

TECHNICAL BULLETIN

FOR RESIDENTIAL SURVEYORS

CANNABIS CULTIVATIONS IN RESIDENTIAL PROPERTY

CANNABIS CULTIVATIONS

MODERN DAY SLAVERY AND HUMAN
TRAFFICKING

CUSTOMER SERVICE V CUSTOMER
EXPERIENCE

VALUING NEW-BUILD PROPERTY

PERMITTED DEVELOPMENT RIGHTS

GIANT HOGWEED

JAPANESE KNOTWEED CASE LAW

INITIAL THOUGHTS ON HART V LARGE



THE TECHNICAL BULLETIN

FOR RESIDENTIAL SURVEYORS

Welcome to the Technical Bulletin. This Bulletin is designed primarily for residential surveyors who are members of RICS and other professional bodies working across all housing sectors. Other professionals may also find the content useful.

Produced by Sava, you will find technical articles, regulation updates and interpretation and best practice. We hope you find this useful in your day-to-day work and we welcome any feedback you may have and suggestions for future publications.

Who we are

We are a team of building physicists and engineers, statisticians, software developers, residential surveyors, gas engineers and business management specialists.

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CANNABIS CULTIVATIONS

WHAT TO LOOK OUT FOR

CHRISTOPHER MORAN BA (HONS), SAVA STUDENT AND POLICE OFFICER

In this article, Sava student and serving police officer, Christopher Moran, explains the signs to look out for when inspecting property with regards to cannabis cultivations, and what to do if you suspect a property is being used to store or grow cannabis. He also includes an interesting case study from a property inspection where it was evident that cannabis had been grown previously.

Classification and statistics

Cannabis is currently a Class B drug and supply and production of it can result in up to 14 years in prison, an unlimited fine, or both, and possession can result in up to 5 years, an unlimited fine or both.

In 2018/19, seizures of Class B drugs in England and Wales increased by 11% on the previous year, with cannabis accounting for 94% of Class B drugs seized, totalling 108,362 seizures. The increase has been driven by an increase in seizures of herbal cannabis and cannabis plants. In that year, a total of 395,843 cannabis plants were seized, an increase of 12% since 2017/18 when 354,540 plants were seized.¹

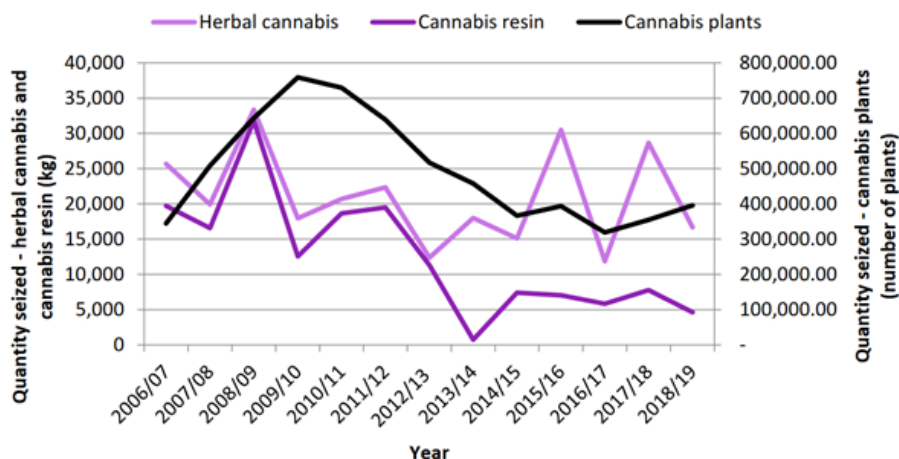


Figure 1 – Summary table from the Home Office

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/856311/seizures-drugs-mar2019-hosb3119.pdf

According to reports, 94% of cannabis farms (also known as ‘factories’ or ‘grows’) are located in domestic premises. Therefore, property professionals may encounter evidence suggesting a property is being or has been used as a cannabis farm.

The signs

There are a number of indications that suggest a property may have been used as a cannabis farm in the past or present including:

- Windows blacked out or covered by plastic or heavy fabric, usually hidden by net curtains or blinds so as not to look suspicious from outside.
- Significant garden waste i.e. empty bags of fertiliser, root balls and soil, often around bins outside.
- Holes cut into walls and ceilings for wires and ventilation tubing.
- Plastic sheeting on floors to prevent water and soil from plants going through flooring.
- Floors sodden with water which could be at risk of giving way under foot.
- Old hydroponic equipment left in place.
- Vents and air ducts blocked to prevent the smell of cannabis escaping, thus alerting neighbours.
- Poor detailing to work; not structurally supported; holes knocked into walls and chimneys.
- Insulation on the rafters and roof lining to prevent thermal detection by police helicopters.
- Electricity meters bypassed – cannabis grows require large amounts of electricity for high intensity lights and fans, and meters are often dangerously bypassed.
- Locks on doors and on attic access.
- Condensation and mould issues in the area where the grow previously took place.
- Remnants of cannabis leaves present.

It goes without saying that a live cannabis grow should be easily recognisable by the presence of cannabis plants.

Considerations

If you come across a property you suspect has been or is currently being used to grow cannabis, you should confirm your thoughts in your report for your client and confirm the condition of the property based on your inspection. Although



you would normally inspect these elements anyway, you should pay particular attention to the following:

For your safety, you should be aware of the potential for booby traps which may be present to prevent cannabis from being stolen, (although more likely on live grows). This has been known to be as serious as electric wires connected to the mains at entrance points and weapons designed to swing into people walking into rooms. If you find or suspect a booby trap you should not touch anything and leave via the same route you entered.

Have there been any structural changes which require remedy?

Walls, ceilings, chimney breasts etc., may have been altered.

Are the floors and ceilings in good condition?

The floor and ceilings may have been jeopardised by water ingress.

Are the electrics safe?

Some cannabis farms have been discovered due to a fire caused by the abstraction of the electricity supply. Although a condition rating 3 is required where there is no recent electrical safety certificate, you should still view the electrical system and if it appears tampered with or unsafe, record this in your report appropriately.

Could there be damp issues?

If ventilation has been blocked, it may cause condensation issues resulting in damp and mould.

Potential for further criminal activity?

The presence of an old cannabis grow may put some purchasers off and it would be dutiful to advise that if there has been history of a cannabis grow, there is a risk criminal gangs may still believe drugs are in the dwelling.

Issues for legal advisors

Legal advisors should be made aware of the suspicions so they can make necessary enquiries, for example to the current energy supplier regarding outstanding energy bills.

Notifying the police

If the grow is historic then the police may not act on the

previous occupant if there is no clear evidence of controlled drugs (hydroponics are also used for growing tomatoes too!). However, it can help the police to know so they can develop intelligence about grows in the area. If you believe you have inspected a property that was previously used to grow cannabis, you can contact your local police on 101 or anonymously via Crimestoppers on 0800 555 111.

If the grow is active and there are live cannabis plants present, then think about your own personal safety as a surveyor. The plants are extremely valuable to someone and they risk a potential prison sentence if they are caught. Leave the property at once via the same route you entered, making sure not to touch anything, get to a safe place, and then call 999.

A case study

During December 2019, whilst conducting a HomeBuyer’s survey with my mentor on a 3-bed terrace in Sheffield, we started to notice unusual signs at the property. In the cellar we noticed the air vents had been carefully blocked and the coal chute completely concreted over. Despite this total lack of ventilation, the timbers showed no signs of excessive dampness. The bottom of the chimney stack had been removed, leaving a poorly supported opening into the chimney, as shown in the figure 2.



Figure 2 – bottom of chimney stack opened.

In the roof space, the rafters had all been covered rather poorly, the floor was covered in plastic sheeting and attempts had been made to fill any ventilation or air gaps with expanding foam, as shown in figures 3 and 4.



Figure 3 – plastic sheeting to the floor, roughly boarded over rafters and expanding foam to fill cracks.



Figure 4 – expanding foam in all the cracks and in the top right of the image around the purlin.

The chimney in the attic also had a hole roughly broken into it with no form of structural support.



Figure 5 – hole in chimney (note the rough hole with no consideration for structural support of the chimney stack).

Using a combination of our surveying knowledge and my experience as a police officer we came to the following conclusions:

- The cellar had been airtight sealed as it had previously been used as a growing space for a cannabis cultivation. Keeping the space airtight prevents the distinctive and strong smell of the plant from being detected by passers-by and neighbours.
- The chimney had been broken into to provide ventilation and allow the strong smells out of the top of the chimney and again avoid detection. This also explained the lack of moisture despite all air bricks and the coal chute being completely sealed.

- In the roof space, the plastic sheeting had been used to prevent water leaking through the plasterboard ceilings, as an average cannabis crop uses a large amount of water to cultivate.
- The chimney had been used to vent out smells and, to a lesser extent, moisture. During the course of growing the cannabis, it most probably contained ventilation piping and a mechanical extraction fan.
- Sealing cracks and vents not only prevents the smell escaping but it also creates a rudimentary level of insulation which helps avoid thermal imaging detection by police helicopters. The need for insulation explained the use of boards over the rafters.

Our conclusions were confirmed when we found a solitary cannabis leaf that had become lodged in the insulation, most likely during the time of the ‘crop’, when the growers harvest the cannabis to sell.

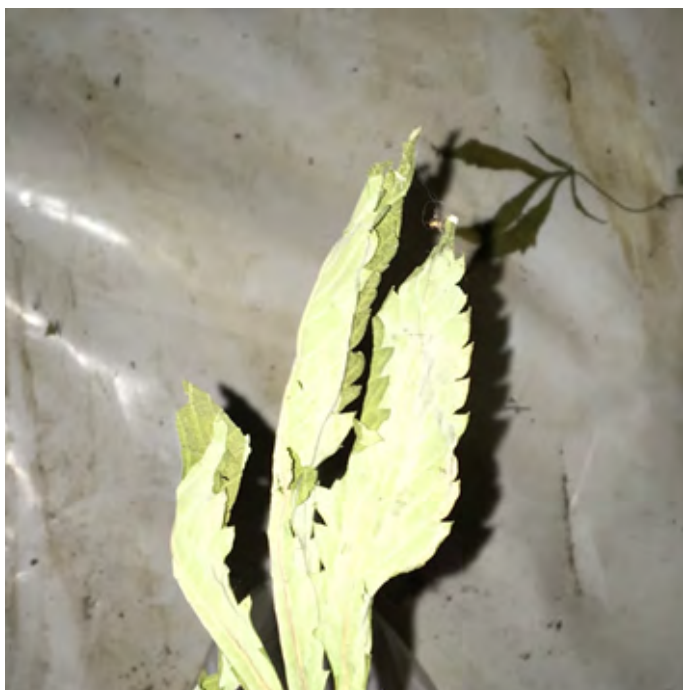


Figure 6 – cannabis leaf located in the insulation.

Implications

If the client was to purchase this property, there would be structural issues that would need fixing as well as damage to the vents and the chimney.

There could be long term damp and condensation issues caused by the growing of large amount of plants within the property and the lack of ventilation in the loft could lead to future issues.

If the property was also used for selling drugs, drug users may be inclined to continue to visit the property believing the previous occupiers still lived there. Also, the property may be subject to burglary by criminal gangs attempting to steal other gangs’ cannabis cultivations.

A valuer’s perspective
 Sava asked Giles Smith MRICS, Chief Surveyor and Technical Director at SDL Surveying, his thoughts on illegal use of property of this nature and the potential

impact on value. Giles explained:
 “A lot depends on the nature of the criminal activity going on, and the location.

 “Many of these suburban ‘factories’ are in good quality neighbourhoods and badly treated (wiring ‘upgrades’, holes cut in floor and ceilings for H&V ducting, water damage and soil everywhere), but that can be made good. Many farming activities go on completely unseen by the neighbours as the windows are blacked out and the occupiers seldom venture outside. Nobody ever visits the house in daylight and any crop is removed after dark. In other words, in good locations, the neighbours never know. In this case, I would be advising the lender on cost of works and possibly 5-10% off, depending on the area.

 “Contrast that with a drug den offering wholesale cash and carry in a poor location, with brief but disruptive visitor behaviour the norm – the area alone may mitigate against mortgage lending, but if it’s in a vaguely saleable area, then that new occupier can look forward to some hassle from undesirable visitors for some time to come, and the property may prove very hard to sell.”

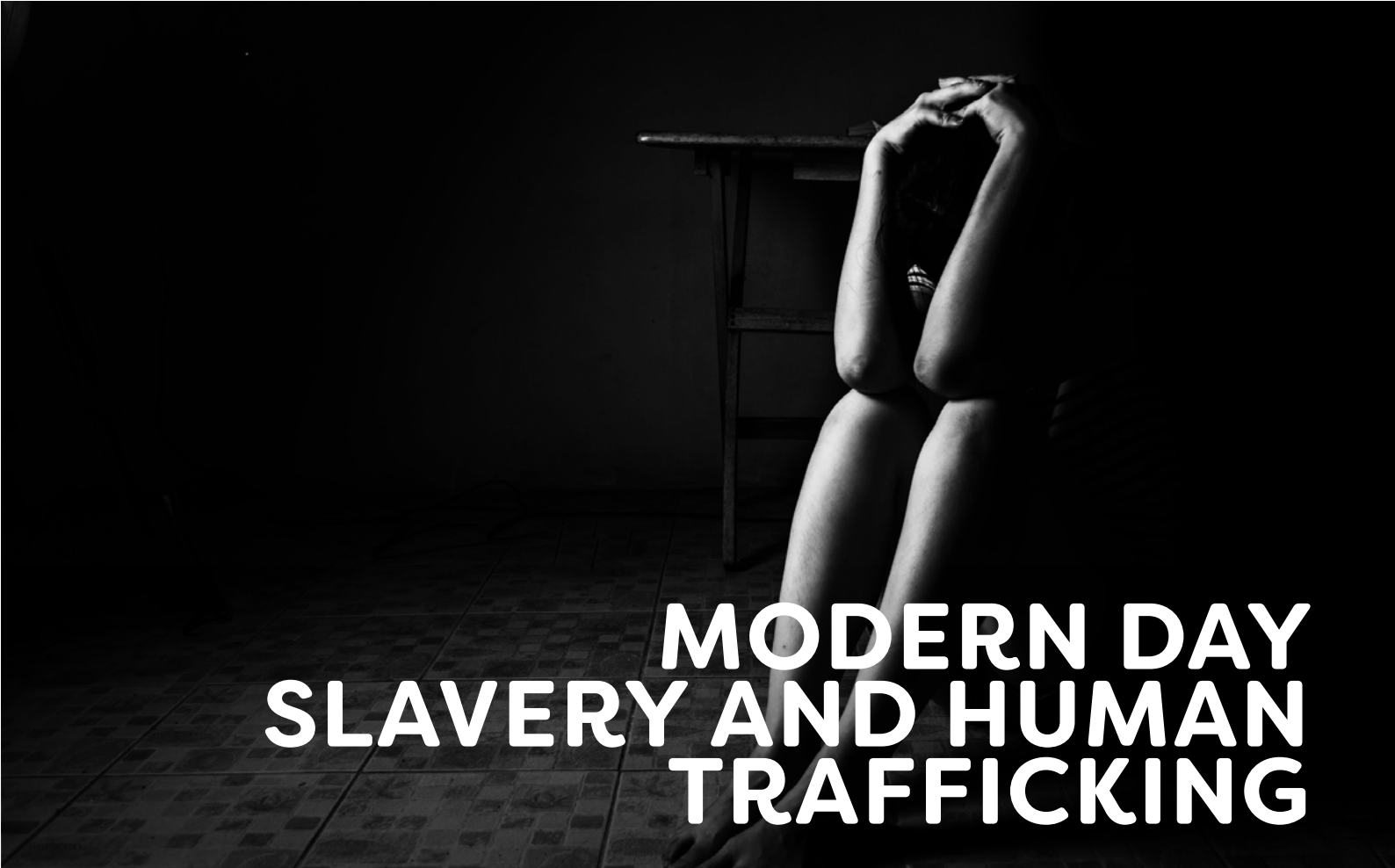
A lender’s perspective
 Gary M Epps MRICS, RICS, Head Valuer at Nationwide Building Society, gave us his comments too:
 “We don’t have specific policy covering this scenario other than we certainly expect the valuers to flag issues relating to fraud, scheme abuse and illegal activity. Valuers can use our internal suspicious activities reporting facility, and cases where there is suspected, or indeed, actual evidence of criminal activity, then reporting direct to the police is encouraged (accepting that we would not want to put valuers in danger through the reporting of such activity).

 “If we were presented with a property that had clearly been used for anything other than legitimate residential use and had been altered accordingly, then depending on the extent of such work we might recommend a decline or a retention to remediate.”

About Chris Moran

Chris is a Sava student studying the Diploma in Residential Surveying and Valuation. He is also a current serving police officer with over 12 years of policing experience, including first-hand experience of finding and dismantling cannabis cultivations and prosecuting the owners. Chris is very interested to hear from any surveyors in the Sheffield area to gain further mentoring experience and also from any prospective future employers. To get in touch with Chris, please email chrismoransurvey@gmail.com





MODERN DAY SLAVERY AND HUMAN TRAFFICKING

HOW CAN SURVEYORS AND PROPERTY PROFESSIONALS HELP COMBAT THE SLAVERY AND TRAFFICKING OF PEOPLE IN THE UK?

MARSHA HUMPHREYS & JANA SHERRIN, MODERN SLAVERY, HUMAN TRAFFICKING COORDINATORS AND TACTICAL ADVISORS, SERIOUS CRIME DIRECTORATE KENT AND ESSEX POLICE

Modern slavery and human trafficking (MSHT) is one of the greatest human rights concerns of our time. The figures for victims far outnumber even the transatlantic slave trade of the 16th and 19th centuries. Currently, worldwide there are 40.3 million men, women and children in slavery and servitude, with potentially 136,000 or more of them in the UK, and this number is likely to increase in 2020.

It is a common misconception that people being trafficked are only foreign nationals or that this issue only happens in other countries or in urban areas. The UK has a huge issue of MSHT, be it in urban,

suburban, rural or remote areas. Figures for the UK show that the highest nationality by far, for both victims and perpetrators, is actually British, for both adults and children. The latest figures show an increase of 72% in exploited British nationals between 2018 – 2019 (Unseen).

This article aims to explain the current situation, raise awareness, and educate professionals within the property industry on what to be aware of when visiting and inspecting property, because we believe valuers, surveyors and other property professionals have an important role to play in helping address this criminal activity.

What is modern slavery and human trafficking?

“Human trafficking involves the recruitment, harbouring or transporting of people into a situation of exploitation through the use of violence, deception or coercion and they are forced to work against their will.”¹

It can be broken down into the following categories:

- Forced labour.
- Sexual exploitation.
- Child sexual exploitation.
- Forced criminality.
- Domestic servitude.
- Organ harvesting.



Photo credit: National Crime Agency (NCA)

Modern slavery is a serious crime where the criminals and organised crime groups (OCGs) committing it have no regard for age, nationality or gender. They will exploit anyone they can to make a profit and any vulnerable adult or child is at risk of being groomed. These criminals know who they are looking for to manipulate or force into dangerous situations.

The damage caused to people and communities caught in slavery is extreme and the profits from exploitation are often used to fund other serious crime streams. The profits remain high, while the risks remain staggeringly low. For example, a kilo of cocaine can be cut and sold once; however, a female can be sold for the purposes of sexual exploitation repeatedly. She can also be sold for sham marriage, forced to groom others into exploitation, used to perform domestic tasks and her children can even be used in applications for benefits. The opportunities to exploit one individual are endless.

OCGs will utilise everything they can to make money from their victims; this can include organising benefits, obtaining bank accounts and credit, consequently, building up debts in victims' names.

¹ Palermo Protocol 2000 produced by the United Nations Human Rights Office of the High Commissioner to supplement the United Nations Convention against Transnational Organised Crime.

They use victims to commit crimes such as shoplifting, drug cultivation, forced begging, county lines drug dealing, pick-pocketing and sexual exploitation in brothels which could be found in hotels, Airbnbs, domestic properties, or they could be forced to provide services in vehicles.

Modern slavery revenues are second only to drug trafficking which is currently the most profitable crime type in the world. However, MSHT is quickly catching up and could look to overtake drug trafficking profits in the near future. The cost of investigating this complex crime type is second only to murder.

Why does the UK have such an issue of MSHT?

The issue is simple: supply and demand. Modern slavery and human trafficking is a business model. The UK is a cash rich country and people in Britain want cheaper goods and services, such as a clean car for £5.00 and nice nails for £10.00. The appetite for young sex workers is high and, sadly, child sexual exploitation occurs frequently.

A quick search on everyday sites such as Friday Ad and Viva Street returns around 14,000 hits nationally for people offering sexual services. A high percentage of those ads will be people who are forced into exploitation and some of those will be under the age of consent.

The people who use these services have little understanding of slavery and sexual exploitation and think only of their own personal gratification and not of the human being in front of them or their circumstances. The popular perception that the female must be enjoying such a lifestyle, otherwise she would just leave, is outdated and dangerous.

“Fantasy using trafficked women is fundraising for traffickers and nothing more. It is only a fantasy happening while the Madame takes out a whole bin of used condoms every day, where she puts bleach in soap dishes and tells the girls to wash with it. It is only a fantasy taking place near an empty fridge and always just a few minutes from violence.” (Anna, Slave, 2018)

Although the UK is working to tackle MSHT, knowledge on a national level is still low and people are often completely unaware that modern slavery exists here in the UK in most industries.

The UK introduced the Modern Slavery Act 2015. It is designed to combat modern slavery and consolidates previous offences relating to trafficking and slavery.

Where are victims found?

The most well-publicised industries/sectors are car washes and nail bars; however, victims can be found working with(in):

- Construction/sites.
- Factories.
- Fishing industry.
- Fast food/restaurants.
- Agriculture/fruit picking.
- Hotels.
- Livestock.
- Shipping.
- Domestic services.
- Cleaning.

Victims may also be re-sold to other OCGs both nationally and internationally, and they are likely to have little knowledge of their location or where they have been. They can be trafficked using any method of travel including walking, trains, cars, buses, planes, and boats – the distance is not important. A person can be moved two meters or two counties; if it is for the purpose of exploitation, they are being trafficked.

It is also important to note that the victims do not have to be chaperoned for the entire journey. This is clear in cases of children forced into county lines or when people are moved by trains around the country for the purposes of sexual exploitation. People can be moved using any method of transport, this includes into and out of the UK.

Modern Slavery and Human Trafficking v Human Smuggling

Human trafficking is a crime committed against a person; they have been forced into that situation. Human smuggling is a crime committed against the state; the people have paid a smuggler to move them clandestinely across borders. It is important to note that, what starts as human smuggling can quickly become human trafficking, especially when people find themselves in debt bondage. Furthermore, people who are trafficked may later pay to be smuggled out of or into a country.

CASE STUDIES IN THE NEWS

Police visited an address in Bristol on July 27, 2018, after a concerned neighbour called the Modern Slavery Hotline. Police were surprised when [the victim] emerged from the cupboard under the stairs. He looked dishevelled. A search of the property revealed the victim had been using the cupboard under the stairs as a bedroom and likened his treatment to that of “the boy wizard Harry Potter”.

The victim was made to carry out forced labour and his captors controlled his finances and stopped him from eating or drinking in the house – even making him drink out of an outside hosepipe and use woodland when he needed the toilet. Despite this, when first interviewed he told officers he saw the defendants as ‘family’.

Important documents such as his ID card, bank card, financial papers, and multiple phone contracts were in a bedroom used by the controllers. The victim was filmed carrying out tasks set by the defendants and footage of the victim being made to eat highly spiced food and being ordered to dance and carry out physical challenges were shown in court.

In a series of police interviews, the victim eventually revealed that he would have to wash his clothes in the town centre and was not allowed to eat or wash inside the house, with no use of the kitchen.

The victim worked full time earning £300 to £350 a week, but he was given just enough money to buy his bus tickets and around £1 a day for biscuits, as well as £10 a week for cannabis. He got up at 4.30am each day to travel to his job, where he worked from 6am, and upon returning in the mid-afternoon was often made to do tasks such as fetch shopping for the defendants. (Bristol Post, March 2019)

A Vietnamese woman escaped a house where she was forced to be a sex worker and was found walking the streets more than 24 hours later. Police were called by a concerned member of the public.

This woman has endured a terrifying, life-changing experience. The woman told them she had taken three buses to escape from an unknown property. Members of the public offered the woman food and money after she asked for help. (BBC News, March 2020)

What are the signs and indicators?

There are no hard and fast rules when it comes to signs and indicators of trafficking. People can be trafficked into multiple industries and often are unaware that they are even a victim or they are too scared to speak out. They or their families will have been threatened and the violence and long-term trauma these people suffer is life-threatening. Therefore, any number of indicators could be present, and it is important to take each situation on its own merit and look at what is presented.

Signs of forced labour:

- Not be in possession of their passports or other travel or identity documents.
- Show signs that their movements are being controlled: driven to and from work.
- Be subject to security measures and controls to keep them on the work premises.
- Have limited contact with their families or with people outside of their immediate environment.
- Be forced to shop at the same place and driven to ATMs in groups to collect wages each week/month.
- Be given only leftovers to eat.
- Be subjected to violence or threats of violence against themselves or against their family.
- Have false identity documents.
- Be unable to choose when or where they work.
- Not be dressed adequately for the work: they may lack protective equipment or warm clothing.
- Not know their home or work address or much about the area in general.
- Live in groups in the same place where they work and leave those places infrequently, if at all.
- Be unable to leave their work environment.
- Be threatened with being handed over to the authorities.
- Depend on their employer for work, transport, and accommodation without any choice.
- Be unable to communicate freely with others.
- Have no access to medical care.
- Come from a place known to be a source of human trafficking.
- Be found in or connected to a type of location/industry likely to be used for exploiting people.
- Have no contact with anyone else.
- Work excessively long hours over long periods/no days off in numerous industries/sectors.
- Lack basic training or professional licences.
- Live in poor or substandard accommodation.
- Live in degrading, unsuitable places, such as agricultural or industrial building.



Photo credit: National Crime Agency (NCA)

Signs of forced sexual exploitation:

- Sex workers may appear scared or intimidated.
- Individuals may be closely guarded.
- Sex workers may show signs of physical abuse, including bruising, scarring and cigarette burns and knife cuts.
- The person or child may have a limited English vocabulary, restricted to sexualised words.
- The person may sleep in the premise in which they work, which could indicate a brothel.
- There may be details of sexual activity such as cards and advertisements found nearby.
- Unexplained, sometimes unaffordable new things (e.g. clothes, jewellery, cars etc.)
- Young people seen in different cars/taxis driven by unknown adults.
- Not in possession of their ID documents, arrived and left by train, knows little about their destination.
- The individual may be transported to and from clients.
- The person may be 'branded' with a tattoo indicating ownership.
- The individual may be unable to keep payment and may have restricted or no access to their earnings.
- Multiple female foreign nationals may be living at the same address.
- A property might have male callers, day and night, who only stay for short periods.
- An increase in visitors and cars to a house or flat at odd hours.
- Residents or young people you know going missing, maybe for long periods of time.
- Different females arriving and leaving frequently with small suitcases.

Signs of forced criminality:

- A large group of adult or child beggars, who might be moved daily to different locations but return to the same location every night. This could indicate forced begging.
- An individual may not benefit from the money or items they have obtained through the crimes they have been forced to commit.
- A vulnerable person may be forced or manipulated out of their home by drug dealers who use the home as a base to sell drugs (cuckooing).
- An increase in visitors and cars to a house or flat at odd hours.

- Unexplained, sometimes unaffordable new things (e.g. clothes, jewellery, cars etc.)
- People becoming part of gangs involved in county lines activity.
- An individual might be transported to or from the scene of a crime, including shoplifting, pickpocketing or forced begging.
- A person may be forced to cultivate cannabis with their freedom of movement restricted; including being locked in a room. It is common that the individual may not be able to speak English or have a limited vocabulary.
- A vulnerable person may be forced to allow their property to be used for sexual purposes and/or drug distribution.
- Changes in the way young people you might know dress and act, they may go missing frequently.
- Young people seen in different cars/taxis driven by unknown adults.

Signs of domestic servitude:

- They may be held in their employer's home and forced to carry out domestic tasks, childcare, cooking, cleaning and in some cases forced to have sex.
- The person may work more than normal working hours and know little of the area.
- The employer may be abusive, both physically and verbally.
- The person may be deprived of their own personal living space, food, water or medical care.
- They may suffer from untreated injuries or illness and have bad overall health.
- They may not be able to leave the house on their own or their movements could be watched.
- The individual may not have access to their own belongings, their ID, mobile phone etc.
- The person may not interact often with the family they are employed by.
- The individual may stand out from other family members; they may wear poorer quality clothing and appear malnourished, unwell, and nervous.
- Female slaves can be pregnant; this will be kept a secret and unexplainable.

The Modern Slavery Helpline received a 68% increase in calls and submissions in the year ending December 2018, compared with the previous year (Office for National Statistics).

There were 5,144 modern slavery offences recorded by the police in England and Wales in the year ending March 2019, an increase of 51% from the previous year (Office for National Statistics).

What can you do on a professional level?

As surveyors and other property professionals, you may well find yourself in a property or on a site where slavery and trafficking is taking place. Be aware of the signs and indicators listed above.

Also be aware that alphas, nannies, madams and lieutenants are, or were, victims themselves but have moved up slightly in terms of hierarchy to control the other

workers – the so called ‘horses’. They accept this position because they will be beaten or raped in a less brutal way, given more food and might even be given a small amount of money. The traffickers use alphas to install control and fear in their horses; they will talk on behalf of any group and will appear friendly and helpful. Remember this when you visit a location. It is important to note that an alpha can be any age, gender or nationality.

Inside a residential property, you could come across any of the indicators listed. You are more likely to see signs of domestic servitude, sexual exploitation, forced criminality or forced labour at a residential property. You could see evidence of an HMO, multiple mattresses on the floor and bad living conditions. You will find signs of cuckooing if a vulnerable person is being exploited. You could come across child sexual exploitation or a pop-up brothel, especially in sublet properties where females are dressed inappropriately. Neighbours may complain to you about what goes on at the location such as noise and people coming and going at odd hours. Take note of areas like basements or places that are locked and you are not allowed access to. Check outbuildings and note if there appear to be signs that someone may be sleeping there. Sometimes they may allow their victims to have electricity which is normally poorly prepared and will be noticeable. If you are only permitted access at certain times and are chaperoned by a foreign national speaking on behalf of others etc., this could also be



Photo credit: National Crime Agency (NCA)

a sign that something is not right. Inside a commercial or agricultural property/location you are most likely to come across forced labour or forced criminality. You could see victims being forced to steal farm equipment or storing stolen goods. Working in an agricultural environment or construction site victims will look unkempt and malnourished and be scared to talk to you or look at you. They will likely not be wearing the right PPE or appropriate clothing for the season i.e. no coat in winter. There will likely be an alpha who will talk for the group. Victims have also been found at cannabis cultivation factories in commercial and agricultural areas. Note if windows are barred and or nailed shut; are there multiple locks on the doors and CCTV focused on the property? Is there takeaway litter everywhere (this is normally all they are given to eat)?

What can you do on a personal level?

We all have a duty to look out for people who are vulnerable, regardless of our professional standing. If something does not feel right, you should report it. You can help by telling people this is happening in their towns and streets: spread the knowledge, help raise awareness. This is everyone’s responsibility. Stop using high risk services which show obvious indicators of exploitation. Educate yourself so you know what to look for.

This issue needs a societal change and we cannot simply police our way out of it.

Be vigilant, think about your surroundings:

- Hotels, Airbnbs, landlords etc. could be providing accommodation to groups of people who are being controlled or exploited.
- Taxis, trains, and buses could be used when transporting victims.
- Petrol stations and service stations could be used for picking up or dropping off victims.
- Criminals will look to take advantage of locations where vulnerable people may be found, for example outside of schools or where a charity might provide refuge etc.

Together we can ensure that the services we receive and products we choose are slavery free and ethical.

Help raise awareness and pass the message on, slavery must stop.

If you find yourself in a contentious situation professionally or personally, you must never put yourself at risk. Traffickers are dangerous and if they suspect anything, they can move their victims very quickly to another location.

How is COVID-19 effecting modern slavery in the UK?

Activists and academics have warned that the coronavirus pandemic poses a special threat to Britain’s modern slavery victims because they are vulnerable on multiple fronts.

Firstly, victims of modern slavery that fall ill or exhibit symptoms of coronavirus are unlikely to stop working; they have no access to sick pay, days off and statutory benefits, and most simply do not have a choice. Moreover, because of the United Kingdom’s current “hostile environment” for migrants, those who fall ill are unlikely to seek medical attention out of fear of being detained and possibly deported by authorities.

Those with strong family ties in their countries of origin have returned; however, this is hugely increasing demand for low-skilled work, particularly in the summer fruit picking season.

A number of risks have been identified:

- If a victim or offender is infected then there is the potential for an increased risk of cross-infection and potential for severe harm as a result of isolation.
- If labour is no longer required from victims as a result of COVID-19 restrictions, there is increased potential for harm due to neglect as food or other necessities/facilities may be cut by offenders.
- Victims may be evicted from accommodation by offenders and become homeless.

- If victims or offenders are infected, this increases risk of cross-infection if living or being transported in close proximity.
- If victims are working in a sector supplying food, goods or other essential supplies during the COVID-19 pandemic, there is a potential to cross-infect and spread the virus further.

With businesses closing, unemployment rising and industries starved of cash, modern slavery victims are likely to be pushed further into exploitation to pick up the slack. Victims will be potentially in greater debt bondage as their places of work are closed.

Hotels which were used for sexual exploitation and child sexual exploitation are closing or becoming shelters for rough sleepers. This comes after a recent order of UK Government for all rough sleepers to be moved off the streets and housed by the local authorities.

The government has announced as part of the protective measures that individuals supported through the modern slavery victim care contract will be allowed to stay in government-funded safe accommodation during April, May and June 2020. The government also continues to work with the Salvation Army, the primary provider of victim support, on reviewing processes and policy to maintain the services they provide to modern slavery victims during this time.

How to report MSHT?

- POLICE – immediate threat to life, call **999**
- Submit intelligence to your local police force via their online portal
- Modern Slavery Helpline **0800 121 700** (confidential and open 24/7)
- Crime stoppers **0800 555 111** or submit information via their anonymous online Form
- Victim Support can be called on **0808 16 89 111** or contacted via an online form
- Migrant Help can be called on **0808 8010 503**
- The Salvation Army have a 24/7 confidential referral helpline, which can be called on **0800 808 3733**.

Useful apps and websites:

- The STOP app – produced by anti-slavery charity STOP THE TRAFFIK. This was the first app of its kind to enable people anywhere in the world to report suspicious incidents of human trafficking anonymously and securely.
- Unseen app – produced by the national [Modern Slavery Helpline](#). This free app provides a simple guide to recognising the signs of modern slavery and reporting concerns in confidence.
- Safe Car Wash app – produced by The Clewer Initiative. Focusing on car washes only, this app asks a series of questions related to indicators of modern slavery and if there is a high likelihood that modern slavery is occurring in the hand car wash, you will be asked to report your concerns to the [Modern Slavery Helpline](#). The data is the anonymised and shared with the National Crime Agency and the Gangmasters and Labour Abuse Authority.
- www.stopthetraffick.org

- www.unseen.org
- www.justiceandcare.org
- www.antislavery.org

Hilary Grayson writes:

I am a member of the group Women in Residential Property (WIRP). This group hosts regular events for women in the residential property sector. It provides an informal environment for networking, developing friendships and sharing knowledge to encourage collaboration across the sector.

WIRP was launched in 2017 by the wonderful Emma Vigus, Managing Director of Mio which provides sales progression software for estate agents and has a chosen charity for which it fundraises on a regular basis.

The charity supported by WIRP is ‘Ella’s’ (<https://www.ellas.org.uk/>). Ella’s provides safe houses for women affected by trafficking and exploitation, where they can recover and live safely until they are ready to move out.

As we have seen in the article by Marsha Humphreys and Jana Sherrin, human trafficking and exploitation is here in the UK under our very noses and Ella’s opened to help meet a desperate need.

According to the Ella’s website:

“In 2018 there were 6,993 people referred as potential victims of trafficking to the National Referral Mechanism (NRM)* in the UK. People identified in this way are given time in shelters to reflect and recover. The organisations that run these shelters all go above and beyond and do amazing work to support the people referred to them. However, more resources and further aftercare is needed to keep up with the demand and to continue the recovery process.

“Unlike victims of modern slavery in Northern Ireland and Scotland, the law in England and Wales currently does not give victims a right to support. The Government provides these victims with a limited period of care on a non-statutory basis while the authorities decide if the person is a victim, but then the support ends. Although some victims are entitled to further help, the vast majority (and this is true of victims across the UK) are left to fend for themselves, often at risk of homelessness and vulnerable to being re-trafficked.” (Free for Good Campaign)

Please go to the Ella’s website to read more about the work this wonderful charity does and, if you can, perhaps make a small donation to help them continue the good work. They are a tiny charity battling the aftereffects of organised crime.

<https://www.ellas.org.uk/>

Terminology explained:

Grooming – making someone feel cared for, giving someone affection, building an emotional connection and

trust with someone for the purpose of exploitation. The grooming process can be over a long period of time or can happen quickly. Grooming techniques can also be used on those associated with a victim in order to support access to that victim. Many victims do not recognise manipulative techniques used by the perpetrator. Grooming can happen in person or via the internet.

Trade in human organs – organ harvesting involves trafficking people in order to use their internal organs for transplant. The illegal trade is dominated by demand for kidneys. These are the only major organs that can be wholly transplanted with relatively few risks to the life of the donor. It is important to note that there has not been a confirmed instance in the UK, this is used as a threat to control people. Organ harvesting does happen in other countries around the world.

County lines crime – county lines crime/gangs commonly involve the illegal distribution and dealing of drugs from one city/town to another location. Organised crime groups will travel across counties and use a branded mobile phone line (county line) to notify customers of their location and drugs they have available. They recruit and use vulnerable children and young adults who are exploited and forced to carry drugs and money between locations for them.

Cuckooing – this is when drug dealers/organised crime groups take over the home of a vulnerable individual and use it as their base for selling/manufacturing drugs. Commonly, drug users are targeted and are offered “free” drugs in exchange for using their home; however, anyone who is vulnerable could be at risk and forced into this crime.

Female genital mutilation (FGM) – is a procedure where the female genitals are deliberately cut, injured or changed, for no medical reason. It is also known as “female circumcision” or “cutting”.

Breast ironing – also known as breast flattening, is the pounding and massaging of a pubescent girl’s breasts, using hard or heated objects, to try to make them stop developing or disappear.

Horses – a derogatory term used by traffickers to describe the people/victims they control.

Debt bondage – occurs when a person is forced to work to pay off a debt. They are tricked into working for little or no pay, with no control over their debt. Most or all of the money they earn goes to pay off their loan. The value of their work invariably becomes greater than the original sum of money borrowed. Criminals will continue to increase the victim’s debt, which ultimately means they will never be able to repay it.

Clandestine – a clandestine entrant is a foreign national who tries to enter the United Kingdom with the aim of avoiding immigration controls by way of concealment, for example, in a vehicle.

People smuggling – involves the provision of a service, typically transportation or fraudulent documents, to an individual or family who voluntarily seeks to gain illegal entry into a foreign country. It is possible that what begins as people smuggling can later turn in to human trafficking

and modern slavery.

Human trafficking – human trafficking involves the movement and exploitation of men, women and children for the purposes of forced labour, domestic servitude or sexual exploitation.

Forced criminality – adults and children are trafficked and forced to commit crimes such as cannabis cultivation, ATM theft, shop lifting, county lines drug dealing, pick pocketing and benefit fraud or forced begging.

Organised crime groups – organised crime groups (OCGs) can be defined as serious crime planned, coordinated and conducted by people working together on a continuing basis.

Domestic servitude – the seemingly normal practice of live-in help that is used as cover for the exploitation and control of someone, usually (but not always) from another country. It is a form of forced labour. Victims of domestic servitude may appear to be nannies or other domestic help, but the moment their employment arrangement transitions into a situation whereby they cannot leave on their own free will, it becomes a case of enslavement.

Helpful contacts and awareness training

Marsha Humphreys

Protect and Prevent Modern Slavery and Human Trafficking Co-ordinator Kent & Essex Police.
marsha.humphreys@essex.police.uk

Jana Sherrin

Protect and Prevent Modern Slavery and Human Trafficking Co-ordinator Kent & Essex Police.
jana.sherrin@essex.police.uk

Women in Residential Property

Women in Residential Property

was launched in 2017 and fosters collaboration between women in senior roles across all sectors of the residential property industry. Due to Covid-19 restrictions we have moved our relaxed and friendly networking events online and are now regularly meeting on Zoom. [Join our LinkedIn group](#) to be part of the conversation and find out more about our upcoming events.



GO THE EXTRA MILE

CUSTOMER SERVICE V CUSTOMER EXPERIENCE

DO YOU KNOW THE DIFFERENCE?

MATT NALLY, FOUNDER, SURVEY BOOKER

Customer service is a term we are all familiar with; it is the level of assistance you provide to your customer – great customer service is about going the “extra mile”. With an ever-growing demand for instant access to information and services, have you considered all the interactions a customer has with your business and how each step of their journey could be perceived? This article aims to help you understand how to do this.

What is the customer experience?

The “customer experience” is your customer’s perception of you and the company, which is gained throughout the whole process or transaction.

The full experience starts when your customer learns that your company exists and continues through to the support they receive once the report has been produced. It is about how they feel at every touchpoint in-between, including ease of access to information and the way in which it is presented and received. You may assume these areas fall under customer service, but the customer experience may not always involve a person, which makes it different to traditional ‘customer service’.

The launch of the new Home Survey Standard in December 2020 highlights the importance of understanding customer needs further. The standards

require RICS members and RICS regulated firms to “have a clear understanding of client needs” and “ensure potential clients understand the nature of and differences between the levels of service offered so they can make an informed choice”.

The launch of the new Home Survey Standard in December 2020 highlights the importance of understanding customer needs further. The standards require RICS members and RICS regulated firms to “have a clear understanding of client needs” and “ensure potential clients understand the nature of and differences between the levels of service offered so they can make an informed choice”.

As a tech-focused business within the surveying industry, Survey Booker have identified a few areas that could be streamlined and upgraded for the benefit of both customer and surveyor and improve the experience for all.

As in our last article on boosting leads and conversion rates (see technical bulletin 32) we ask you to read this article from two perspectives: yours and your customers'. This is because the tips included are not just for your benefit – the customer is kept at the centre of the conversation because if you do not look after your (prospective) customer, someone else will. By focusing on service and experience, we will assist you in breaking down and reviewing every stage of the sales process, helping you to eradicate hours of tedious administrative work. Now is the time to become proactive, not reactive and offer a great customer experience for all.

1.Customer service



The **reactive** element of the customer experience is all about answering the customer’s questions. I am sure we have all endured the frustrating experience of phoning call centres and sitting on hold, so the obvious point to consider is how timely you are in responding to customer queries throughout the process.

Customers can find it frustrating waiting for answers, especially when their dream house is in the balance, but the statistics make it starker. **Studies have found that companies who respond to sales leads in the first minute have a 391% higher sales conversion and that 78% of people buy from the first responder** (source: Lead Connect).

Why? When your customer makes an enquiry, they have prepared themselves to discuss the topic. If they have submitted a quote or a contact form, they are a hot lead.

They are in a frame of mind to get their survey (or survey questions) sorted in that moment as they may be dealing with other things an hour later. If you’re the first to respond, you are in the unique position to offer advice before anyone else and provide reassurances about how the process works.

If you are the fourth to respond, it will be difficult to offer anything unique and add any value. Therefore, it is no surprise that you’re likely to lose a lead if you take too long to respond. Your speed at the offset can also be taken as a sign of how efficient you may be later in the process.

Tone and attention to detail are also very important. Taking the time to understand what the customer wants to learn, what service they need or whether you can provide the right answers will make all the difference between providing an okay service or a five star one. Remember, this is a requirement in the Home Survey Standard too.

Summary

Responding in a timely manner and making sure you really understand what the customer is asking can help you score well. This is the most direct contact the customer has with you so make the most of it. You should not consider this as job done or the trump card in getting great reviews though, as customer service is just one element in the process and the one that can most easily drop in quality when the workload ramps up.



2. Technology and the customer experience

You may consider technology to be quite impersonal and not an important part of the experience. However, technology can be a huge support tool if it is implemented correctly and designed with the customer in mind. Royal Mail’s tracking service is a good example to consider: when you are able to instantly track your parcel online it puts your mind at ease and you don’t even have the hassle of calling them.

Let us consider how technology relates to your customer’s experience. Assume somebody has found your listing on the first page of Google and they have clicked on your website. Your customer now wants to find out three things:

- What service they need.
- What you will provide them as part of that service.
- How much you will charge them for it.

Does your website answer these questions simply and if so, are the answers easy to find?

Customers judge a website within 10 seconds. If your site is full of jargon or not immediately clear on where to navigate for the right information, it is unlikely they will go any further. Customers should not struggle to understand what you do – it is your job to make that clear to them (after all, they can look elsewhere in just a couple of clicks). A muddled website could also be a sub-conscious red flag about what the rest of the process might be like. So, invest time in making your website clear or you may lose hard-earned web traffic before you even have a chance to show them how good your customer service is.

If you owned a shop and saw customers walk in, then immediately walk out, you would review what you could do to make them want to stay; so, think of your website as your digital shop front.

You may be thinking you get plenty of calls or emails during the day and your website just isn't that important, but there are two factors to consider here.

Firstly, were the queries about something the customer could have found the answer to online? If so, it is likely there are others who just did not bother to call.

Secondly, remember that internet rush hour (peak web traffic) is between 7pm and 11pm, which is outside of normal work hours, perhaps because people aren't distracted or have more time. This makes your website a valuable touch point when you are not available.

You only get out of your website what you put into it, so keep it up to date and easy to navigate to offer stress-free value to your customers.

What other technology can aid in the process?

- Lead generation forms can help you capture customer data from your website or your referrers. These forms mean less work for your customer compared to making a call or opening their emails. If the form offers a quote/estimate, it encourages more people to enquire. The added bonus is that, if set up correctly, the forms can send enquiries straight into a CRM, so you can easily track who you have contacted, who you still need to follow up with, and more.
- Responding to leads – technology exists that allows you to automatically respond to leads with personalised emails regardless of the time of day. Remembering that most customers buy from the first responder, technology that enables you to respond first with important information can be invaluable. Whilst an email alone may not win business, it does help to buy time and when you do phone, you can refer to the email you sent earlier and the helpful

information it offered.

- Online payment – this can be a quick and easy way for customers to pay (especially if card details are already saved in their phone or web browser) and it reduces the need to chase payments. It can also speed up your accounting by syncing sales data automatically to your accounting software.
- E-Sign terms – most printers sit unused for so long the cartridges dry up before they're needed again, so making customers print out terms, sign them, scan them, and send them back is an unneeded and off-putting process. Being able to sign terms from a phone, having just made an online payment, is far easier. E-signatures are legally binding, quick, and offer an 85% productivity improvement and 80% average error reduction – great for ensuring compliance (source: Forrester, esignlive).
- Updates – we all love getting progress updates to know if a parcel is getting closer and the statistics prove it. 68% of consumers say it increases their perception of a brand when companies send them proactive customer service notifications (source: Microsoft). So, do your customers have a portal where they can check on their survey progress whenever they get the urge?

Summary

Technology, if used well, can really help provide a simpler and more positive experience at every touch point. Removing the necessity for a customer to contact you at each stage not only offers a faster and smoother process, but it means the customer feels like their actual interactions with you have a lot more value. Services such as Survey Booker incorporate these technologies into one system, freeing up your time to focus on quality surveys and customer service when it counts most.



3. Design

Technology is only as good as it is deployed. It needs to be thoughtfully integrated into the process, simple to use, and work well. Design plays a huge part in the feelings you evoke for your customers.

a. Branding – you do not get a second chance to make a first impression. Your unique mark identifies you to customers, so they know who they are communicating with, and this shows trustworthiness and reliability. Big companies work hard on their brands and spend huge amounts of money updating them to look modern and sleek because an outdated, non-classic logo can make it seem like the company isn't doing so well. Keeping logos consistent across different platforms also shows attention to detail.

b. Reports – consider how well your reports are laid out. Are they visually appealing or very dense in a small font? The human brain processes visuals 60,000 times faster than text (source: University of Minnesota). Therefore, photographs, diagrams and layout make a huge difference when reading and understanding a detailed report, and an annotated photograph speaks a thousand words! Fonts like 'Dyslexie' are designed to make reading text easier for those with dyslexia and offering this option could help make their experience far better, and it certainly shows you care.

c. Website – keeping your site modern and secure will help ensure web traffic remains on your site and influences how willing a prospect is to submit their personal details. To get your website to that point, consider your user's experience. Is the information on the pages clear and is it obvious where to navigate next? A menu bar offers some help on where to look but clear buttons (often called a 'call to action') on each section of a webpage helps direct customers to further information or a quote enquiry.

Ask your friends and family to help test your site and pretend they are trying to arrange a survey to see how easy it is to navigate without any prompts. If they get confused or struggle to find where to go next, your customer will be struggling too. Remember, not everyone will be patient and a well-designed layout with call to action buttons will result in more enquiries.

Summary

Whilst not an obvious factor, investing time into the design of your customer journey, brand and company collateral can make a huge difference to enquiries, conversion rates and reviews. Having consistent, clear, and attractive visuals at each contact point will add an edge to their overall experience.

Conclusion

Hopefully, this article has helped show that customer experience is more than just a new buzzword. It is a proactive process that requires ongoing review as regulations and societal norms change. Good customer service is not enough to ensure the longevity of your business and is the first thing to suffer when workloads increase. The customer experience should be at the heart of everything you do and is something you can

proactively implement to make the customer experience much better. It can also benefit you, from reducing time wasted on admin tasks to increasing sales. Not only that, offering a premium experience is justification for charging a premium price.

If you would like more information about how you can improve your customer experience either on or offline, or would like to enquire further into what immediate changes the Survey Booker platform can offer, please feel free to get in touch with the team and we'll happily offer our suggestions and advice.

About Survey Booker

Survey Booker is the specialist CRM for residential surveyors helping you to grow sales, save time and generate insights.

Generate quotes (instant, estimate or bespoke), process payments, submit pre-filled e-terms and manage survey updates all at the click of a button. You can also automatically feed in leads from referrers or lead generation sites. Customers can track quotes and survey updates via an account helping you to offer a consistent customer experience every time.

We are offering 33% off the first 6 months to Sava readers with the code BULLETIN35 (valid until 31st August). Speak to the team for a demo or sign up today at surveybooker.co.uk

FIRST SAVA STUDENT QUALIFIES AS A RICS VALUER THROUGH THE SAVA CERTIFICATE

EMMA WALKER IS THE FIRST STUDENT TO QUALIFY WITH THE SAVA CERTIFICATE IN RESIDENTIAL VALUATION

Sava is delighted to have their first learner complete the new Certificate in Residential Valuation. Emma Walker completed her studies at the end of June and has now joined the RICS Valuer Registration Scheme.

The certificate is designed for existing RICS members who qualified via a different pathway but now want the knowledge and skills to be able to offer residential valuations. It provides a mix of training and assessment and maps against the requirements of the RICS Valuer Registration Scheme.

We asked Emma what she thought of the qualification and what her plans are:

Why did you decide to undertake the Certificate in Residential Valuation?

“I was already an Associate Member of RICS, and wanted to progress further, but felt like I needed the valuation qualification to enable me to do that. I saw an opportunity in completing mortgage valuations alongside other things but had no-one I could turn to for the training and practical application needed. I wanted to set up my own business, and the only way I could do that was to undertake further training and this qualification met the exact requirements.”

What was your experience of completing the qualification?

“I found the training very thorough and easy to follow. There is a set structure which works very well, and the progression was great. The early modules are clear to complete and the Sava team were always on hand to answer additional questions. I found talking to others on the webinars helpful and insightful. Once I had completed the modules it was then time to start the assessment procedure. Julie at Sava was always quick to answer my queries, and without someone in my company to rely on, the Sava team were fantastic in helping. My assessor was great; they turned the feedback around quickly and really helped me gain confidence as I went through the programme. I was keen to get through it quickly, as I am due my second baby in October, and Sava really supported me through this.”

How did you find it joining the Valuer Registration Scheme?

“Sava told me what to do and the process was really easy. I rang RICS, who knew about the qualification and they advised on the steps to take. I submitted the form and it was completed within 24 hours. The certificate arrived on my desk and I can now celebrate!”

What are you planning to do now?

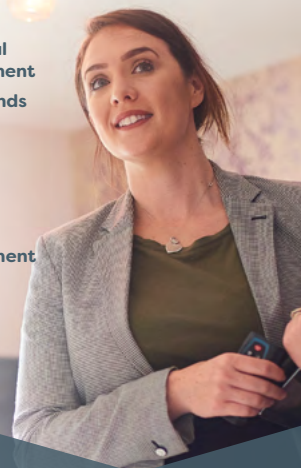
“I am going to set up my own firm of surveyors, regulated by RICS, and carry out residential valuations. I feel confident enough to do this and have already been accepted by one of the panel firms. I cannot wait to get started, and I am hopeful the business will be extremely successful. I will have a short maternity period in October but looking forward to pushing full steam ahead after that! Thanks to Sava I feel confident and more importantly qualified and ready to roll!”

Sava wish Emma the best of luck in her new career path. You can read more about the Certificate in Residential Valuation here: <https://sava.co.uk/education/certificate-in-residential-valuation/>.



WOULD YOU LIKE AN EXTRA PAIR OF HANDS ON SITE VISITS?

- ✓ RICS counts mentoring as informal continuous professional development
- ✓ An additional pair of eyes and hands on site
- ✓ Your chance to give back to the industry
- ✓ Mentors needed across England, Wales and Scotland
- ✓ May present you with an employment opportunity
- ✓ PL insurance provided by Sava



Call the training team on 01908 442240 or email training@sava.co.uk for more information





VALUING NEW-BUILD PROPERTY

HOW TO APPROACH THE VALUATION OF PROPERTY THAT IS BEING SOLD FOR THE FIRST TIME

HILARY GRAYSON BSC EST MAN (HONS)
ANNE HINDS BSC (HONS) FRICS

In this article we explore the approach to valuing new-build residential property being sold for the first time (this includes actual ‘newly built’ property as well as new conversions etc.).

This is an area that is getting more complex. The valuation of a new-build property should be approached in a similar way to any other valuation; however, there are specific aspects of the new-build residential market that require additional consideration and analysis by the valuer.

Definition of new-build property

What is the definition of a new-build property in the residential context? Generally, it is a property that has been newly constructed and is to be occupied for the first time as a dwelling. However, you should be aware that some lenders apply a different definition of new build, and some may include a property up to 1 year and in some cases 2 years old. After that time, it is not considered a new-build property, even though it has not been occupied.

A property is also classed as a new build if it is a conversion from another use and if it has not yet been occupied, for example, a barn converted to a house.

New-build properties usually have a form of warranty: in

effect an insurance designed to ensure the original builder fixes any problems that may arise. The most common warranty is the NHBC, but there are other warranty schemes, and warranties do vary. The usual period of cover is 10 years, but some warranties do offer cover for a longer period.

Valuation

The valuation of individual new-build homes requires an understanding of issues that are unique to this sector of the residential market.

Issues range from having an appreciation of the physical attributes of new property and how these may add value above that of a similar property in the resale market, to

having an awareness of the marketing techniques used by house builders and understanding as to how such techniques might impact on the selling price of a new-build home.

You may also come across a development, usually one that is of a reasonable size, where the developer uses ingenious marketing techniques not available in the second-hand market to make sure that the homes they build are being sold. This may include a range of incentives designed to promote property sales. Furthermore, there is also the governments 'Help to Buy' scheme. All these additional factors must be taken into account when valuing a new-build property.

RICS

As you would expect, the RICS provides guidance on the valuation of new-build properties. The latest guidance is [Valuation of individual new build homes – 3rd Edition, December 2019.](#)

As well as the specific guidance note mentioned above, there is reference to VPGA 11.4 UK 2017 (which has almost superseded Appendix 10 of the Red Book).

So, what makes the new-build market so special, and why does the valuer have to approach this with care?

As the RICS 'Valuation of new-build homes 3rd Edition' guidance document notes:

"The valuation of residential property for mortgage purposes is well understood, but the new-build sector is constantly evolving and becoming increasingly complex."

Let us consider what some of these issues might include:

- Physical attributes, for example:
 - Floor layout in line with modern aesthetics etc.
 - Ability of the purchasers to choose certain fixtures and fittings (bathrooms, kitchens etc.)
 - Energy efficiency: potentially cheaper to run than similar properties in the resale market.
 - Occupancy safety: built to modern building regulations.
 - In theory, no repairs will be needed in the short to medium term.
- Marketing techniques: developers can employ different techniques to those used by agents in the resale market. These may have an impact on the selling price of a new property.
- Specific market product and policies from lenders: individual lenders take a varying approach to brand new homes; it is all about risk and some lenders are in the 'low risk' loans. Their approach will be different to a lender that is less risk averse. Some may refuse to lend on certain properties whilst others may be happy to loan and some will insist on a larger deposit. No two lender's policies or deals will be the same. Also, lenders will not want to be over exposed on a new development and may restrict the volume of lending on a particular development.
- Purchaser aspirations: despite some recent bad press around new-build property and the fact that the RICS and others are looking at snagging/defects, many consumers are not aware of any potential 'down

side' and prefer new build over a similar second-hand property. It is important for valuers to be alert to changing attitudes to issues which may have particular consumer appeal such as:

- Environmental impact of buildings.
- Efforts to reduce carbon emissions.
- Use of innovative forms of construction.
- What is often described as a 'new-build premium'.
- Where public perception on these matters is reflected in market demand, the new-build property may, and often will, attract added value in comparison with the second-hand market.
- The strength of the builder in transactions and how they can control supply: while smaller development projects do exist, firms like Taylor Wimpey build several thousand homes a year (Taylor Wimpey claims over 10,000 units a year on its website).
- Restricted transparency in pricing.
- Re-generational effects of some new schemes – there is a logic that would suggest that if an area is 'run down' with economically unviable buildings which are in a poor state of repair and subject to vandalism etc. then by definition new housing will 'improve' that area. However, the suggestion that developments quickly blend into the wider housing market is not a given, and re-generational effects must be approached cautiously.
- Conversions under permitted development (for example from buildings previously used as offices, industrial and agricultural usage). However, there are issues that a valuer should consider which are specific to these conversions. For example:
 - Access shared with commercial or industrial property.
 - For flat conversions from 1960s and 1970s office buildings, the unknown condition of the underlying concrete construction (for example, old concretes can contain damaging constituents such as High Alumina Cement, Chlorides or Sulphates).
 - The condition of the steel reinforcement inside the concrete.
 - Will the conversion be resaleable in the future?
 - Is there a mix of residential use within the area, or is the conversion in a non-residential area?
 - Is there an appetite from lenders for this type of conversion? For example, some lenders will not lend on office to residential conversions.
 - Linked to the above, is there sufficient residential infrastructure in the immediate area, e.g. access to amenities/shops/schools/transport?
- Government intervention into the market: Help to Buy, or Starter Home schemes can skew the market.
- Planning conditions: for example, Section 106 agreements, resale restrictions or social housing mix requirements.
- Innovative forms of construction and specific eco-features that may be included.

New-build premium

The term 'new-build premium' is a term that is used to indicate any 'additional sum' that a purchaser is prepared to pay for a residential property that has not previously been occupied. In other words, it is a premium that may be attributable to features that are unique to new-build properties.

These features fall into two categories:

A new-build premium is not universally found (especially

FIRST OWNER BENEFITS (these are only available to the first owner and cannot be passed on at resale)	RESALE BENEFITS
Newness	Up-to-date specifications
Initial occupier prestige	Comfort and reduced running costs associated with modern building standards
Access to new-build finance	Better energy rating
Govt initiatives such as Help to Buy	Designed in line with modern living style and tastes
Developer incentives	Reduced maintenance in short to medium term
Certainty of completion date and price	Associated with good new infrastructure (schools, shops etc.)
Avoidance of competitive bidding	
No chain: avoidance of the stress that can incur	
Off-plan purchase	
10-year warranty	
Opportunity for bespoke finishes (kitchen, bathroom etc.)	

where there is a plentiful supply of new property), but it is relatively common in particular sectors, or locations, and relates entirely to the first occupation of a property (or ‘first owner benefits’).

Care should be exercised in the understanding and use of this term. While a component of market value, it does not relate to additional value arising from physical attributes that will remain after first occupation and which may add value on subsequent resale. Hence it can cause confusion and the term ‘first owner benefits’ is more appropriate than that of new-build premium.

Dealing with assumptions

[UK VPGA 11 in RICS Valuation – Global Standards: UK national supplement, 2018](#) (Red Book), and the RICS residential mortgage specification set out a number of standard assumptions and special assumptions that are included in the terms of engagement agreed with UK lenders, though it should be noted that not all lenders have agreed to follow the mortgage specification.

For new-build property it should be noted that, unless instructed otherwise, the following assumptions and special assumptions will be made:

- If the building has not yet been finished, the valuation will be made on the ‘special assumption’ that the property

being valued has in fact been satisfactorily completed, as at the date of the inspection, and has been done so fully in accordance with planning permission and other statutory requirements.

- The valuation will be based on the assumption that the property has been built under a recognised builders warranty or insurance scheme approved by the lender or that it has been supervised by a professional consultant capable of fully completing the Professional Consultants Certificate to meet lender requirements.
- If the subject property forms part of a complex which, when finished, will have certain communal facilities such as communal parking areas, communal gardens etc., then the valuation will assume that these facilities have been completed to the appropriate standard if they have not been completed at the date of the valuation.
- The same applies to any planned infrastructure to be included as part of the development, for example, transport links, retail units etc.
- In some cases, lenders will require RICS members to assume that the new-build property is already occupied. (If a lender requests that this or a similar special assumption be adopted, guidance should be obtained from the lender specifying how their instruction is to be interpreted; for example, a lender may require second-hand or resale value.)

UK VPGA 11 allows valuers to make assumptions relating to the lease term, service charge, repairs, and ground rents. However, this is increasingly a very tricky area. In recent years there has been a lot of bad press around the sale of leasehold houses on particularly onerous ground rent terms. Some lenders are now stipulating that ground rent terms must be ‘reasonable’ during the term of the lease. Consequently, the valuer cannot just make assumptions around lease terms anymore and can expect that they will need to obtain more information before the value can be determined. Valuers should also be aware of service charges imposed on the freeholders of houses for the upkeep of the estate, as estate roads, lighting and communal areas are less likely to be adopted by local authorities (this information will usually be provided on the UK Disclosure of Finance Form, known as UKDIF).

Development sites and development plots

Ideally, as with all valuations, the valuer would visit the subject property. But with new-build properties, this is not always so straightforward. For example, the property being valued might not actually be built, and access to the site is often restricted for health and safety reasons. In that case, it is possible to undertake a valuation, but care must be taken to document and record what information was referred to in determining the valuation. This record will include the sources of any assumptions made. For example, the location of the subject property will be one such assumption. For this it is not sufficient to rely on the marketing material produced to promote the site and the individual units. Instead, construction site plans and detailed builder specifications must be used to determine the location and finish of the property being valued. These will be acceptable sources of information used to validate assumptions. Where possible, the show home should be visited (and that visit recorded) and a similar unit inspected.

Great care must be taken to ensure that the location of the

subject property is clear. The same units on different areas of a larger site are not necessarily the same value. Just as with second-hand properties, the location will play an important factor. Location features such as proximity to a main road, school or other local facility may have an impact on value, as might proximity to, for example, a social housing element on a mixed tenure site.

Another consideration is the use of the whole site before redevelopment for housing. It cannot be assumed, even in a rural location, that the previous use of the site (whole or site) was simply ‘grassland’. Particularly in urban areas there are construction sites which may have had a previous use that contaminated the land in some way, having potential implications on the value.



Figure 1 – Milton Meadow, development plan.



Figure 2 – Milton Meadow site from Google Earth showing development was on a site previously developed for commercial purposes.

Determining the value

There are three key things to consider when determining the value of new-build properties; (1) what is the wider market doing, (2) identifying and analysing the appropriate comparables and (3) the interpretation of those comparables to establish the market value.

The wider residential property market is complicated at the best of times, and at the time of writing this article we are in completely uncharted territory when it comes to the knock-on effect of the COVID-19 pandemic (both authors are ‘working from home’). That aside, if it were as simple as many agents or commentators would have us believe, why do businesses like Knight Frank and Savills spend so much money on expensive research teams? Valuers must interpret the market in which they are valuing, so it goes without saying that valuers must be aware of national market trends as well as local issues.

One thing to consider with new-build properties is whether the development on which the subject property is located may be ‘skewing’ the market at a local level. An example of this might be the new Waterbeach development in South Cambridgeshire. In 2019 planning consent was granted for 6,500 new homes on a disused military site. Waterbeach is currently a ‘satellite’ village for Cambridge. This development

will inevitably completely swallow the original housing. Via Section 106 agreements, the development is planned to include a lot of new amenities both for the development and surrounding areas, but these amenities will not all be delivered at the same time. The authors believe that the new town at Waterbeach will inevitably skew the local market, but not necessarily immediately. Only time will tell how much this development lives up to the initial promise.

Well-planned developments can, and do, bring brownfield sites and underused, out of date industrial and commercial property into new use with sustainable value, but this is not always the case. Examples of where things can ‘go wrong’ are overdevelopment, the wrong phasing of amenities and a property type mix that does not match local demands. For example, in January 2018 The Guardian reported:

“More than half of the 1,900 ultra-luxury apartments built in London last year failed to sell, raising fears that the capital will be left with dozens of ‘posh ghost towers”

There are also the conversions that look great but do not meet many lenders requirements and will therefore struggle to obtain mortgage lending, particularly for the owner-occupier market. An example of this is an office conversion in Essex where many of the flats face into an enclosed atrium and have no or limited external window openings.

When it comes to comparables, the Red Book makes it clear that *“...valuing a new-build property should be approached in the same way as any other valuation.”* But it then goes on to say, *“In all instances, the notified sale price must be treated with caution”.* (UK VPGA 11.4 in RICS Valuation – Global Standards: UK national supplement 2018)

What does this mean in practice?

Of course, in theory, following the normal logic that ‘the property geographically closest to the subject property and offering the same features sold nearest in time to the valuation will be the best comparable’, then sales on the same development will be the best comparables. However, we have already mentioned that the development itself might be skewing the market, so might it also potentially skew the comparables?

Consider the way developers offer homes for sale. They tend to use marketing techniques far more sophisticated than those seen in the usual resale market, such as contributions to stamp duty, help with deposits or extras in the property over and above that in the standard specification. But often these are individual to the plot and what is offered may depend on the position in time of the life cycle of the development. Then there are the various incentives such as Help to Buy. Conversely, some lenders might have stopped lending on certain sites because they are over exposed (depending on their own risk profile and strategy) and that could limit the access to available funding. What impact will that have on value?

Comparables from the same site alone are insufficient. Instead, comparables should ideally include:

- New build but on a different nearby site (not so problematic is a city such as Milton Keynes with a lot of development, but potentially much more difficult in

a green belt area like South Cambridgeshire where the new Waterbeach town is planned).

- A similar property from the resale market.

If comparables from a seemingly similar nearby site are available, then it cannot be automatically assumed that they will be ideal. Are the sales techniques the same? Are the developers offering different incentives? Are the tenures and property mix similar? Is the access to amenities similar?

The Milton Meadow site in Milton Keynes (see figure 1 and 2) is a good example of this analysis. The developer is not a large volume house builder normally associated with Milton Keynes, but a much smaller local developer. Can they offer the same incentives? Is their marketing strategy and budget similar? The site also has more ‘radical’ house designs than other new sites in the area. How might this impact on the value of the houses here? And, as we saw above, the site is a former commercial property. Unlike many new sites in Milton Keynes, it is not a green field development. Will this impact on the value? Careful analysis is required and must be recorded.

The resale market also requires additional scrutiny. We know that new-build properties include features that are simply not available in the resale market. Often referred to as a new-build premium, when analysing comparables, it is much more useful to consider these features as ‘first owner benefits’. These are ‘benefits’ that simply cannot be transferred to the second owner (or indeed found in the resale market in general). Examples include the ability for the purchaser to specify finishes, first owner ‘prestige’, avoidance of ‘housing chains’ etc. It is usually assumed that such benefits will add value to a new-build property but how much value, if any, can actually be attributed to them?

Conversely, resale properties might have an intrinsic value that cannot be assumed for the new site. For example, a comparable family size home in the resale market may be in the established catchment area of a local school that has an excellent reputation. However, there is no guarantee that the catchment area will extend into the new development. How then might this impact on the attractiveness of two very similar family homes? Will the school catchment ‘trump’ the first owner benefits of the new house?



Figure 3 – New homes at Milton Meadow

Conclusions

Valuing new-build property is tricky and needs to be approached with care, with the valuer ensuring that they record all relevant matters and carefully analyse the comparable evidence before reaching their conclusion on value. We hope this article goes some way to illustrating some of the complexities involved. Anyone involved in such valuations must read the RICS guidance note 3rd Edition, the Red Book and of course, the guidance produced by any lender that they are providing valuations for.

Anne Hinds BSc (Hons) FRICS

is a Chartered Surveyor dealing with technical advice and guidance on mortgage valuations, expert witness reports and other survey and valuation matters. Qualifying in 1986 she originally worked in the industrial and commercial sector followed by a period in the Valuation Office before moving into residential with Legal and General Surveying Services, eventually becoming National Quality Assurance Surveyor. She then went on to become Customer Care Director with the surveying division of the Spicerhaart Group and later esurv. For several years Anne has worked with a small firm carrying out mortgage valuations and residential surveys along with expert witness and other surveying related matters. She is now the Risk and Technical Manager for Kinleigh Folkard and Hayward Chartered Surveyors. With over 30 years' experience in surveying, primarily in the investigation, management, and handling of negligence claims against surveyors, Anne is well aware of the measures that should be taken to ensure good risk management within firms. Anne is chair of the RICS Assigned Risks Panel, she has sat on the RICS Residential Survey and Valuation Group, has been involved with several information papers including the valuation of individual new build homes and is a former chair of the RICS Disciplinary Panel. Anne has been involved with Sava since its inception and undertakes assessment for those wishing to qualify as AssocRICS surveyors.



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PERMITTED DEVELOPMENT RIGHTS

THE BASICS

CHRIS PIPE, DIRECTOR, PLANNING HOUSE

There are certain types of development work when planning consent is deemed to have been granted by Government, as opposed to by a local authority on a case by case basis. These are called “permitted development rights”. In this article, Chris Pipe from Planning House explains the basics of permitted development rights and use classes and considers some of the conditions and limitations that may apply for various developments.

These conditions and limitations can vary depending on location and the nature of the proposed development.

The article also considers where a Community Infrastructure Levy (CIL) may still be applicable, even if a development does not actually need planning permission.

Planning Consent

Over the last 100 years, a detailed system of local and central control over what can be built and where has evolved. The need for planning grew out of industrialisation, the development of towns and cities following mass migration from the countryside and the public health issues that resulted. While some of the legislation to address this is more commonly associated with the development of building control, some early planning legislation emerged. For example:

- Town Planning Act 1909 – this banned the building of ‘back-to-back’ housing, symbolic of the poverty and poor housing of the industrial cities. It also allowed local

authorities to prepare schemes of town planning.

- Housing Act 1919 – part of the raft of legislation following the First World War to address the ‘homes fit for heroes’ initiative, this gave the Ministry of Health authority to approve the design of houses.
- Housing Act 1930 – this required all slum housing to be cleared in designated improvement areas.

Planning law continued to develop and is now enshrined in a series of key statutes supplemented by rafts of central guidance in the form of planning policy statements.

The principle of planning law is that it requires the owner of a property to seek permission before a building is constructed,

substantially altered or the use of the property is materially changed. Parliament has given the main responsibility for planning to local planning authorities (usually, this is the planning department of the local council) and planning permission will be granted (possibly subject to certain conditions) or refused.

There are exceptions to this, namely:

- Exempted activities – this is a list of activities that have been determined not to constitute development. An example will be changes of use but within the same class of the Use Class Order e.g. the change of one type of office to another type of office
- Permitted development – cases where no express consent is required from the local planning authority. To put it another way, planning consent is already considered to have been automatically granted

This article explores permitted development.

Stay on the safe side

Although permitted development in essence allows for development to proceed without first obtaining specific consent, it is nevertheless always recommended that anyone planning a project should contact the local planning authority to establish if the development will be permitted or if planning permission is needed. Local authorities have certain powers enabling them to overrule the basic principle of permitted development and the risk of going ahead with works without contacting the council could result in an unauthorised development and lead to enforcement action.

Knowing all the various conditions that may apply can be tricky, but the below table lists common developments and the conditions that apply. **This should be read in conjunction with the relevant legislation which can be found at www.legislation.gov.uk**

Development	Conditions
Conservatory/ Single Storey Extension	A single storey extension can be permitted development provided that: <ul style="list-style-type: none"> • It does not extend beyond any side or principal elevation of the original house which fronts a highway; • It does not exceed 50% of the total area of land around the original house; • It does not have a width that exceeds half that of the original house applies for side extensions; • The extension does not project further than 3.5 metres to the rear for terraced and semidetached properties and 4 metres for detached properties; • Does not have a height over 4 metres; • The eaves height should be no higher than the eaves of the existing house, and should have a maximum eaves height of 3 metres if within 2 metres of the boundary; • The material of the exterior of the extension must be similar in appearance to the material of the exterior of the original house; There is provision for larger single storey extensions of up to 6 metres for terraced or semi-detached properties and 8 metres for detached properties subject to prior approval.
Two-Storey Extension	Two-storey extensions have similar criteria to single storey extensions and are typically permitted development provided that: <ul style="list-style-type: none"> • They do not extend more than 3 metres from the rear wall of the original house; • They are within 7 metres of any boundary of the curtilage of the house being enlarged which is opposite the rear wall of that house.
Alterations to the roof	Roof extensions are typically permitted development provided that: <ul style="list-style-type: none"> • They are not on designated land (e.g. conservation areas or national parks); • Additional roof space does not exceed 40 cubic metres if terrace house or 50 cubic metres if a semi-detached or detached; • No part of the extension is higher than the ridge of the existing roof; • The extension is not beyond the plane of the existing roof slope of the principal elevation that fronts a highway; • There are no balconies or verandas; • Roof extensions are at least 20cm back from the eaves and must not extend beyond the outside wall; • Roof lights must not protrude more than 15cms from the plain of the roof.
Porches	Porches are typically permitted development provided that: <ul style="list-style-type: none"> • The ground area does not exceed three square metres; • The highest part of porch does not exceed three metres; • No part of the porch is within two metres of any boundary that fronts a highway.
Outbuildings (incidental to the house, i.e. swimming pool, garage, gym, store room etc.)	An outbuilding is typically permitted development provided that: <ul style="list-style-type: none"> • It is not forward of the principal elevation of the house; • It is not between the side of a building and the boundary in designated land (i.e. conservation area etc); • It is not within the grounds of a listed building; • It does not exceed 50% of the total area of land around the original garden; • Has a maximum eaves height of 2.5 metres and overall height of 4 metres for a dual pitched roof and 3 metres for non-duelled roof; • If the outbuilding is within two metres of the property boundary it should have a maximum overall height of 2.5 metres
Fences, Gates and Garden Walls	You will need to apply for planning permission if you wish to erect or add to a fence, wall or gate if: <ul style="list-style-type: none"> • It would be over 2 metres high or 1 metre high if next to a highway used by vehicles; • The fence, wall or gate, or any other boundary involved, forms a boundary with a listed building or its curtilage.

Removal of permitted development rights

One mechanism by which the local planning authority can remove permitted development rights is by issuing an 'Article 4' direction. This means that planning permission will need to be submitted, even though the work would not normally require it.

An Article 4 direction is made when the character of an area of acknowledged importance would be threatened. This is likely to occur in conservation areas.

Check for conditions

Planning permissions in themselves can remove permitted development rights that might normally follow through the imposition of a condition on an approval. For instance, on new housing estates where gardens may be limited, permitted development rights may be removed for extensions, conservatories etc.

If an Article 4 direction is in place or a condition restricts development, it does not mean the project will not progress; it just means planning permission is required via the planning application process.

Fast-track conversions

Have you ever looked at a barn or building in the countryside and thought 'that would make an amazing home', then thought about the hoops you would have to jump through to secure permission to convert it? Well, it may be that those obstacles are not quite so onerous.

In some instances, planning permission isn't required to convert a building into residential use. Under Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, GPDO for short, there are a magnitude of uses (retail, launderette, betting shop, shop, offices, amusement arcade, casino, storage or distribution centres, agricultural buildings, etc.) which can be converted to residential as 'Permitted Development' without planning permission.

There are, however, a range of exclusions and limitations which apply, and each use proposed to be changed has a different set of conditions which must be adhered to, such as type and location of land/buildings, date of last use, amount of floorspace and/or information which must be submitted and considered by the local planning authority prior to any change of use.

The 'green light' given to convert specific uses to residential has seen an increase in growth of conversions, particularly agricultural buildings in the countryside. With the Government encouraging the creation of more housing, permitted development rights have recently been increased.

PDRs now allow a maximum of 5 new houses to be created from existing agricultural buildings on a farm. Previously this was restricted to 3 properties.

The amendments which came into force in April

2018 permit the development of:

- **up to three larger homes within a maximum of 465 square meters; or**
- **up to five smaller homes each no larger than 100 square metres; or**
- **a mix of both, within a total of no more than five homes, of which no more than three may be larger homes.**

If it's thought that an agricultural development may be permitted, the planning authority should still be contacted and a prior approval process will be required. This is where a developer seeks approval from the local planning authority that specifies elements of the development are acceptable before work can proceed – in effect, a 'light-touch' planning application.

As well as the potential to create a dream home in the countryside (or maximise land and development value), there are many ways to circumvent the need for planning permission for extensions, alterations, change of use, temporary buildings and uses etc. However, interpreting the regulations which set out what can and can't be done via permitted development rights can be daunting so expert planning advice is suggested for anyone considering such a scheme.

Prior approval process

Before beginning a project, prior approval may be required from the local planning authority. Whilst planning permission isn't required for certain developments, prior approval may be. This is dependent on what is being built and is explained in detail in Schedule 2 to the General

The prior approval process is a 'lighter touch' process than a planning application and it can only be used **BEFORE** works begin. If works have already started, then it is not possible to take advantage of the simplified process.

Permitted Development Order.

Prior approval timescale

When a local planning authority receives an application for prior approval, they have 56 days to make a decision as to whether approval is needed and, if so, given.

If the local planning authority does not notify the applicant of their decision within the 56 days and **IMPORTANTLY** the proposal meets the criteria within the General Permitted Development Order regulations, the applicant can go ahead with the development.

Use Class Order

The Use Class Order (Town and Country Planning (Use Classes) Order 1987) (as amended), categorises uses of lands and buildings. To change the use of a building may require planning permission, however, there are permitted changes of use that can be made without planning permission, under Part 3 of the General Permitted Development Order. For the purposes of this article, we have just included permitted changes for dwellings and HMOS, as well as agricultural buildings:

Use Class	Description	Permitted change
C3 Dwelling houses	(a) House occupied by a single person, couple or family, including domestic employees or carer, (b) up to 6 living as a single household and receiving care i.e. supported housing scheme, (c) up to 6 living as a single household that do not fit into C4	C4 (Class L)
Houses in multiple occupation HMO	Shared houses occupied by between 3 and 6 unrelated individuals as their only or main residence - basic shared amenities	C3 (Class L)

In addition to the above, agricultural buildings are permitted to be changed to a residential dwelling subject to prior approval (Class Q). Also, there are permitted flexible changes as listed below:

- Class A – restaurants, cafes, or takeaways to retail
- Class B – takeaways to restaurants and cafes
- Class C – retail, betting office or pay day loan shop or casino to restaurant or café
- Class D – shops to financial and professional
- Class E – financial and professional or betting office or pay day loan shop to shops
- Class F – betting offices or pay day loan shops to financial and professional
- Class G – retail or betting office or pay day loan shop to mixed use
- Class H – mixed use to retail
- Class I – industrial and general business conversions
- Class J – retail or betting office or pay day loan shop to assembly and leisure
- Class JA – retail, takeaway, betting office, pay day loan shop, and launderette uses to offices
- Class K – casinos to assembly and leisure
- Class M – retail, takeaways and specified sui generis uses to dwellinghouses
- Class N – specified sui generis uses (amusement arcade/centre or casino) to dwellinghouses
- Class O – offices to dwellinghouses
- Class P – storage or distribution centre to dwellinghouses
- Class PA – premises in light industrial use to dwellinghouses
- Class R – agricultural buildings to a flexible commercial use
- Class S – agricultural buildings to state-funded school or registered nursery
- Class T – business, hotels etc to state-funded schools or registered nursery

The above are all subject to the prior approval process.

BE AWARE: Even if your development does not need planning permission, you still may be liable to pay a Community Infrastructure Levy, or CIL as it's commonly known. CIL is a tool that allows local authorities to collect a 'tax' style payment for developments. CIL is non-negotiable once it's adopted by a local planning authority, with rates set out in a Charging Schedule, generally published on a Council's website. You can read more about this in one of our Planning House eBooks which you can download for free on our website

www.planninghouse.co.uk

Summary

Permitted development rights and Use Class Order are a complex part of the planning process. If you consider there to be scope, under the provisions identified above, for development, seek assistance from a town planner to confirm the position.

Chris Pipe

Chris has a wealth of experience in the town planning industry and, as former Head of Planning for a Council, working as UK Planning & Land Director for a large PLC and by launching Planning House in 2016, she knows her way through the planning system from a unique perspective, which is why the label 'Gamekeeper turned Poacher' has never been more appropriate. Chris is also a non-salaried Planning Inspector, working for the Planning Inspectorate determining appeals refused by local planning authorities.





GIANT HOGWEED

EMERGING LIABILITY

DR DAN JONES PHD, MSC, BSC, MA, GCIEEM, ADVANCED INVASIVES

Giant hogweed is notable amongst invasive plants in the UK in that it has direct harmful human health implications, as well as negative effects on the native ecology and environment of the UK. Following recent surveyor negligence claims, this article reviews hogweed in the context of its ecology and biology in the non-native range and how the toxicity of this species may impact upon surveyor practice in the future.

What is giant hogweed and where is it found?

Giant hogweed (*Heracleum mantegazzianum*) originates from the Caucasus Mountains of Southwest Asia and was introduced as a horticultural species to Britain in 1893. In the UK, Giant hogweed escaped from garden plantings and spread rapidly along watercourses, colonising damp ground and wasteland. Subsequently, the invasive plant has invaded secondary habitats, including roadsides, railway embankments and amenity areas adjoining commercial and residential properties (figure 1). Giant hogweed negatively impacts on UK native ecology by shading out native plants; additionally, safe access to riverbanks and amenity areas is hampered and extensive aboveground growth increases riverbank erosion risk.

Similarly to many of the terrestrial invasive



Figure 1A) Giant hogweed growing along a public right of way.

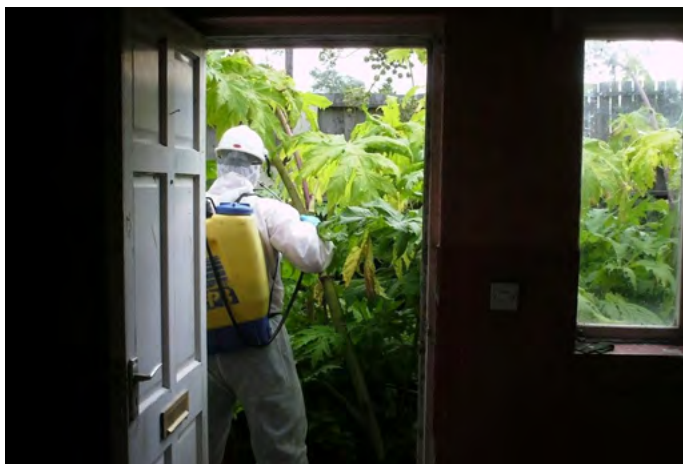


Figure 1B) Giant hogweed growing directly against a residential property, making safe access to the building impossible (courtesy of Brian Taylor). © The Knotweed Company 2020

plants found in the UK, ‘giant hogweed’ is often used to refer to a group of closely related invasive species, in this case consisting of Persian hogweed (*H. persicum*) originating from Turkey, Iran, Iraq, and Sosnowsky’s hogweed (*H. sosnowskyi*) introduced from the Caucasus, Transcaucasia and Northeast Turkey. While giant and Persian hogweeds have been recorded in the UK (figure 2), Sosnowsky’s hogweed has not (as yet). However, identification of these species can be problematic, leading to misidentification, and given that all three species are widespread in Continental Europe, it is likely that records of Sosnowsky’s hogweed will be reported in the future.

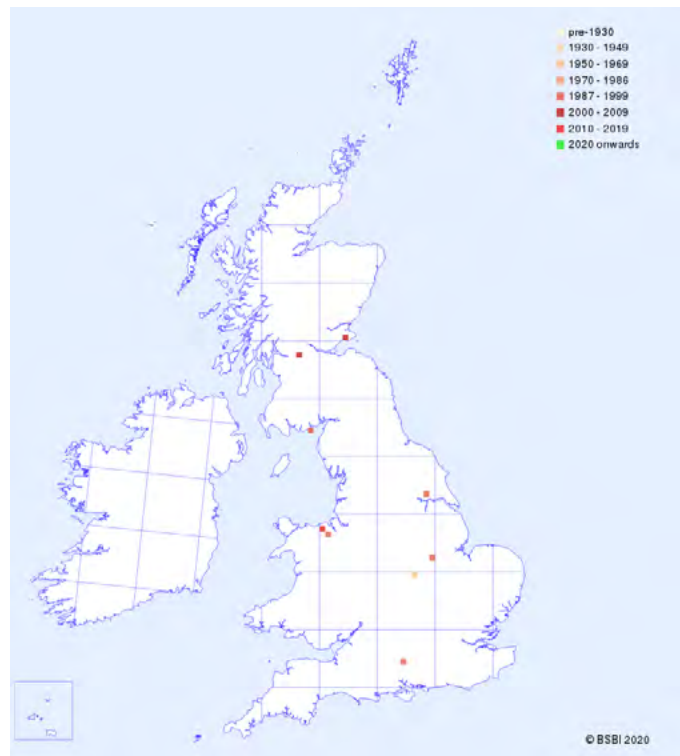


Figure 2B) Persian hogweed distribution in the UK and Ireland (courtesy of BSBI 2020). Giant hogweed is widespread throughout the UK and Ireland, while Persian hogweed is restricted to a handful of records in England, Wales and Scotland. © BSBI 2020

Biology

Giant hogweed is among the tallest perennial herbs in Europe, reaching up to 5.5m tall in full growth (figure 3). Germination of seeds begins in January/February, while growth of established plants begins from January through to March. Within the first year of growth, giant hogweed leaves grow large in size and are dark green in colour with pronounced lobes, deep incisions and spiked ends. Giant hogweed is monocarpic i.e. it flowers once and dies. In the first year of growth, plants accumulate resources in a deep taproot and once sufficient reserves are available, flowering occurs in subsequent years. Typically, flowering occurs from June to August in the second year of growth, though it may take longer depending on local growing conditions (4 years from germination to flowering has been reported). Flowering stems are hollow, hairy, and dark green in colour, with red/purple blotches; these support the very large flower (‘umbel’ in botanical terms) head, which is frequently more than 50cm wide. Each flower head consists of numerous small white flowers which are attractive to native pollinating insects. Following insect pollination, seed is set and these are subsequently shed directly around the parent plant (up to 5m away) and indirectly spread by anthropogenic (e.g. roadside slipstreams) and natural processes (e.g. flooding) over much greater distances. Rapid spread of giant hogweed in the UK landscape is well understood with reference to seed production: each plant produces 20,000 - 100,000 seeds and these remain viable in the soil for between 7 and 15 years.

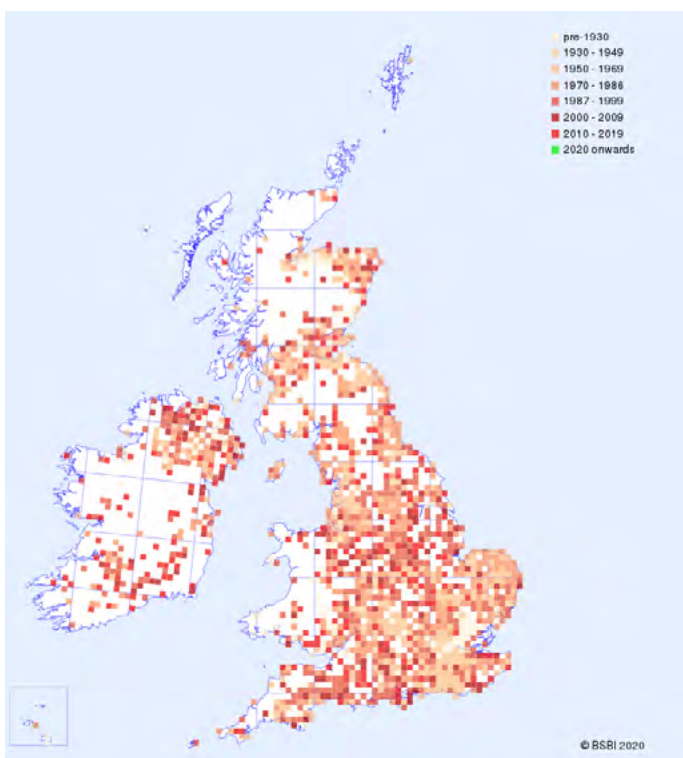


Figure 2A) Giant hogweed distribution



Figure 3A & B) Seedlings in the first year of growth, highlighting dark green leaf colour, pronounced lobes, deep incisions and spiked ends; also note dense growth which excludes native plant species from early in the growing season. Figure C) Mature giant hogweed growth including leaves, flower stem and large flower (umbel); for scale, Gethin Bowes, Invasive Plant Species Officer, Caerphilly County Borough Council, is 1.85m tall. Figure D) Shows dead stems and flowers in autumn once the biennial life cycle is completed. A, B & D © Advanced Invasives 2020 C © Gethin Bowes, Caerphilly County Borough Council

In contrast with Japanese knotweed, mature and immature Giant hogweed plants can be killed outright using a number of different herbicides and, with a lot of persistence, the seed bank can also be brought under control. Estimated costs associated with the management of Giant hogweed are in the region of £2.4 million per annum in the UK, though this is likely to be an underestimate of the actual costs incurred. Physical control methods, such as strimming, should be avoided as fragmenting the plant produces a large quantity of toxic sap, and the long-term efficacy of these operations is limited as funding is frequently exhausted before the successful conclusion of management programmes. However, once all mature individuals are dead and the seedbank is entirely depleted, Giant hogweed can be declared locally 'eradicated', though there is the ongoing risk of reinvasion from neighbouring land and/or populations of the plant upstream of the treated area.

Perception and Reality

While Japanese knotweed (*Reynoutria japonica*) and increasingly, Butterfly Bush (*Buddleja davidii*) capture the attention of the public because of their impacts (real and perceived) on the built environment¹, Giant hogweed has

captured headlines for quite different reasons. Giant hogweed is a member of the carrot family (*Apiaceae*), which includes the food plants carrot, parsnip, and coriander. There are more than 50 UK native species within the *Apiaceae* family, including Common hogweed (*Heracleum sphondylium*), Wild carrot (*Daucus carota*) and Cow parsley (*Anthriscus sylvestris*). Superficial similarity of Giant hogweed with Wildis reflected in the common names ascribed to the plant, which include giant cow parsley, giant cow parsnip and hogsbane.

Many native *Apiaceae* are toxic, the best known being Hemlock (*Conium maculatum*). Hemlock contains a number of toxic alkaloids including coniine and was used by the classical philosopher Socrates to commit suicide after being sentenced to death for his belief in democratic principles. Many *Apiaceae* contain further harmful phytotoxins: furanocoumarins and their derivatives. In the plant family *Heracleum* and Giant hogweed in particular, furanocoumarins contained in the plant leaves and/or roots, stems, flowers, and seeds are principally accumulated to deter herbivorous insect feeding. In cases where these compounds come into direct contact with humans and livestock, following cutting or grazing,

they cause phytophotodermatitis, resulting in blistering and scarring that may be extensive if, for example, the plant has been cut using a strimmer. The human health impacts of chemical burns, particularly in young children, have triggered quite understandable and extensive media coverage over the past decades, and particularly over the last 10 years in the UK² and North America³.

With negative environmental impacts and direct human health impacts of giant hogweed established, beginning in the 1980s UK Government introduced legislation to stem the spread of the plant throughout the UK. While the legislation surrounding Giant hogweed is less extensive than that associated with Japanese knotweed, relative to other European countries and North America it remains comprehensive.

Legislation Summary

Giant hogweed is subject to legislation, some of which is relevant to discussion of the effects in the built environment and:

- Giant hogweed is listed in Schedule 9 of The Wildlife and Countryside Act 1981 – this legislation makes it an offence to plant giant hogweed or cause it to grow in the wild.
- However, it is not illegal for giant hogweed to be on private land and there is no legal obligation to remove or control hogweed on private land. There is also no requirement to report that giant hogweed is present on the land. That said, allowing plant material or soil contaminated with hogweed seeds from any waste transfer to spread into the wild could lead to a fine of up to £5,000 or a prison term of up to two years.
- Currently, there is no precedent set for private actions by landowners of adjacent properties seeking damages should giant hogweed be allowed to spread onto their property. However, there is a significant risk of civil liability centred on harm caused by exposure to giant hogweed sap, for instance where a property is infested with the plant and treatment attempted, resulting in chemical burns to the property buyer.
- Giant hogweed is classed as ‘controlled waste’ so must be disposed of safely at a licensed landfill site in accordance with the Environmental Protection Act (Duty of Care) Regulations 1991. This does not just apply to the plant material above ground. Soil containing roots and seeds may be regarded as contaminated and, if taken off a site, must be disposed of at a suitably licensed landfill site. Section 33 of the Environmental Protection Act states that it is an offence to deposit, treat, keep, or dispose of controlled waste without a licence.

Giant hogweed is therefore a future ‘risk’ to those working in the property sector.

Where does this leave property surveyors?

While the risk of property damage caused by the growth of Giant hogweed is limited, there is a significant risk of civil litigation in circumstances where the plant has not been reported clearly, and subsequently controlled effectively and safely (e.g. where it has inadvertently been cut using machinery, exposing the operator and/or property to toxic sap). Recent media headlines highlighting chemical burns following exposure to toxic sap and reporting on the ongoing spread of Giant hogweed in the UK landscape emphasise the importance of effective plant identification by surveyors during property surveys. Training and ongoing vigilance will help to minimise health and legal risks associated with this invasive plant to both property surveyors and buyers in the future. It also has implications for those responsible for management of land and common areas, such as gardens.

Next Steps

Advanced Invasives and Sava are developing a series of competency-based qualifications designed to assist surveyors with the identification, survey and appraisal of giant hogweed and other invasive plants in the property context.

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Dr Dan Jones is Managing Director of Advanced Invasives, a consultancy founded in 2016 to bring evidence-led thinking to the commercial management of invasive plants. Dan specialises in the detection, mapping and sustainable management of invasive plants and holds the title of Honorary Researcher in the Department of Biosciences at Swansea University.

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JAPANESE KNOTWEED CASE LAW

A BRIEF OVERVIEW

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Over the past few years Japanese knotweed has raised concerns, perhaps disproportionately, among residential surveyors. This is not due to any changes in the law, but due to a small number of cases where surveyors have been found negligent for failing to spot knotweed. And court cases do, of course, represent a minute proportion of disputes. Surveyors and valuers are also alert to cases where allowing the spread of knotweed has given rise to successful private nuisance actions. This clearly concerns the defendant landowner, but can also impact and needs to be recognised in property values (e.g. *Raymond v Young* [2015] EWCA Civ 456 where an order of over £150,000 for diminution in value due to nuisance was upheld in the Court of Appeal).

Additional unrest has resulted from the RICS Information Paper on Japanese Knotweed (2012) having been expressly withdrawn pending further research and consultation, as has the Environment Agency Code of Practice (2006). The RICS guidance is the subject of continuing discussion and doubtless a revised paper will appear in time.

There are various causes of action with regard to knotweed, from criminal liability for allowing it to escape into the wild under the Wildlife and

Countryside Act 1981, or not disposing of knotweed appropriately (under the controlled waste provisions of the Environmental Protection Act and the Waste Management Licensing Regulations 1994), but this note concentrates on civil liability in negligence.

Firstly, it's worth mentioning that there are over 100 plants categorised as non-native invasive species and Japanese knotweed should not be singled out to the exclusion of all else, and some plants which cause structural or ecological problems are not within this classification, such as certain species of bamboo, but are still giving rise to claims when not spotted or advised upon.

Introduced as an ornamental garden plant by Philip von Siebold in the 1850s, knotweed was still being sold commercially well into the twentieth century, but it was eventually realised to be a pest rather than appropriate for active cultivation.

For valuers, the key issue is to ensure knotweed (and any other potentially destructive plant) is spotted and noted to avoid any successful negligence claim and to ensure householders and purchasers are informed such that they can address and avoid any actions in nuisance.

There has been a plethora of discussion in the professional press over recent years, so this is just to summarise court action to illustrate the potential consequences of ignoring Japanese knotweed.

Davies v Marshalls (Plumbing and Building Development) Ltd and Connells Survey and Valuation Ltd [2018] Birmingham County Court

The purchaser of 27 Waterlily Close, Cannock, brought a negligence action against a valuer for failing to spot Japanese knotweed which, she asserted, devalued the property. The mortgage valuation assessed the property to be worth £115,000. It was claimed that the surveyor failed to inspect an adjacent communal area or, if he had inspected it, failed to spot knotweed. A claim that he failed to identify knotweed on the property itself was abandoned when it was established that it would not have been visible on the property at the time of inspection.

The claim failed but is worthy of comment which might be useful for practitioners on a number of counts.

Firstly, as can so often be seen from court transcripts, one or more of the experts are less effective, and this is usually due to preparation or understanding of their role, and the specific requirements of reports, rather than any technical shortfall in their area of expertise. In this case, the claimant's expert was found to have used 'arbitrarily chosen' comparables with insufficient evidence, along with errors in their explanation of methodology.

Secondly, on the facts, bearing in mind that this was a mortgage valuation only, the valuer was found to have exercised reasonable care in his inspection. Evidence of reasonable care included site photographs, having appropriate kit (e.g. a ladder) and a CPD record of training on knotweed

recognition. There is no requirement in the RICS Red Book to expressly inspect adjacent land. Indeed, such a requirement would be impractical given possible access issues. There is an expectation to view across boundaries from all available levels but, on the facts, a cursory view from the first floor would have revealed nothing.

Ryb v Conways Chartered Surveyors [2019] Central London County Court

The claimant, Mr Ryb, brought an action in negligence regarding the valuation of Mendip House in Bloomfield Road, Highgate, for failure to identify Japanese knotweed. Mr Ryb purchased the property for £1,275,000. A full building survey was commissioned, not least due to Mr Ryb's poor eyesight.

The court asked three questions:

1. Was Japanese knotweed present at the time of purchase?
2. If so, should a reasonably competent surveyor have identified it?
3. If so, what damages should be awarded?

It was found that, as a matter of fact, knotweed was present at the date of inspection. The surveyor, per the judge, "came across as a surveyor of what might be described as the 'old school.'" He had taken no photographs (which may have aided a defence), no measurements, and had drawn no plans. When probed on CPD attended he produced a flyer but no confirmation of booking, attendance or notes. In light of this, the evidence of expert witnesses was particularly influential.

The judge was satisfied "well beyond the standard of the balance of probabilities" that the surveyor was negligent. Damages for diminution in value of £50,000 was awarded, including remediation costs.

Takeaways for valuers

- The importance of contemporaneous notes and photographs.
- The importance of CPD, ensuring adequate and up-to-date training on any matters pertinent to the nature of work undertaken.
- If undertaking expert witness work, ensuring, as a starting point, familiarity with the contents of the RICS Practice Statement, Surveyors Acting as Expert Witness (2014) and the Civil (or Criminal, as appropriate) Procedure Rules of the courts.
- Considering the impact on value of neighbour disputes, i.e. private nuisance.

About Carrie de Silva

Carrie is Principal Lecturer in Law and Taxation at Harper Adams University as well as a Director of BlueBox Partners and a Sava trainer.



A RESIDENTIAL SURVEYOR IN THE HIGH COURT

THOUGHTS ON HART V LARGE [2020]

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With thanks to Chris Rispin BSc FRICS for review and comments.

In May 2020, an important judgment was handed down in a High Court case. In this article, Carrie de Silva provides an initial analysis of the case.

What happened?

A surveyor was engaged, on 1 November 2011, to carry out a HomeBuyer Report (HBR) on a cliff top property in Devon on which there had recently been considerable work. The surveyor attended the property on 2 November, emailing his report to the client on the same day. The report showed no significant problems, other than lack of information about the septic tank, and a sale for £1,200,000 went ahead. However, after the purchasers moved in there was considerable and continuing water damage through doors and windows, along with various other matters.

Key problem: In purchasing recently built or refurbished property, there were no contractual rights against the architect or builders as the work was done for the vendor prior to purchase. With new build, an NHBC certificate would normally cover. With less extensive work there would, in the alternative, be a Professional Consultant's Certificate, the rights against which should be transferred to the purchasers. This was not obtained in this case.

The surveyor was found to be negligent.

The surveyor advised, initially in an undocumented call, that a Building Regulations Completion Certificate for works and also guarantees for windows, doors, heating installation, electrical appliances, sanitary ware, etc. should be obtained and that legal advice should be sought. He also indicated that an architect's supervisory certificate would be transferable to purchasers as a reasonable expectation. The Building Regulations Completion Certificate was obtained but no specific guarantees.

For building works not under the NHBC Scheme, a Professional Consultant's Certificate should be sought. It was not provided and, indeed, the solicitors just excluded the clauses relating to this (presumably as it was unavailable), apparently without querying the matter.

The surveyor emailed the purchaser querying the delay in providing requested documents, the format of the Building Regulations Completion Certificate and the nature of the architect's Making Good Defects Certificate,

and stressed the need to seek legal advice on the matter. The purchasers decided to accept the problems but requested of their solicitor, in writing, that ‘all receipts and documentation previously discussed’ be supplied on exchange, on the written advice of the surveyor.

Despite the receipt of some of the certification, it soon became apparent that there were ongoing problems. Indeed, on completion day (23 November 2011) the purchasers arrived at the property to find workmen on the premises sorting out problems on the instructions of the architects. Nearly two weeks later the documentation had still not been received and six months later water leakage was significant and worsening.

The purchasers commissioned a further survey, a civil and structural engineer’s report and an architect’s report, and some months after purchase, they liaised with the surveyor in what he considered a non-combative approach, simply seeking his professional advice. Eventually, though, they resorted to the courts and, with the solicitor and architect having settled, the judge looked to consider in which aspects of work the surveyor was potentially negligent.

Was the surveyor negligent in recommending a HomeBuyer Report (HBR) rather than a Building Survey?

RICS products for residential property include three levels of report:

- A Condition Report
- A HomeBuyer Report
- A Building Survey

Although opinions differed, it was accepted by the court that a HomeBuyer Report was ‘not necessarily wrong’. Note that the measure is not whether a different surveyor would have suggested something different but, per *Bolam* [1957], whether it is unreasonable for any competent surveyor to have opted for the HomeBuyer Report in these circumstances. So, a HomeBuyer Report was not a negligent choice.

Having decided that a HomeBuyer Report was acceptable, should the surveyor have suggested a higher-level report after visiting the property?

This question was not answered with regard to the defendant as being ‘unnecessary’ in the light of other matters, but the judge *did* stress that even where an HBR is a valid choice, this must be kept under review both from the time of commission to the time of reporting and at the time of any further advice provided after the report.

Was the surveyor negligent in the contents of the HomeBuyer Report?

Yes – there should have been a note regarding elements which could not be, or had not been seen, rather than vague assumptions to things having been done properly. There were also signs of ‘sloppy workmanship’ which should have prompted the surveyor’s concerns.

And the claimants said they raised issues prior to the survey regarding the construction and cliff top position. Unfortunately, these emails had been deleted.

The judge made repeated reference to a Not Inspected (NI) rating which he indicated should have been used. Practitioners will be aware that this is an express term normally relating to whole areas of a property usually covered which were not (see 4.2 in 2016, 5th ed. [RICS HomeBuyer Report – Survey and Valuation](#)) but, as noted above, uncorroborated assumptions as to good workmanship on something which has not been seen, cannot be made, and the report should record facts and assumptions with foundation, not suppositions.

Was the surveyor negligent regarding advice as to Professional Consultant’s Certificate (PCC)?

In the HBR the surveyor did highlight the lack of a Completion Certificate and guarantees, and indicated that they should be sought but did not, in clear and unequivocal terms, state that a PCC must be sought. In an email a fortnight later he said that a Completion Certificate was essential and that a PCC was ‘not necessarily essential’ but its absence would leave no recourse, and that legal advice should be sought.

So, yes, failing to recommend a PCC in the HBR, in clear terms, was negligent. And, in the later email, it should have been highlighted as ‘essential’.

Did the solicitor’s negligence break the chain of causation?

As noted earlier, the claimants also brought actions against their solicitors and architects who, from the law report, appear to have had overt shortcomings. These disputes were settled out of court. Did, particularly, the solicitor’s negligence break the chain of causation as to the surveyor’s negligence, i.e. was the solicitor’s negligence so fundamental to the loss as to negate the surveyor’s actions? Answer reached in judgment: no. The purchase of the property was a direct result of the surveyor’s negligence.

What was the consequence of the surveyor’s negligence?

It was found that the claimants would not have purchased the property if the advice on both the condition of the property and the lack of certification and guarantees had been complete and non-negligent.

What were the damages?

It was found that the claimants’ loss could not be resolved with damages of the difference in value between the negligent valuation and a competent valuation. It was found that the claimants would not have purchased the property had the survey been of a satisfactory standard. The key negligent factor was not about the surveyor missing certain structural issues but in failing to spell out the need for a Professional Consultant’s Certificate, which

would have provided both the necessary confirmation of standard, and a right of action in the event of problems. In assessing the level of damages, the question is: was the duty one to provide information only (as is deemed to be the case in most mortgage valuations) or was it an advisory duty? Although normally treated as discrete terms, the judge cited Lord Sumption in *Hughes-Holland v BPE Solicitors* [2018] as stressing that the terms are not mutually exclusive.

But broadly, in an information only valuation, damages would be limited to (the so called SAAMCo cap¹), i.e. the difference between the negligent value and the 'true' value.

Where there is a wider scope of advice (and it was deemed that the transaction was entered into on the basis of the report and surrounding information provided by the surveyor), the costs of all defects are at issue, as they would not have purchased the property but for the negligent report.

The judge noted that many aspects would not have been apparent even to a competent surveyor, and the only competent survey would be one which would serve to dissuade the claimants from purchasing. Thus, the usual *Watts v Morrow* [1991] measure (the difference between the negligent and a competent valuation) would not be fair to the claimants. Conversely, it was submitted on behalf of the surveyor that a competent valuer could not be said to give warranty of all possible *unknowable* defects. These are simply an inherent risk of purchasing the property.

In the final assessment, the judge found that, had a Professional Consultant's Certificate been stressed as vital the transaction would not have gone ahead thus the full costs of defects, on a demolition and re-build basis, were awarded.

The damages were assessed at £750,000 (a compromise between the experts' assessments but nearer the higher end), with the solicitor and architect having already paid £376,000 leaving net damages for the surveyor defendant at £374,000, to which £15,000 was added for inconvenience and distress.

Expert witnesses

An analysis of the workings of the valuations will be left to those with the relevant expertise, and there are a number of online commentaries. As mentioned, leave has been given to appeal on the valuation point. But a few notes about the expert witnesses:

The judge commented that the expert valuer for the surveyor lacked the analytical detail of the claimant's expert, did not take a realistic view of the prospective purchasers wanting demolition and re-build, and used inappropriate comparables (higher value locations), and

comparables which did not take into account likelihood (or lack thereof) of planning permission for similar property enhancements. Without any comment as to the veracity of this judicial opinion, it does underline the need for expert witnesses to consider their submissions very carefully, and to be able to corroborate all aspects of their opinions with appropriate sources which stand up to examination. However 'correct' the witness is, if the evidence is not well-sourced and substantiated, and the expert does not respond well to scrutiny, the judge is unlikely to favour their position.

On the quantity surveyors, the evidence of the QS for the claimant was 'preferred' (although not without highlighting a point of calculation).

An extensive review of the role and influence of expert witnesses is for another day but an expert being significantly criticised or one party's expert being clearly preferred is common. Not in this case, but it is also common that experts are chastised in court for being unfamiliar with Civil (or Criminal) Procedure Rules, the format and content of reports, the necessary liaison with the other party, and their professional body guidance. So any surveyor going into this work must, as a starting point, familiarise themselves with both the parts of the Civil Procedure Rules, Practice Direction 35 Experts and Assessors (or, less likely) Criminal Procedure Rules (Part 19 Expert Evidence), and Surveyors Acting as Expert Witnesses (4th ed, 2014 – see also the accompanying Client Guide and the Scottish edition, 2015).

As an aside, at one point, counsel for the defendant questioned the claimant's building surveyor as to whether they thought the defendant surveyor was negligent, and then commented on the witness not understanding negligence, at law. Although experts should be competent and well prepared in their field, the judge noted that the witness was not a lawyer. He intimated, effectively, that the witness should be questioned in a way which allows the lawyers and the judge to draw out the application of the facts to the legal parameters of a finding of negligence.

Lessons for practice

Choice of product

The surveyor should be fully comfortable that the level of product commissioned is appropriate to the property. This should be considered against the RICS product parameters with the surveyor highlighting where they consider a requested product to be inappropriate. The property in question had recent extensive work, was in an exposed, coastal position and had an area of flat roof where some might have favoured a more detailed report (although it must be stressed that, in this case, the surveyor was found not to be negligent on the decision to provide the HBR).

Product commissioned

For the client, the terms in a quotation should be very clear

¹ From *South Australia Asset Management Corp. v York Montague Ltd* [1997] House of Lords

about the difference between a HomeBuyer Report and a full Building Survey (and, indeed, a Condition Report). The client may well not appreciate the difference and just assume that they have had a 'survey' which will pick up 'everything'.

Ongoing review of product

Even if a Condition or HomeBuyer Report is deemed appropriate, if during the course of the review, or afterwards, a more detailed report is felt to be prudent, this must be notified to the client.

Other professionals

Be clear with other professionals as to parameters of responsibility. The judge indicated that a surveyor's role 'dovetails' into the conveyancing process. This term nicely illustrates the required level of engagement. The judge noted as 'a real risk' the concern that the solicitor thinks the surveyor is doing something and vice versa, and the client is left with neither of them covering a particular matter.

'Not Inspected'

If modern building techniques or anything else, coupled with level of survey, mean that matters, e.g. damp-proofing, cannot actually be seen to satisfaction, this must be indicated in the report. Saying things such as 'are likely to be designed with' and 'are likely to be' will lull a client into a false sense of security. If something cannot/has not been seen, a note should be added setting out the possible implications, along with what additional survey or guarantee may be required as a consequence. The judge noted that because the works were recent, it appeared that the surveyor simply assumed everything had been inspected and signed off by competent professionals.

Be aware, also, of the impact of weather on new build/refurbishment. If the property has not seen a winter (particularly one on a coastal front), has the watertightness of windows and doors been adequately tested?

These are the dangers of inspecting a recently completed property. Few, if any, defects are likely to be apparent, hence the need for a warranty on new buildings and recent refurbishments.

Whether building control certificates or contractor completion certificates are reliable is a separate issue and there are many commentators on the current building control system, the implications of which have been felt in everything from annoying niggles for new home owners through to the Grenfell Tower fire. But building control does provide a measure of satisfaction and contractors' certificates (with transfer of cover to new purchasers) provide a direct line to actionable legal responsibility.

Professional administration

Basic standard good professional practice: keep an up to date file and include a note of all telephone conversations (following them up with a formal note to the client, or whoever, setting out what was intended), and file all emails.

Professional indemnity

The measure of damages in the case was unusually high, beyond the normal method of assessment. This may well be unlikely, but it is clearly a possible outcome of a claim. For surveyors working on their own account or for small firms, the level of cover should be carefully considered in relation to the value of properties being surveyed. Is an increased level of cover indicated? Is an increased agreement on insurance for a one-off job indicated?

Judge's note

ter Haar J highlighted the correct course, to offer protection for the purchaser.

(a) Be clear about limitations of advice. See note above about the understanding of the general public of different levels of survey.

(b) Be alert to signs of inadequate design.

(c) Draw the client's attention to the need for terms of protection (e.g. NHBC, Professional Consultant's Certificate and guarantees on specific items).

The judge noted the problems in the surveyor neither wishing, nor having the role, to chill the property market. There could be very many issues not visible on a mortgage valuation and clearly a report cannot indicate and suggest follow up on every potential issue, but it is also not acceptable to assume 'it is all right' with no basis.

In conclusion, this case will have concerned many in the residential surveying and valuation profession. But an eye to the 'lessons for practice' above should help ensure that work will not be found to lack reasonable care. And (with no reference to *Hart*), an overarching point, highlighted many years ago in another High Court negligent valuation case, *Fryer v Bunney* [1982], is that, to paraphrase Justice Newey, we must none of us carry out our work on 'automatic pilot'; doing jobs of an apparently standard type for the umpteenth time. A useful compass for professional life is to think, 'what if I had to justify this decision/report/remark/action in the very unlikely event of being in court in a few years' time?' Not a question to scare, simply to make us all take the time to stop and think.

About Carrie de Silva

Carrie is Principal Lecturer in Law and Taxation at Harper Adams University as well as a Director of BlueBox Partners and a Sava trainer.

Comments from Sava:

"This is a landmark case and will no doubt impact on how surveyors approach inspecting a property. We will revisit this matter at a later date, particularly in the light of the new RICS Home Survey Standard."



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