

# Property Development Application

Barnett Waddingham Self Invested Personal Pensions



Properties held within your SIPP may need improvements from time to time to keep them up to date or in a good state of repair. More substantial development work may be carried out to improve their rental and/or capital value. Every property is different though and there may be different options available to you depending on your property type and location as well as the nature of the building work and whether there is any connection between the tenant and your pension scheme.

We hope that the notes below are of assistance but if you, or the tenant in the property, are considering carrying out any work to your SIPP's property please contact us in the first instance. We will be able to guide you through this process and avoid any potential pitfalls.

We will require a surveyor to visit the property on completion of the proposed works to provide independent evidence that the works have been completed to an acceptable standard and to confirm any changes to the property's market value, rental value and insurance reinstatement value. Please ensure that the costs of obtaining this report are factored into your plans for the development.

## Planning permission and listed buildings

If your property is a listed building then you must apply for Listed Building Consent before any work is carried out. This is true of simple repairs as well as any sort of development work, however, any work which alters the nature of the property is unlikely to be approved. If you fail to obtain Listed Building Consent or if you are issued with a Listed Building Enforcement Notice and fail to follow the guidance it contains then you could face criminal charges from the Local Public Authority.

Please note that the Local Public Authority will not charge you for an application for Listed Building Consent.

Even if your property is not listed you still have to apply for planning permission for some property developments or for a change in the use of your property. If you are unsure whether or not your proposed changes will require planning permission you should consult with a building contractor who should be able to complete the application on behalf of your SIPP, if required.

If you wish to apply for a change of use from commercial to residential, your SIPP will have to sell the property before any work is carried out on the conversion. This is because HMRC consider residential property to be a taxable investment in all but a few limited circumstances.

## Building contractor

We would normally expect the work to be completed by a single contractor and we require quotes from at least two different contractors to ensure that the SIPP is paying fully commercial rates. If the contractor is connected we will require quotes from at least two other contractors in addition to the quote from the connected party.

## Tenant works

If there is a lease in place on the property then this should dictate the duties of the tenant and the landlord (which is your SIPP) in respect of any repairs or development work. In addition to these restrictions your SIPP is not allowed to invest in any Tangible Moveable Property (items like furniture, window blinds, computer equipment, white goods, etc.)

There will also be limits placed on the amount of work that you can do on behalf of your tenant, particularly if there is a connection between the tenant and the SIPP.

## Connected parties

If anyone carrying out work on your SIPP property is a connected party then we will need copies of quotations from unconnected parties that demonstrate that the SIPP has been charged fully commercial rates for all the work that has been carried out. Where a connected party has been selected to carry out the work we ask for three quotes from alternative suppliers rather than the two quotes that we require where an unconnected contractor is used.

If this does not happen and the SIPP or the tenant appear to benefit unduly from the arrangement then this may have to be reported to HMRC as unauthorised payments, which will result in significant tax penalties being charged.

The capital, rental and reinstatement values of your property will also have to be reviewed on the completion of works to your property. If the post-completion valuation indicates that the rental value has increased, the uplifted rental amount must be charged to the tenant. A solicitor will be required to ensure that the amended rent is documented correctly.

## VAT

Do you wish to reclaim the VAT payable on the building work? If so and your SIPP is already VAT registered and the property is opted to tax then there is nothing further you need to do. If your SIPP is not yet VAT registered and/or you have not waived the property's VAT exemption then this is something that we can arrange for you.

Please note that electing to waive your VAT exemption on the property will mean that you will have to charge VAT on all future rental income and complete quarterly VAT returns. We can deal with this aspect for you but there will be charges for doing so. You will also have to charge VAT on the eventual sale of the property, which will increase the amount of SDLT/LBTT payable and so may make the property less attractive to some buyers.

If you are in any doubt about whether to register for VAT then please consult with your financial adviser, accountant or a VAT expert. We are also happy to provide information to you but we are prohibited from giving you any advice.

## Income from trading

It is possible for a registered pension scheme to trade, but the trading stock is not classed as an investment for tax purposes and income derived from trading is not the same as investment income or income from deposits. This means that the tax exemptions (including those relating to capital gains on the sale of a property) do not apply to the carrying on of a trade, so a registered pension scheme is liable to declare and pay tax on any income from trading. As this would require the completion of tax returns on behalf of the SIPP, we do not permit our SIPPs to knowingly enter into any activity that could lead HMRC to determine that the pension scheme has 'performed a trade'.

Where a registered pension scheme:

1. Acquires a property intending to develop it and make a profit through its resale ; or
2. Already owns a property but then develops it with the intention of making a profit through its sale

HMRC may deem this to be a trading activity by that scheme and tax it accordingly. Please ensure that you obtain appropriate tax advice in respect of any such transactions of this nature, or agreements supporting them, to ensure that SIPP's tax privileged status is not jeopardised.

## What next?

If there are any proposed works that you would like us to consider please complete the application form that follows and return this to your SIPP Client Manager along with any supporting documents or evidence. We will be in contact if we need anything further and to let you know the next stage in the process.

Please note that all applications should be accompanied by a complete schedule of works with architect's plans and quotes for completing the work from at least two different contractors. If the chosen contractor is connected to the SIPP we will require at least three quotes to be provided. We will also need a fully itemised breakdown of the estimated cost of works.

## Application form

Member name: .....

SIPP number: .....

### Property details

Address of property: .....

.....

..... Postcode: .....

Description of property (for example: warehouse, office, industrial unit, shop, agricultural land):

.....

Is this a listed building?  Yes  No

If 'yes', please confirm the property's listing grade: .....

Please note that, before any work is carried out on a listed building, you must receive Listed Building Consent. The application for this should be made through the local public authority's planning department and can usually be completed online. We are unable to permit any work to a listed building until this consent has been granted. Listed Building Consent will be required in addition to normal planning permission for the work being carried out (if applicable) including any applications for a change of use.

Is the SIPP and property VAT registered?  Yes  No

If not, would you like to register the property for VAT now?  Yes  No

If you register for VAT you will be able to reclaim any VAT charged on works to the property, however, this also means that you will also have to charge VAT on all future rental income and on the eventual sale price of the property.

### Tenant details (if applicable)

(If there is more than one tenant, please provide details on a separate sheet of paper)

Existing lease  Proposed tenant  Vacant property

Name of tenant: .....

Address: .....

.....

..... Postcode: .....

Nature of tenant's business: .....

Current (or proposed) rent: .....

Is the tenant a connected party?  Yes  No  N/A (vacant)

If the tenant is a connected party the lease will need to be amended to reflect any increase in the market rent once the works have been completed. A rental valuation will be required, post completion, to support the new rent being paid.

## Surveyor

As mentioned above, a surveyor will have to visit the property on completion of the works to provide independent confirmation that this has been carried out according to plan and to an acceptable standard. If you would like us to arrange the valuation for you, please complete the surveyor's details below.

Surveyor name: .....

Address: .....

.....

..... Postcode: .....

Email: .....

Contact details to enable the surveyor to gain access to the property:

Name: ..... Telephone number: .....

Email address: .....

## Development details

Please provide a brief description of the nature of the works that are to be carried out: .....

.....

.....

.....

Estimated cost of works: £ .....

Tenant's share of costs: £ .....

SIPP's share of costs: £ .....

Please provide a full itemised breakdown of these costs with your application.

Do the proposed works require planning permission?  Yes  No

If so, has the application been made?  Yes  No

It is preferred that any work is instructed through a Joint Contracts Tribunal (JCT) standard contract in England/Wales, JCT with Northern Ireland Adaption Schedules in Northern Ireland or a Scottish Building Contract (SBCC) in Scotland. All contracts should also limit the liability of BW SIPP Trustees Limited to the assets of the SIPP (or SIPPs) involved.

Please provide the details of the contractor that you have chosen to carry out the work:

Contact name: .....

Company name: .....

Address: .....

.....

Postcode: .....

Phone number: .....

Email: .....

Website: .....

Is the contractor a connected party?  Yes  No

If the chosen contractor is connected to the SIPP we will require at least three quotes to be provided. This is required to evidence that the SIPP is paying fully commercial rates. If there is no connection, only two quotes will be required.

Please sign below and return this form to your usual Barnett Waddingham SIPP Consultant, keeping a copy for your own records:

Signed: ..... Date: .....

Print name: .....

## Documents to be attached

Quotes from at least two\* contractors  Enclosed  To follow

(\*three quotes will be required if a connected party is to be appointed to carry out the work)

Itemised breakdown of costs  Enclosed  To follow

Listed Building Consent  Enclosed  To follow

Planning Permission  Enclosed  To follow

Environmental report  Enclosed  To follow

Asbestos management plan  Enclosed  To follow

**Please note that any delay in forwarding the required documentation may delay the exchange/completion of the purchase.**



**BARNETT  
WADDINGHAM**  
beyond the expected

If you would like to discuss anything relating to this property purchase please contact us as follows:



0344 443 0100



propertyteam@bwsipp.co.uk

[www.bwsipp.co.uk](http://www.bwsipp.co.uk)

September 2020

Barnett Waddingham LLP is a body corporate with members to whom we refer as "partners". A list of members can be inspected at the registered office. Barnett Waddingham LLP (OC307678), BW SIPP LLP (OC322417), and Barnett Waddingham Actuaries and Consultants Limited (06498431) are registered in England and Wales with their registered office at 2 London Wall Place, London, EC2Y 5AU.

Barnett Waddingham LLP is authorised and regulated by the Financial Conduct Authority. BW SIPP LLP is authorised and regulated by the Financial Conduct Authority.

