

Auction Purchases

November 2023

One of the reasons that SSAS has remained a popular pension planning tool over the last 50 years, is the ability to purchase property to be held within the pension scheme. Before 2006, the types of properties permitted to be held within SSAS schemes were far less restrictive – residential property was often utilised, for example.

Commercial Property investment remains one of the most popular scheme investments to date, and an increasing number of our scheme members look to purchase these properties at auction.

Not all Professional Trustees allow for their scheme members to purchase commercial property at auction, as these purchases can give rise to a number of issues for a pension scheme. Sestini and Co Pension Trustees Limited do allow for auction purchases, however, in order to ensure that these purchases are undertaken in a compliant, and smooth way, we have implanted a policy around auction purchases for our scheme Members.

First things first

As with any property purchase, your Professional Trustee cannot consent to the purchase without knowing about the property – so, we ask our members to send over the sale particulars, so that we can confirm that the property can be held as an asset of the scheme. With auction properties, we need to see this information well in advance of the proposed auction date.

Who will act for the scheme

Auction purchases will have a restrictive completion date, usually somewhere between 4 and 6 weeks after the auction date. At the same time, a purchase of a property by a pension scheme is not a swift process. There will be at least 2 parties acting as buyer (the scheme Member and the Professional Trustee), as well as the solicitor appointed to the scheme, the required movement of any funds to facilitate the purchase, as well as the involvement of the vendor, and their legal team. To avoid undue pressures on all parties, and to ensure accuracy on behalf of the pension scheme, Hayward Sestini Pensions Limited, will only consent to an auction purchase where our panel solicitors act for the pension scheme. Not only do we know that our panel firms offer exceptional value for our schemes, the experience in working with SSAS and the ease of file opening allows for transactions to be undertaken within the auction completion deadlines.

Before the auction

Once a property has been identified and deemed as suitable for purchase by us as professional Trustee, our panel firm will need to be appointed before the auction, in order to review the auction pack, and make requests for any necessary changes with the firm acting for the vendor, subject to a successful bid. A condition of our approving the purchase at auction would be that any contract is negotiated pre-auction to ensure that our limitation of liability clause will be included in both the contract and transfer (and any ancillary documents).

As contracts are often drawn up pre-auction, with a view to save time, but these contracts may not be compatible with pension scheme rules, it's important to protect the integrity of the pension scheme that pre-auction negotiations are undertaken.

From experience, we know that Sellers are often willing to enter into negotiation prior to auction as it makes it more likely that the prospective buyer will bid on the property, that purchaser already being engaged with the process.

On the day

Once the property has been given the 'okay' to be held as an asset of the pension fund, and the contracts have been reviewed, with any potential alterations confirmed, the Member Trustees would bid for the property, up to their agreed maximum.

If successful, the purchaser should be noted as the Trustees of the pension scheme, citing that the property will be held within a pension scheme Trust. The Member Trustees should also inform the Professional Trustees and the panel solicitors of the outcome of the auction.

Post auction

As the auction pack will have already been reviewed, and any contract negotiations will be either pre-agreed or at a late stage, the matter can move forwards at pace. The Trustees will arrange for completion funds to be made available, any auction fees paid by Members on the day can be refunded, and contracts and purchase documents can be circulated for signature and witness as appropriate.

Post completion, the property can be let, developed, and maintained in exactly the same way as any other pension scheme property.

Important points to note

1. If a property purchase has not been agreed with us prior to an auction, with the auction pack reviewed by our panel solicitors who will act for the scheme, then we cannot proceed to give consent to the purchase with pension scheme funds.
2. Owing to the time constraints of an auction purchase, the Member Trustees must ensure that funds are available in the pension scheme bank account in readiness for completion.
3. It is not possible to arrange borrowing for an auction purchase, and so Member Trustees should ensure any bids are affordable, and consider fees, Stamp Duty Land Tax, and any other cost associated with the purchase.

If you are looking to purchase a property at auction using your SSAS, contact us at

pensions@haywardsestini.com

