



950 YEARS YOUNG

The City of London, with its almost millennium-old Great Charter, has a rich history as a property centre, with unique institutional planning and legal features, explains Charles Anderson

➔ KEY POINTS

WHAT IS THE ISSUE?

The City of London's property market is increasingly a destination for international investors and developers, reflecting its position as a global financial insurance and professional services centre.

WHAT DOES IT MEAN FOR ME?

Principals, advisors and trustees need to understand the idiosyncrasies of the City's property market and structures as they take their place alongside the longer-established City property community.

WHAT CAN I TAKE AWAY?

A more comprehensive and detailed knowledge of the history of the City, and its specific institutional planning and legal features that impact on investment and development projects.

In time, historical analysis will weigh the full economic and political significance of 2016/2017 for the City's property market. A key element will be the growth in the number of international owners, starting around 30 years ago with the 'Big Bang', when the City's financial institutions opened to foreign investment, and continuing after the 2009 financial crisis, which brought favourable entry pricings and currency rates.

Since the UK's referendum on EU membership in June 2016, there have been both opportunistic and strategic City property acquisitions by international investors, while mainstream UK institutions have tended to be watchful. This article considers the changes in the current market to be an appropriate moment to reflect on the City and its particular history as a property centre.

A BRIEF HISTORY

Significant anniversaries for the City occurred in 2016 and 2017 – the former being 950 years after the victory of William the Conqueror at the Battle of Hastings. His decimation of the Anglo-Saxon warrior class at Hastings in 1066 empowered him to declare that all land was now held directly by grant from the king. For the City, the key event was the pact between William and its burghers, clerics and citizens, whereby the City would be

spared and its customs respected in return for allegiance. In 1067, this was confirmed by the Great Charter, which established the legal and constitutional basis for the preservation and future prosperity of the City. The Great Charter is one of the oldest surviving treaties between a monarch and a subject community.

It was not until 1666 that the City faced major destruction. The Great Fire of London destroyed an estimated 13,500 houses, 44 company halls and 87 parish churches – in total, 80 per cent of buildings. Although this paved the way for Sir Christopher Wren's celebrated City churches, a fully master-planned redevelopment was restricted by respect for pre-fire property boundaries; owners staked out their properties based on their legal titles. Where land was taken for the construction of new streets, property rights were honoured with compensation payments. Today, the post-fire layout can still be seen in Ogilby and Morgan's 1676–1677 map of the city, held by the British Museum. The Second Great Fire of London was on the night of 29 December 1940, which saw the most destructive raid of the London Blitz.

The governance of the City evolved from Roman times with the emergence of the City of London Corporation and its Court of Aldermen, Court of Common Council, Freemen and Lord Mayor – not

to be confused with the Mayor of London. The Corporation is reputedly the oldest elected local authority and is based on 25 wards, each of which elects an Alderman and Councilmen. Both residents and businesses in the City have voting rights, with businesses' voting rights being unique in UK local government and enabling businesses to have a role in setting the Corporation's agenda.

Since the public gained access to the Land Registry in 1995, it has been possible to track City property ownership, and the recent international acquisitions. The vast majority of the City is now 'registered land'. Further public information is to come, following the January 2018 government announcement that there will be a register of owners of overseas companies buying property in the UK by early 2021.

PLANNED DEVELOPMENTS

The Corporation is the planning authority for the City, and its planning strategy document is the 2015 *Local Plan*, which governs development proposals. It is supplemented by two Policies Maps, a local development scheme, the *Statement of Community Involvement*, Supplementary Planning Documents and the Community Infrastructure Levy (CIL) charging schedule. The City is currently consulting on a new local plan: the *City Plan 2036*.

The 2014 CIL charging schedule¹ sets out rates for different types of development according to location in the City. The levy is chargeable on all net additional floorspace within the relevant development, subject to certain exemptions.

City development proposals are also subject to the Mayor of London's spatial development strategy, as set out in the 2016 *London Plan*. The strategy provides for the Mayoral Community Infrastructure Levy to finance the Crossrail project, chargeable on all net additional floorspace.

Although the national planning regime has recently introduced neighbourhood plans – planning policies produced by a community group for its area – there are currently no neighbourhood plans in the City.

Many developers have recently promoted office-to-residential conversion schemes based on nationally permitted rights to develop without planning permission. However, the City is exempted from this policy, and any such change would need planning permission.

RESTRICTIONS

The Corporation and the Mayor of London have policies in place to protect City views and control the height of buildings, with the Corporation having to consult with the Mayor on certain applications. Tall buildings are permitted on suitable sites within the City's Eastern Cluster, but are permitted in other areas only if the proposal meets certain criteria designed to protect the skyline's amenity and heritage assets.

There are a few legal features specific to the City:

- **Rights of light:** Developments often impact on nearby buildings' rights of light, a feature not exclusive to the City. However, the City's tightly constrained sites create significant issues. Although the Custom of London applies in the City – freeholders' rights to rebuild on ancient foundations, notwithstanding neighbouring owners' rights of light – its application is rare, due to uncertainty as to the definition of 'ancient foundations'. The Corporation has previously referred to potential use of its statutory powers to override rights of light.
- **Common soil and charter streets:** The Corporation claims ownership of certain streets and open areas, known as common soil, as well as charter streets based on historic title, including royal charters. In particular, there is a caution registered at the Land Registry to protect the Corporation's interests. Any development incorporating the relevant areas or streets may require the involvement of the Corporation and potentially payment of market value.
- **The Thames:** The Port of London Authority (PLA) owns the bed and foreshore. Developers seeking to develop above the river must proceed with the PLA's grant of a licence or lease at a premium. Such horizontal development may be a means of maximising floorspace without infringing on protected City views.
- **Post Office railways:** Rail tunnels dubbed the 'Mail Rail' underlie City buildings. The lines were closed in 2003. Institutional freeholders' investment strategies in the City are often based on their long-term stewardship retention of freehold interests, and transacted by grants of long leases. Two particular elements are:
 - **Long-term equity share leases:** Many City buildings have been developed by the freeholder granting the developer

the right to develop in return for a premium and a share in the rental income. These leases, initially referred to as 'side-by-side leases' were traditionally granted for terms of circa 125 years, with principal features being:

- The landlord's right to a share of the occupational lease income. In the 1980s, percentages could be in excess of 20 per cent, but current percentages are often in single digits. Income was originally based on 'rents receivable', but nowadays it is more prevalent for the freeholder to share risk on the basis of 'rents received'.
- The landlord's letting policy, under which the investor tenant is obliged to market and refurbish the building, so as to protect the quality of the tenant and the level of income.
- The landlord's controls over use and redevelopment – particularly restrictions against residential use and any redevelopment that materially affects the letting space.
- The landlord's capital receipts, particularly premiums for consents to redevelopments or change of use and – increasingly importantly – grants of extensions of the original lease term. With the ever-quicken pace of building technology, investors and developers face the prospect of more regular refurbishment often being financially viable only if the lease term is extended.
- **Residential use:** Since the introduction of residential tenants' statutory lease extension and freehold enfranchisement rights, and in the context of the importance of commercial rents, freeholders have been concerned with prohibiting residential use. However, in the recent, more flexible mixed-use market, City freeholders are granting consents for residential use in return for premiums. As a result, the strategy of securing a short-term premium must be evaluated in the context of potential dilution of freehold investment value, either by lease extensions or freehold enfranchisement.

¹ bit.ly/2C8pW6F



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