



EdwinCoeLLP

Homes under the Hammer

How to buy a
property at auction

GUIDE



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Homes under the hammer

In every market there are those looking for a bargain – and even more so in a falling one where sellers can be desperate. And one way to pick up a bargain can be auction.

Buying at auction was usually considered the sole domain of the experienced investor as it was regarded as a fairly speculative means of acquisition given the uncertainty about price and the lack of scope for negotiation. However with careful preparation and advice there is no reason why a novice bargain hunter should not consider it as a potential means of acquisition so long as he is well informed. The process is quick given that there are none of the delays that can be experienced in the conventional conveyancing process. It is also transparent. You are either successful or not. You cannot be outbid once the gavel falls.



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Why sell a property via auction?

Properties are often sold at auction as opposed to the more conventional way via an estate agent because they may have a defect or peculiarity which, whilst may be offputting for some, maybe is not for others. Hence it is difficult to fix a value on the property. The defect or peculiarity could be physical or legal and sometimes both.

The buying process is similar to that for other auctions. Bids for the property are made during the course of the auction – either in person or proxy, by telephone or on-line. The gavel falls on the highest bid. The successful buyer is then committed to the purchase. A 10% deposit is paid at the auction with the balance to follow on completion being the date set out in the auction contract.

The main property auctions are run by Allsop and Savills. They issue catalogues well in advance of the auction. There are sometimes separate auctions for residential and commercial properties and mixed use properties may be sold under either category.



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How to buy a property via auction?

The first step to purchasing at auction is to register with the auctioneer to obtain one of their catalogues to see the properties available. Each property is described as a "lot" and the catalogue will contain a photo and brief details of the lot including any particular relevancies such as whether a property is tenanted or whether it has the benefit of planning consent.

Further, albeit often limited details, of the property are available from the auctioneer. They will refer a potential buyer to the seller's solicitor who will have prepared an auction pack. That is usually available a few weeks before the auction.



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Deposit and ID

As you will be paying a deposit at the auction if your bid is successful, you will have to provide evidence of your identity to the auction house in order to satisfy their anti money-laundering requirements. Sometimes this is requested when registering. But ID will always be required from the successful bidder following the auction itself even if it has already been provided.

The first step is to decide on the sort of property you wish to buy and have a clear strategy. The auction catalogue will contain many lots so you will need to shortlist properties in accordance with your investment criteria.



The catalogue sets out guide prices – which are just that i.e. guides. The price achieved at auction could be considerably higher. The seller may have set a reserve price. If that price is not met then there will be no sale. However if that were the case, then you might want to consider contacting the seller direct to see if you could negotiate a deal directly.

A major disadvantage of buying at auction is that you can spend a lot of time and money carrying out due diligence on those properties you are interested in only to be outbid at auction. Mindful of the risk of incurring large costs, you need to compile a shortlist of properties you are interested in very carefully.



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Shortlist

Once the shortlist is completed you should inspect properties that you are considering bidding on. This should not be a problem with vacant properties but may be harder to arrange for tenanted ones. At the same time you should investigate what similar properties have sold for so that you have a good range of comparables. You may want to look at the results of previous auctions. This will help you determine that point beyond which you may be overbidding for a property and therefore the point at which you should withdraw.



Once the shortlist has been whittled down by that process, you will start incurring professional fees in order to continue your due diligence. The usual rule of caveat emptor or “buyer beware” applies. The onus is on the buyer to carry out all investigations on the property.

Commissioning a survey of the shortlisted properties is essential and possibly commissioning specialist reports and surveys as well. You will need to know about any physical issues or defects in advance which may determine the price that you are prepared to pay, given the cost of remedial works that may be necessary.



The legal pack

Your solicitor should obtain details of the legal pack from the solicitors for the relevant seller. These are usually available to download from the auctioneer's site from a few weeks before the auction. The legal pack will contain details of the title to the property, completed property information forms, search results, a management pack in the case of leasehold properties and any other information that the seller's solicitor thinks is relevant. The seller's solicitor will update the auction pack as and when required so additional documents may well be uploaded. Notifications are usually given of these.

Enquiries should be made with the seller's solicitor in order to obtain satisfactory responses to queries arising from reviewing the auction pack. You may want to carry out various searches in addition to those of which the results are provided in the auction pack. Enquiries may also need to be made with a freeholder and/or managing agents in the case of leasehold properties.





You will need to ascertain whether major works are planned on the building in which your desired property is situated and which may result in your having to pay a large contribution for these shortly after completion. Your solicitor will then report to you on the title.

The auction pack will also contain the auction contract and the legal transfer of the property. These will not be negotiable and therefore your purchase will complete on the basis of these documents.



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The auction contract

The auction contract is likely to contain more provisions than a standard contract for sale and needs to be reviewed carefully. It will contain a set of standard conditions which may have been amended. Standard conditions will include provisions relating to insurance. The seller usually insures the property until completion. Depending on the terms of the auction contract, you might also need to have a buildings insurance policy ready to put in place on exchange of contracts.

Provisions relating to costs will be included in the contract. The successful bidder will often be obliged to pay the seller's legal costs (usually a set amount) and disbursements such as search fees. Sometimes an auction fee is payable by the buyer.

Other provisions will relate to dealing with apportionments of ground rent and service charges under a lease and the payment of any arrears of those.

The contract will have a set date for completion which is typically 20 working days from the auction date. The form of transfer will be non-negotiable. This will have been included in the auction pack with a copy appended to the auction contract.



As you will be obliged to proceed if successful at auction you will need to ensure that you have finance in place.

A 10% deposit must be paid on the day of the auction with the balance plus any other sums due under the auction contract paid on completion.

Given the uncertainty as to whether you will be successful at auction, you may not be in receipt of a mortgage offer on the property at the time of the auction. The cost of applying for a loan that might be secured on any one of a number of properties could be offputting. You may have taken a view on some issues at auction. However a lender – in particular a high street one – may not be prepared to take such a view. A more sophisticated lender may need to be considered for providing finance. Alternatively you may be able to obtain an offer in principal from a lender before bidding, if you are confident that an offer of finance will be forthcoming so long as your bid does not exceed a certain threshold.



There are practicalities to consider on the auction day itself. A last minute check should be made of the auction catalogue which may contain an addendum giving additional information about the property(ies) you are interested in. The auctioneer will usually mention last minute changes before starting the bidding. The legal pack should be checked again in case that has been updated at the last minute. It is prudent to obtain up to date office copy entries of the title at that point. Your preferred property (or one of them) may cease to be available on the auction day as properties can be withdrawn very shortly before the auction.



You should become familiar with the bidding process itself. Bidding can be by personal attendance, by telephone or on-line. Fully familiarise yourself beforehand with whichever method you intend to use. If you are planning on attending in person, you might like to attend another auction beforehand just to experience how it works. There will be a lot of buyers there who are experienced at buying at auction so it is useful to witness how bids are actually made.

One benefit of attending the auction in person is that you can gauge the mood of the room and the strength of interest in a property.

If you cannot attend, it is possible to bid by telephone or online by submitting bids during the course of the auction itself. Alternatively you may wish to submit a proxy bid to the auctioneer with the highest bid you are prepared to make. You will not be able to alter that bid during the course of the auction.





Participating in an auction is an exciting process. And therefore it carries a risk that you can get carried away with it. Before the auction starts have a price in mind that you will not exceed. It is better to be an unsuccessful bidder and accept what may seem like wasted costs than acquire an overpriced property.



Sold!

When it appears that bidding has reached its peak, the auctioneer will speak the usual words of “going once, going twice and for the third and last time... SOLD” and then the hammer will come down. It is at this point that a binding contract is made.

If you are successful, you will need to provide your details to the auctioneer and will be made to countersign a memorandum recording details of the accepted offer. At this stage the deposit must be paid to the auctioneer plus any buyer’s fee that has been set out in the contract. Payment must be made by direct bank transfer.

The memorandum will also include details of your solicitor. A copy of that memorandum and the completed auction contract will be sent to your solicitor. Completion must take place in accordance with the auction contract. You will not be able to negotiate that.





Following completion Stamp Duty Land Tax (SDLT) will be payable on the purchase price agreed at auction. For the purchase of residential properties that are not replacing your home, an additional 3% SDLT will be payable if you own other residential properties. For overseas purchasers there is the likelihood of an additional 1% SDLT surcharge coming into force.

The most important thing to stress about buying at auction is that you are legally committed to proceed if your bid is successful. Thorough due diligence on your target property(ies) beforehand is paramount as is a clear strategy on the day of the auction itself if you are to avoid having to complete on a property which you have overpaid for.



Contacts

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This guide is relevant for commercial properties too in terms of the process being similar even though we refer to "homes".

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