

legal advice

Onwards and upwards

Leading specialist commercial law firm, Blackbourn & Bond, has teamed up with Border Business to offer businesses in the region expert legal advice.

In this, our second feature, Director Dwight Bond focuses on the area of commercial property law, and his answers to your questions are on the page opposite.

We are also pleased to announce that the firm's founding director, Nick Blackbourn, will be 'going places' in the coming months and offering free one-to-one legal sessions to business customers travelling to and from London on Wrexham & Shropshire Trains. Look out for further announcements and dates shortly.

In the meantime, if you have any questions you'd like to ask Nick or Dwight, send them to info@borderpublishing.com.

As announced in the last issue, the Shrewsbury-based law firm changed its name to Blackbourn & Bond in April and revealed a new corporate identity as well as launching a new website at www.blackbournbond.co.uk.

These developments mark the beginning of their ambitious plans to further differentiate and set their business apart from most other general law practices.

Testament to their forward-thinking approach is the fact they have become the first law firms in Shropshire, and one of the first in the country, to appoint a non-lawyer director using new legislation that came into effect at the end of March 2009 (as reported on the Border Business news pages).

Mark Callahan, who has a wealth of business ownership experience, is now in position as the firm's new business development director. Nick confirms: "Mark's extensive commercial experience has added a valuable dimension to our firm. It affords us the opportunity to strengthen and develop our business services portfolio, and together as a team, we can provide a unique mix of legal and commercial solutions."

This dynamic and specialist approach is best illustrated by existing clients such as Telford's Contour Casings, who engaged Blackbourn & Bond more than three years ago to handle numerous projects, from human resource processes and procedures to company relocation and business contractual obligations.

The firm's managing director, Leigh Simpson, explains the broader benefits of the relationship: "Blackbourn & Bond has a good background in commercial business and is able to offer legal services with a common sense commercial angle. This includes sharing useful tips, past experience and practical help with day-to-day challenges.

"When we are too close to our own business issues, we use Nick Blackbourn as our commercial sounding board as he always offers a pragmatic view, brings clarity to situations and delivers the quickest and most cost effective solutions.

"He has a 'real-world' perspective and appreciates and understands how the business world operates, thereby offering experience that cannot be taught from a legal reference book.

"With a good commercial lawyer like Nick, you have a legal expert, personal confidant and business partner all in one professional service."

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Dwight Bond

Dwight joined the firm in 2005 as an Associate and in 2008 was appointed a Director and recently became an equity owner of the firm. Dwight specialises in commercial property including residential site acquisitions and developments, construction, planning, environment, landlord and tenant, and licensed trade properties.

With a background in leisure and retail he is also able to offer a comprehensive range of legal advice in numerous commercial sectors and has experience of working with major companies such as a national brewery, a European supermarket chain, and multinational banks.



Nick Blackbourn

Nick is the firm's founding partner and set up the practice back in 2003. He has more than 25 years' industry-based experience, working with some of the UK's largest PLC's such as Guinness Plc, Rank Hovis McDougall Plc, and United International Pictures (UIP).

Nick specialises in the corporate finance and company commercial sectors focusing on working alongside clients involved in company acquisitions and disposals, business development, management buy outs/ins, private equity, commercial contracts, Intellectual Property and corporate structures.

The long run

Q. In these uncertain times I want to look into alternative property investments that will still give me a good return on my capital investment and provide opportunities for future growth and development.

A. What about a lifestyle change? With mainstream banks giving painfully low interest rates, now is a good time to look at investment alternatives that may give you a better return than leaving your money in a high street deposit account.

We recently acted for a young family who chose to radically change their lifestyle by selling up in London and moving to the Welsh coast to open a guesthouse.

They were in the enviable position of selling their London property at a time when the market was on the rise. They then decided to relocate to south Wales, and bought a guesthouse in Pembrokeshire.

The property has a harbour frontage, which gives it great potential. The family intends to refurbish it and turn it into an upmarket establishment, offering ten bedrooms, dining facilities and a bar.

By choosing to purchase this property our clients are able to invest the money they made in London into bricks and mortar, purchasing a property below market value with a view to turning the guesthouse into a leading contemporary place to stay on the Pembrokeshire coastline.

This will provide them with a home and a business from which they can build and develop in the future. Plus there is the possibility of a resale that will see a return on their initial investment in the form

of an increase in property value and an increase in the value of the goodwill of the business.

Obviously choosing to invest in a property that will also be a business and the source of your family's income is a significant decision. There are many risks and areas that need close investigation before you can be satisfied that this is the correct decision to make.

It is essential when looking at commercial property such as this that a full 'due diligence' process is undertaken against both the property and the business. This means a thorough process of fact-gathering, research and asking targeted questions to ensure your decision is fully informed. Key property related investigations should include:

- A full structural survey
- Environmental surveys
- Transfer of licences
- Any local authority consents that may be required.

In relation to the business, you also need to consider whether there are any employees. They almost certainly transfer to you automatically as part of the business sale pursuant to TUPE, the Transfer of Undertakings (Protection of Employment) regulations.

It is too easy to fall into the trap of purchasing a business with the idea that you will employ new staff, only to find that you have a potential redundancy claim from former staff due to the fact that, for instance, you did not identify during investigations a gardener who has worked for the sellers for the last 20 years

You will also need to appoint an accountant to review the financial aspects of the business, and you should ask your lawyer to consider

the contracts you will be taking over, such as supplier agreements and rental agreements for equipment.

Domain names need to be transferred to you as, increasingly, the website is a major marketing tool for any business.

To support the due diligence process, you should press the seller to give a tailored set of warranties to give you protection (by being able to claim compensation) against hidden liabilities that come to light after the sale.

Combining a lifestyle change with a new business venture can be an exciting prospect for many people but this does not come without risks. We would advise you to seek professional advice on all aspects of a property and business transaction such as this, and make sure the sale agreement offers you as much protection as possible.

Quicker sales

Q. With the residential property market struggling to see its way out of recession, what tips do you have for developers and builders looking to sell completed homes as quickly as possible?

A. The key issue I would identify would be to keep things simple as far as possible. In a testing market you need to ensure that once a sale is agreed, the solicitor can issue contracts immediately and progress the sale to an exchange of contracts without any delays. It is, therefore, paramount to ensure that all estate layout plans are approved well in advance of houses going to market; that the legal title is clean so far as possible without any potential

complications; and that your HIP has been prepared early so the agent can provide copies to prospective buyers as soon as possible.

Consider looking at a 'light HIP' if it is not possible to undertake a full HIP: this will at least give potential buyers key information and help influence their decision on purchasing the property.

Some of my developer clients often use incentives if the property is partway through a build process, such as offering to fit out part of the property – the kitchen, for example – to a client's particular specification, on the basis that they secure the property with a deposit.

By doing this, the developer guarantees a commitment from the buyer from which, in most circumstances, they will not walk away. It is too easy at the moment for potential buyers to change their mind if they think they can get a better deal elsewhere.

Developers should also ensure they are using best practice building methods and materials, something they can also promote in their sales literature. Using modern energy saving building techniques, such as structural insulated panels, will tell potential buyers you are forward-thinking and that in turn it will reduce their cost of ownership of the property.

The key here is to be proactive in your selling preparation and not to let potential buyers slip through the net. Make sure all the legal aspects of the transaction are up to speed and that your solicitor is in a position to exchange contracts as soon as a sale is agreed.

Responses by:
Dwight Bond and
Nick Blackbourn

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