

## NEW DEVELOPMENTS UNDER WAY



Positive steps for North London and the Lee Valley - The Business Innovation Centre, Innova Park

**Whilst Enfield and the Lee Valley have one of the largest concentrations of industrial and warehouse space in North London it has until recently relied to a certain extent on existing older stock where there is still a flourishing demand.**

However off the back of this continued demand and increased confidence in the area new developments are taking place which is good news for the local economies. As a result there is now more choice for prospective occupiers and occupational costs still remain very competitive compared to other areas of London and South Hertfordshire.

One of the largest schemes being developed, by Thames Water Developments, is the 100 acre Business and Science Park known as Innova Park. Phase one of the development of some 43 acres is centred around the Business

Innovation Centre (BIC), which is now complete and is aimed at lending support to businesses with new inventions /products by providing direct investment and workspace (known as 'incubating units'). According to BIC, business is brisk and they are now looking at a second phase of 40,000 sq ft (3,716 sq m) which will provide 2,000-5,000 sq ft (186-465 sq m) units for high tech and research and development companies.

Iceland Foods have recognised the strategic importance of Enfield by purchasing 15 acres from Thames Water Developments to construct its Southern Regional Distribution Centre.

Construction is well advanced and the building will provide approximately 218,000 sq ft (20,250 sq m). In addition BT have taken a pre-letting of a 20,874 sq ft (1,940 sq m) trans-shipment depot.

Conceived as a science park, Innova Park has become a mixed scheme which we believe is good for the area in

## NEW ACCOUNTING STANDARD MAY UNBALANCE BALANCE SHEETS

**How often does your Company value and depreciate your property? Do you revalue in the good times and not in the bad to bolster your Balance sheet?**

This loophole is about to change following the publication of FRS15, Tangible Fixed Assets, a new accounting standard which tells companies how to value and depreciate the buildings they occupy for their own business. This new standard only applies to trading property and not to properties held as investments.

Under the new rules, companies will in future have to choose either to show the property in their accounts at historic cost or have the property valued by an external valuer every five years. Having adopted a strategy they will have to stick to it.

This is an important new regime and may force many companies to look at ways to off load property assets from their balance sheets through sale and lease-backs or transfer of the asset into separate special-purpose vehicles.

As in all things specialist advice is required and companies should seek the advice of their accountants on the implications for them.

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# BOWYER BRYCE



The Dencora Centre - now complete.

encouraging existing light industry, general industry and distribution operations as well as supporting and encouraging new technological advances. Thames Water Developments are offering design and build packages for the remainder of the Park.

Just to the east is Waltham Park, a major scheme by Kier Ventures and

Norwich Union who have acquired 48 acres in a joint venture for commercial development. The site is immediately adjacent to the M25 and will be directly accessible from Junction 26 by a new link road which is due to be completed this summer. The site has outline planning consent for up to 750,000 sq ft (70,000 sq m) of industrial and warehouse uses.

The agents report a good level of interest generally and there is market rumour that the developer is in discussions with a single occupier.

Another major scheme to watch will be by Gazeley Properties who have recently acquired the former Delta Works, some 22.1 acres of land in Millmarsh Lane. Whilst it is still early days the developer is keen to discuss pre-letting and pre-sales although it is conceivable that a small speculative phase may be included.

The Dencora Centre on Mollison

Avenue, totalling about 80,000 sq ft (7,432 sq m), is now complete offering a range of units from 5,000 - 30,000 sq ft (465 - 2,787 sq m) and rents of around £6.50 per sq ft (£70 sq m) are being achieved.

Through its key role within the Upper Lee Valley Partnership, the London Borough of Enfield has played a significant part in changing the way in which Enfield is perceived. Good use of the available grants has resulted in new infrastructure and road signage creating the right environment for future growth in the area.

The London Borough of Enfield and the Business Advice Centre based in Hertford Road provides local companies and indeed companies looking to come into the area with a good level of support and encouragement.

These developments are encouraging signs for North London and the Lee Valley.

## CASHBACKS ARE NOW POSSIBLE

**UNTIL RECENTLY IT WAS IMPOSSIBLE TO RECOVER MONEY PAID OUT UNDER A MISTAKE OF LAW. THIS HAS NOW CHANGED AND THE LAW RECOGNISES THAT THIS MONEY SHOULD BE REPAYED.**

**Nicholas Bone of Singletons Solicitors provides an interesting insight into a recent development which may have huge consequences.**

### BACKGROUND

Case law dating back since 1802 established that although a person has been unjustly enriched by money paid out under a mistake of law, the victim of such a mistake was barred from recovering the money. Despite criticisms from many areas regarding this injustice, particularly the Law Commission, this doctrine remained unchanged until the recent case of *Kleinwort Benson Ltd - v - Lincoln City Council* (1998).

### KLEINWORT BENSON LTD - v - LINCOLN CITY COUNCIL (1998)

In this case Lincoln City Council took out interest rate swap agreements in order to source additional monies from the financial market. It was found in the course of litigation that the Council acted

beyond their powers and the agreements were therefore found to be void. The Council subsequently avoided repaying the money borrowed under the doctrine that money paid out under a mistake of law was irrecoverable. Consequently, *Kleinwort Benson Ltd*, the financiers, pursued a remedy through 'restitution' on the basis that, unless the monies were repaid the local authorities would be unjustly enriched by retaining the amount originally advanced.

The case went to the House of Lords and it was held that there is a duty to repay if a person has been unjustly enriched by a mistake of law. The House of Lords went a stage further and stated that even money paid prior to this decision was also recoverable.

### THE TIME LIMIT

The Limitation Act 1980 lays down the time limits within which a person can pursue a claim and provides a 6 year time period for any Contract claim. Section 32 of this Act states that the 6 year time limit does not begin to run in relation to fraud,

concealment or mistake until the matter is discovered. In the *Kleinwort Benson Ltd* case the House of Lords considered whether a mistake of law was included within this category and ruled that if money was paid under a mistake of law, then the limitation period for bringing a claim only began to run when the mistake was discovered.

### IMPLICATIONS

The implications are clear - If you have paid out money incorrectly under a mistake of law which has resulted in an unjust enrichment, you are fully entitled to be recompensed. Further, the time limit for bringing your claim only starts running from the date that the mistake was discovered. It is therefore possible for money paid wrongly under a mistake of law many years ago, which resulted in unjust enrichment, to be recovered provided that the action is brought within the 6 years of the mistake being discovered.



**Nicholas Bone** specialises in **Employment Law and General Civil Litigation** and may be contacted at: **Singletons 36**  
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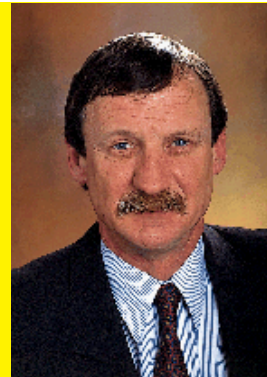
**BOWYER**  
**BRYCE**

## RENT REVIEW FOR SMALL BUSINESSES

**In the first issue of 'Business Benefits', Robert Pearson of Curwens Solicitors gave some information about the PACT scheme, being a simplified method of dealing with Lease Renewal settlements.**

**T**he Royal Institution of Chartered Surveyors and The Incorporated Society of Valuers and Auctioneers in conjunction with the Department of the Environment have also developed a cost effective scheme for small businesses in circumstances where the rent cannot be agreed between the parties in a rent review dispute, and it is to be referred to a third party, either an Independent Expert or Arbitrator.

Properties occupied by small businesses are defined as having a rateable value of less than £15,000 in London (£10,000 elsewhere) and the property is one of a maximum of two commercial properties held by the tenant. Under the scheme, which is intended for straightforward cases where the only point of dispute is rent, the parties agree to dispense with the procedure under the lease and opt to proceed under the Small Business Scheme. Whilst in many ways the procedure thereafter is similar to a normal third party reference the total cost is capped at £1,000 including V.A.T., split equally between the landlord and tenant, but this excludes the costs of their own surveyors. There is no reason why the parties to a dispute of this nature, who



Professional Partner  
Ray Arrowsmith

are not professionally represented, should not agree to appoint a surveyor themselves to determine a rent at a fixed cost, without reference to the RICS. Ray Arrowsmith is appointed from time to time as an Independent Expert both in respect of rent review disputes of this nature as well as valuation litigation generally.

# WHAT IS YOUR BUSINESS WORTH?

**DOUGLAS FUSSELL, SENIOR PARTNER OF MOORE STEPHENS ENFIELD, CHARTERED ACCOUNTANTS, OUTLINES SOME KEY ISSUES TO CONSIDER**

**Most business people think they have a good idea what their business is worth. It is a comfort to know that if it comes to the worst “we can always sell the business”.**

**T**here are numerous ways of arriving at a value for your business but at the end of the day the true value is what a willing buyer is prepared to pay and a willing seller is prepared to sell at.

But if you have no intention of selling why should you value your business anyway, especially given the variety of valuation methods and the differing results they produce when I have already said the right value is that achieved in the market place.

Carrying out a valuation exercise without the pressure of a potential sale can be quite advantageous. It makes you look closely at your business and identify where changes or improvements could be made and it helps you understand how a potential purchaser would look at you.

- Have you the right personnel in the right places?
- Are your management systems up to date and effective?
- Can the business run without you or certain key people?

- Are all areas of your business profitable?
- Do you have procedures or habits which might be described as “old fashioned”?

Remember many sales of private businesses come from an unsolicited approach. If you decide to respond you will get a better price if you know your business and it is in good order and you have a good feel for its value - and what you might sell it at.

Business valuations are necessary in a number of circumstances and it is much better to have done the exercise already, although it would have to be updated, than to rush a valuation for a particular purpose.

The following are some of the reasons a valuation is needed:

- Restructuring the shareholdings between members of the family and family trusts
- Inheritance tax planning
- Raising finance by the issue of shares
- Taking over another company by issuing your shares
- Selling a proportion of the shares to management
- Share Option Schemes
- Employee Share Ownership Schemes
- Keyman insurance

The valuation exercise needs to be carried out in association with a qualified professional advisor, and it is not just a question of doing some sums. You should start with a

planning meeting to identify your reasons for the valuation and the best way to proceed. Set a timetable for what is to be done with an end date and review dates in between.

When the whole process is over you and your people will know your own business much better and I guarantee you will revise your original opinion of its value.

Douglas Fussell (above) is Senior Partner of Moore Stephens Enfield and is Chairman and Director of the Hertfordshire Chamber of Commerce & Industry. He may be contacted at: 57 London Road Enfield. Tel: 0181 366 4331 Fax: 0181 367 8246



## TENANTS-BE PREPARED

**I**f a tenant has been served with a Notice to Determine a Business Lease under S25 of the Landlord & Tenant Act 1954 they must protect their interests by serving a Counter Notice within 2 months and apply to the Court for a new lease within a further 2 months if terms have not been agreed and signed.

Until recently once that Court application had been lodged the matter could be adjourned, almost indefinitely.

Courts however are now reluctant to

adjourn such proceedings and therefore tenants, landlords and their legal and professional advisers need to be prepared for a Court hearing fairly shortly after the application is made, sometimes within 7 or 8 weeks.

It is important therefore that you seek advice as soon as a Notice to Determine has been served so that you are ready to fight your case.

Ray Arrowsmith would be pleased to give further advice.



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The content of this newsletter is intended to be of general interest and readers are advised not to rely upon it without seeking professional advice relating to their particular circumstances.