a piece of land on a regular basis for over 20 years, they may have acquired the right to do so. Obviously, if someone has a right to walk across a piece of land, it would not be possible to build on that land.

This right of way would not be revealed by any searches and so it is important to obtain confirmation from the seller that nobody uses the land in a way which might give them rights over it.

Other searches

There are a number of other searches available, such as a search of the information held by the drainage and water authority and environmental searches.

These tend to be technical searches and our clients will often employ specialist consultants in respect of such matters. Such consultants carry out more detailed investigations and inspections to determine such things as the location

of any sewers, gas pipes, electricity cables, the existence of wayleave agreements or any contamination of the land.

We can, however, order these utilities searches if required.

3. **The Contract**

The contract is the document that sets out the terms of the purchase. It becomes legally binding on “exchange”. The term “exchange of contracts” refers to the process whereby each party’s solicitors holds his or her client’s signed contract and the two solicitors agree to date the contract and physically exchange these contracts by sending their respective parts to the other side. The contract becomes binding when it is dated.

Usually, you would be required to pay a percentage of the price as a deposit on exchange to act as an incentive not to renege on the deal.

You should not exchange contracts until we have completed our investigation of title as detailed above and you are happy with any issues revealed by our investigation.

The contract is unique to each deal, but the following are matters to consider:

Conditions

Is your obligation to buy conditional on something else happening? For example, the purchase may be conditional on planning permission being granted.

Overage

Will there be any further payments in addition to the purchase price?

For example, you may have to pay £10,000,000 for the land but have an obligation to pay additional sums if you manage to get planning permission for

a bigger development than expected or if your sales revenue exceeds a given sum.

These payments are often referred to as “overage”

VAT

Is VAT payable on the price?

As a general rule VAT is not payable on land; however, a seller can elect to charge VAT in some cases. This would obviously increase the purchase price. VAT is generally recoverable by developers. This is not always the case though and so there may be irrecoverable VAT.

It also has a wider implication as Stamp Duty Land Tax (SDLT) is payable on the VAT *inclusive* price.

Security for Deferred Payments

It may be possible to negotiate payment of part of the price on completion (when you become owner of the land) and the balance on a later date or dates.

Where this is the case (and often in cases where you have an obligation to pay overage) the seller will almost certainly require some security for the outstanding sums to ensure that it will receive its money even if you default or become insolvent.

Some common forms of security are:

- A legal charge over the property. This means that the seller retains an element of control after you complete. This will almost always prevent you charging the land to a funder. It could also affect your ability to sell units.
- A bank bond. Whilst these are quite neat and do not affect the land they are relatively expensive.

- A parent company guarantee (PCG) if the purchaser's parent company has enough assets.

A "parent" company is a company that owns the purchasing company.

- A restriction on the title preventing you selling more than a given number of units until the sums are paid.

Once you are happy with the results of our investigation of title and have agreed the terms on which you will buy the land, contracts will be formally exchanged and both parties will be legally bound.

4. Completion

Shortly before completion we will carry out a further search at the Land Registry to ensure that there have been no applications to register anything on the title which was not apparent from our original investigation. This search, known as a "priority search" then provides a 30 day period of protection in which nobody else can register anything against the title. This gives us time to register your purchase, safe in the knowledge that nothing else can be registered in the meantime.

On the completion date set out in the contract you will be required to pay the balance of the purchase price (or part of the price if applicable). A transfer deed will be signed and dated on completion.

Following completion you must submit a Land Transaction Return to HMRC and pay the SDLT due within 30 days. Once we have received the SDLT certificate from HMRC, we will then make an application to the Land Registry to update the register and record you as the owner.

OWEN WHITE
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**GLOSSARY
OF
TERMS**

GLOSSARY OF TERMS

1954 Act:	The Landlord and Tenant Act 1954. This gives commercial tenants a right to renew their lease when it expires, unless the parties agree otherwise.
Adverse Possession:	Adverse possession arises when a person is able to obtain an interest in land by occupying that land to the exclusion of the legal owner. Adverse possession of <u>registered land</u> is governed by the Land Registration Act 2002. Under this Act, if a person takes possession of land, even by committing a trespass, then after 10 years, they will be entitled to apply to be registered as owner of the land. On such an application being made, the registered owner will be notified and given the opportunity to oppose the application. If the application is not opposed, the squatter will be registered as owner in place of the registered proprietor of the land. Adverse possession of unregistered land is governed by the Limitation Act 1980. After 12 years a squatter may claim possessory title. The land owner's ability to oppose the application is far more limited than with registered land.
Agent – deposit:	Where a deposit is paid to the seller's solicitors as 'agent' the solicitor is permitted to transfer the deposit to the seller upon receipt (as opposed to 'stakeholder' where it is held by the solicitors until completion).
Appropriation (for planning purposes):	Easements and other rights can be overridden where a local authority has carried out an

administrative procedure known as “appropriating for planning purposes,” to enable building or other works to be erected or carried out or maintained on that land. The easement might, for example, permit access over the site that is to be developed from neighbouring land or the land to be developed could be subject to a restrictive covenant that prevents the land from being used for a certain purpose. Appropriation stops these easements or rights from preventing development (although compensation must be paid to the person losing the benefit of the rights/covenants).

Arbitration:

A method of resolving disputes between parties. An arbitrator is appointed by the parties to make a binding decision from which there are very limited grounds of appeal. Arbitration may be either ad hoc (where the parties determine whatever rules they may consider appropriate for the arbitration) or administered (where the arbitration is conducted under the auspices of one of the arbitral organisations, such as the London Court of International Arbitration (LCIA) or the International Chamber of Commerce. Arbitrators consider the parties’ arguments and try to determine a compromise position.

Asset of Community Value:

Land or property benefitting the local community that is registered on a register maintained by the Council. Land that has been registered includes pubs, allotments and

sports fields. Registration as an ACV results in there being restrictions on disposal.

Bona Fide: In good faith, honestly, without fraud or deceit.

Bond: Document by virtue of which the issuer (usually a bank or similar) promises to pay the holder a certain amount on future dates or in certain circumstances.

Caveat Emptor: Latin for “let the buyer beware”. The basic premise that the purchaser buys at its own risk and, therefore, should examine and test a product or property itself for defects and imperfections.

Central Land Charge: Something affecting the title to unregistered land. There are six classes of central land charge that must be recorded on the Central Land Charges Register, which is kept by the Land Charges Department. These are: land charges imposed by statute pursuant to an application (Class A); land charges imposed automatically by statute (Class B); puisne mortgages, limited owners charge, general equitable charges and estate contracts (Class C); Inland Revenue charges, restrictive covenants and equitable easements (Class D); annuities (Class E) and Matrimonial Homes Act 1967 & 1983 protection (Class F).

Central Land Charge Register: One of the five registers kept by the Land Charges Department. The Central Land Charges Register is comprised of the six classes of land charge set out above.

Chancel Search:	A search designed to reveal whether a property you are proposing to buy may be affected by a potential obligation to contribute to the cost of the upkeep of the chancel of the local Parish Church. Potentially any property located within the boundaries of a Parish where such a liability exists could be caught.
Charge/Mortgage:	A document in which the owner pledges its title to property to a lender as security. The lender can take possession of and/or sell the property if the owner does not meet the terms of the contract. A charge is usually registered against the property at the Land Registry (and is protected by a restriction) and against the company that granted the charge at Companies House.
Community Infrastructure Levy (CIL):	The CIL regime results from the Planning Act 2008 and the CIL Regulations 2010 and requires payments to be made by a developer to the local authority in which a proposed development site stands. Calculation of the contribution will operate on a tariff system depending on the type of development (residential, commercial or mixed use), its scale and the amount of floor space to be demolished and retained. The contribution is to be calculated when planning permission is granted. Not all local authorities currently use the CIL as it is being phased in. Further information can be found at http://www.planningportal.gov.uk

Condition Precedent:	A condition in a contract which provides that the agreement or certain parts of the agreement will only become binding on the parties if certain conditions are met.
Conservation Area:	Section 69 of the Civic Amenities Act 1967 gives local councils the power to designate “areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance” as Conservation Areas. Designation gives a local council greater control over the demolition and erection of buildings and provides policies designed to preserve or enhance the character or appearance that defines an area's special interest.
Consideration:	Payment, in any form, under a contract. This could be as little as a peppercorn, which is notional consideration, intended to satisfy a technical requirement for each party to a contract to have done something for, or provided some benefit to, the other.
Contracted Out:	Part II of the Landlord and Tenant Act 1954 gives tenants of commercial premises the right to renew the tenancy at the end of the term if the tenant has occupied the premises for the purposes of its business. The landlord and tenant can, in certain circumstances, agree to “contract out” of these rights so that the tenant will not have the benefit of the statutory rights to a lease renewal.

Conveyance:	A generic term for any written document which transfers (conveys) property or property interests from one party to another.
Deed:	A written document which is executed with the necessary formality (i.e. more than a simple signature). The limitation period for actions brought under deed (i.e. the period during which the parties can sue each other) is generally 12 years (as opposed to a document which is signed, not executed, for which the period is 6 years).
Deed of Surrender:	A document between a landlord and tenant determining a lease. The tenant surrenders the lease to the landlord, who formally accepts the surrender. The lease then comes to an end. If the lease is registered, the registered title of the property must be amended to remove the leasehold title and to remove any reference to it from the freehold title.
Demise:	An old-fashioned expression meaning to lease property. It is also often used to describe the extent of the property leased to a tenant (which is also called the 'demised premises').
Development Agreement:	Development agreements regulate the relationship between property developers, funding institutions (if any) and purchasers. Where a landowner brings in a developer to carry out a project on its land, a development agreement may be put in place, which will provide for the project to be carried out by the developer

- Easement:** A right benefiting a piece of land (known as the dominant tenement) that is enjoyed over land owned by someone else (the servient tenement). A positive easement allows the owner of the dominant tenement to do something on the other person's land, such as use a footpath or run services over it. An easement will limit what the owner of the servient tenement may do on the land (e.g. the owner might not be allowed to construct buildings that would interfere with someone's right to light).
- Encumbrance:** A general term for any liability or other matter affecting property including a mortgage, deed of trust, unpaid property tax, easement or covenant right. While the owner has title to the property, any encumbrance is usually recorded against the title e.g. most encumbrances are recorded on a registered title to the property.
- Escrow:** Where a document is delivered in escrow, it will have been executed by all parties. It is not binding, but the parties to it cannot prevent it becoming binding if certain pre-agreed conditions are satisfied. The document will not take effect until the fulfilment of the specific conditions. Any escrow condition must be set out in writing. If the escrow condition is never fulfilled, the document will never take effect.
- Escrow Account:** An account in joint names, generally in the names of the two parties to a contract or their solicitors. The idea is that the money is held in

a place that allows the parties to access it on certain terms and prevents it being used without the consent of both parties.

Expert Determination:

A method of resolving disputes. The parties agree to appoint an expert. Usually contracts provide for someone to appoint an expert in the absence of agreement. Experts use their experience to determine a dispute.

Filed Plan:

Plan of the registered title of a property, officially produced by the Land Registry and filed with the Official Copy Entries. Plans are based on Ordnance Survey maps and indicate boundaries to the property. They cannot be relied upon as accurately illustrating the full extent of the registered title as they are not definitive.

Full Title Guarantee:

This is the best classification available for implied covenants of title. The classification must be stated on the transfer of the property.

Good Leasehold Title:

A class of leasehold title granted by the Land Registry where applications to register leasehold estates are made, but the title of the landlord to grant the lease has not been produced. In such cases, the Land Registry is not in a position to know if the landlord had the full and unrestricted power to grant the lease or if any restrictive covenants or other encumbrances affect the property. Provided that the title to the leasehold estate itself is satisfactory, the Land Registry will grant good

leasehold title. Indemnity insurance can be obtained for this 'defect' in title.

Green Belt:	An area of (primarily open) designated land around built-up areas designed to limit urban sprawl and to define town and country areas. It is protected land with a particularly strict restraint on urban development, thus making the grant of planning permission to develop very rare.
Guarantor:	A person or entity that agrees to be responsible for another's debt or performance under a contract if the other fails to pay or perform.
HA:	Housing associations. Independent, not-for-profit organisations that provide homes for people in housing need or for shared ownership/key worker schemes to help people who cannot afford to buy their own homes outright. (See also RP).
Indemnity:	An undertaking by one person to meet a potential legal liability of another. An indemnity entitles the person indemnified to receive payment if the event giving rise to the indemnity takes place (for example, if the buyer indemnifies the seller against a breach of covenant, the buyer breaches the covenant and the seller is sued by an adjoining owner, the seller can recover his costs from the buyer).
Indemnity Policy:	An insurance policy that will pay out in the event of anyone enforcing certain title matters against the property.

Injunction:	A court order prohibiting a person from taking a particular action (a prohibitory injunction) or requiring them to take a particular action (a mandatory injunction).
JCT:	The Joint Contracts Tribunal, which produces standard forms of contract, guidance notes and other standard documentation for use in the construction industry. 'JCT' can also be used to describe a building contract (i.e. "the JCT").
JR:	Judicial Review. The way in which the courts look into the actions of government ministers and departments, industry regulators, local authorities and other public bodies to ensure that they act lawfully and fairly.
JR Period:	A period from the date of the grant of planning permission where a third party may commence Judicial Review proceedings. Typically, this period is 6 weeks.
Local Land Charge:	A restriction or prohibition imposed on land, or a financial charge, which is binding on successive owners or occupiers of land. They include charges for such services as roads, restrictions such as Tree Preservation Orders, conditions imposed in Planning Permissions, Conservation Areas, Legal Agreements and Listed Buildings. They are registered with the local council on the Local Land Charges Register. A search for all local land charges affecting a property can be carried out with the local authority as part of the Local Search.

Local Land Charges Register:	A register of all local land charges, which must, by law, be kept by the local council. The register records relevant information on every property within the borough/district.
Licence:	The lawful grant of a permission to do something that would otherwise not be legal or allowed, for example, to occupy a property or carry out works.
Lien:	Any official claim or charge against property or funds for payment of a debt. A lien is usually a formal document signed by the parties, but can be created without anything being in writing. Sellers will automatically have a lien for deferred payments of the purchase price, unless the parties agree otherwise.
Limited Title Guarantee:	One of the classifications for implied covenants of title. The classification must be stated on the transfer of a property. Limited title guarantee is not as good as full title guarantee, which should be obtained where at all possible. Limited title guarantee is usually given by sellers who have limited knowledge of the property, e.g. trustees acting on behalf of a charity.
Listed Building:	A building which is 'listed' as being of historical or archaeological significance. There are different classes of listing and listed buildings are subject to more strict planning laws than non-listed buildings.

Listing Search:	A search with the local authority to find out if a building is listed.
Local Search:	A search in the form of a set of standard enquiries addressed to the local authority to reveal important information about the property and its immediate surroundings, such as planning consents, building regulations, environmental notices served by the local authority etc. The search incorporates the local land charges search (see above). The local search should be carried out as part of a title investigation.
Long Stop Date:	The final date by which a specified event must have happened.
Official Copy Entries:	Copies of the entries on the registered title of a property; officially produced by the Land Registry and stamped with the date and time of issue. There is a public right to inspect and to obtain official copies of the land register. Official copies should always be obtained when investigating title to registered land, as they provide the most up to date, official record of all registered matters affecting the property.
Option Agreement:	A contract under which one party pays a premium in return for the right (but not the obligation) to buy (call) an asset from the other, or to sell (put) an asset to the other on the terms set out in the contract.
Outline Consent:	Outline planning permission, which is granted by a local planning authority subject to a

condition specifying matters that are to be approved later. The matters to be approved later are known as reserved matters and must be approved by the LPA within specified time limits before the proposed development can proceed. Reserved matters may relate to e.g. the site, design, external appearance, means of access or landscaping of the proposed development.

Peppercorn:

An old term used to describe a nominal payment of consideration.

Periodic Tenancy:

A tenancy where the term is framed by reference to a period of time: weekly, monthly, quarterly or yearly. The tenancy lasts from week to week, or month to month and so on until determined by a notice to quit given by either the landlord or the tenant. A periodic tenancy can be created by express agreement or, in the absence of an express agreement, may be inferred where there is a landlord and tenant relationship and rent is demanded and paid by reference to a particular time period (i.e. weekly, monthly etc).

Permitted Use:

Commonly used to describe the purpose for which a tenant may use a property, as permitted by the landlord under the lease. It may be expressed positively, requiring the tenant to use the property for a certain use, or alternatively, it may be expressed negatively, forbidding a tenant to use a property for any purpose other than the permitted use.

Positive Covenant:	An agreement included in a deed which requires the covenantor to carry out some specific action, such as erecting a fence. Positive covenants do not bind future owners of the property, unless included in a lease.
Possessory Title:	A class of title of a registered estate granted by the Land Registry, where (typically) the owner has acquired the land by adverse possession. Alternatively, it may be where the owner cannot produce documentary evidence of title to an estate for some reason. These titles are rare.
Power of Attorney:	A document by which one party gives another person or company the power to act on its behalf and in its name. The party giving the power is called the donor, grantor or principal and the party on which it is conferred is usually referred to as the donee or attorney.
Practical Completion:	The point at which a building project has been completed in all material respects in accordance with the contract, drawings and specification (that is except for minor defects that can be put right without undue interference or disturbance to an occupier).
Pre-emption (right of):	A right of first refusal. This is the right to be offered a property first, should the owner decide to dispose of it.
Prescriptive Rights:	Rights established based upon the continued enjoyment of the right for a prescribed period of time.

Profit a prendre:	A right to take something (e.g. fish, turf, firewood) from land belonging to another.
Registered Land:	Registered land is land which is registered on the public registry of the Land Registry. Currently about 80% of land in England and Wales is registered.
Reserved Matters:	Specified matters which must be approved by the local planning authority within certain time limits before planning permission can be implemented and the proposed development can proceed. The reserved matters may relate to e.g. the siting, design, external appearance, means of access or landscaping of the proposed development.
Restriction:	An entry on the registered title of a property protecting a third party interest over that land e.g. a mortgage (or charge). Restrictions prevent or regulate the registration of any disposition or dispositions of specified kinds.
Restrictive Covenant:	A covenant limiting the future use or development of the property (e.g. not to use the property for specific purposes). All future owners will also be bound by enforceable restrictive covenants ("covenants running with the land"), unless they are released by a deed.
Right of Light:	Where applicable, this right allows property owners to prevent activities on neighbouring land (such as the erection of buildings) which would prevent or diminish the light that the

property enjoyed prior to the activity taking place.

Right of Support:

The right of a land-owner to physical support from adjoining land. For example, should the adjoining owner excavate its land for any reason (foundation, basement, levelling) then there must be a retaining wall constructed (or other protective engineering) to prevent a collapse.

RP:

Registered Provider. Not-for-profit housing providers approved and regulated by the Government.

RSL:

Registered Social Landlord. The old name for an RP

Section 106 Agreement:

An agreement made under Section 106 of the Town and Country Planning Act 1990 between a local authority and a developer. The agreement will create restrictions on the use of the land or the operation of the development. It will often require the provision of affordable housing and/or the making of contributions towards the local infrastructure and facilities. Section 106 Agreements are local land charges and are binding on the land.

Section 278 Agreement:

An Agreement under Section 278 of the Highways Act 1980 relating to works within the highway. This term is usually used to refer to agreements that contain obligations relating to works to adopted highways (such as new traffic islands, roundabouts, junction improvements,

carriageway alignment etc). It is often accompanied by a Section 38 Agreement for works outside the highway.

S38 Agreement:	An Agreement made under Section 38 of the Highways Act 1980 which relates to the adoption of new highways. It is usually used to refer to an agreement between the land owner and the highways authority for the construction of new highway and the ultimate adoption of it so the highway is maintainable at public expense by the authority.
Security of Tenure:	A statutory right given to tenants to remain in occupation of their premises
Specific Performance:	An order by the court to compel a party to perform its obligations. In the High Court, it may be granted in addition to or instead of damages. Unlike damages which are available as of right, specific performance is granted at the court's discretion (i.e. no-one has a right to an order). The court may take into account how the parties behaved when deciding whether to issue an order.
Stakeholder – Deposit:	Where a deposit is paid to the seller's solicitors as 'stakeholder' the solicitor holds it until completion (as opposed to 'agent' where the solicitor is permitted to transfer the deposit to the seller upon receipt).
Statutory Declaration:	A written declaration sworn in the presence of a person who is authorised to administer oaths (e.g. a solicitor).

- Telecoms/Electronics Code: The Code enables electronic communications network providers to construct electronic communications network infrastructure on public land (streets), to take rights over private land, either with the agreement with the land owner or by applying to the County Court. It also provides certain immunities from the Town and Country Planning legislation in the form of Permitted Development, and gives the provider a right to continue any lease/licence granting any such rights. It is very difficult to determine a telecoms lease/licence. In most cases a developer has to agree terms to relocate the equipment concerned.
- Tenancy at Will: A tenancy which is not a periodic tenancy or for a fixed term, but which lasts until one party brings it to an end on notice. A tenancy at will falls outside Part II of the Landlord and Tenant Act 1954 and has no security of tenure. It can only be created in certain specific circumstances.
- Title Absolute: The best class of title of a registered estate and the one that will be granted by the Land Registry in the majority of cases. However, this may not be possible where some evidence is lacking or a defect in the title is apparent, so making it unsafe for the Land Registry to guarantee the owner absolutely against the risk of some other person claiming a right in the land.

TPO:	Tree Preservation Order. An order made by a Local Planning Authority which makes it an offence to cut down, uproot, prune, damage or destroy the trees in question.
Transfer:	The movement of property or title to property from one person or entity to another. The word is also used to describe the document that actually transfers the ownership of land from one party to another.
Unilateral Undertaking:	An agreement similar to a Section 106 Agreement, where the landowner completes a legal undertaking to e.g. pay the required financial contributions (along with an administrative fee) to the Council. The Council is not a party to the agreement, hence it being unilateral. Usually, the Council will expect the applicant to enter into a conventional negotiated Section 106 Agreement. Unilateral Undertakings are generally used in connection with planning appeals, where the Council is unwilling to sign a Section 106 Agreement.
Unregistered Land:	Land which is not registered with the Land Registry. Proof of ownership is by production of the historical title deeds. Currently around 20% of land in England and Wales is unregistered.
Village Green:	An area of open space which has been used by a significant number of local inhabitants for the purposes of recreation and playing lawful games, sports and pastimes for a period of at least 20 years without force, secrecy or

permission. Land can be registered as a village green under the Commons Act 2006. Registration generally prevents development.

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