

# GUIDANCE NOTE

## DEVELOPING PROPERTY

APPROVED FOR CLIENT USE | JANUARY 2024



***How a SIPP could be used to develop land and buildings. A SIPP can acquire bare land with the specific intention of developing it. Alternatively, a SIPP may already own land with buildings that it now wishes to improve or re-develop.***

### What happens?

Before any development work begins, the property must have appropriate planning permission and Curtis Banks' requirements must be satisfied and our prior approval obtained.

A SIPP is generally not permitted to hold residential property. However, a SIPP can hold property or land with the benefit of residential planning permission. In this situation, the SIPP must dispose of the property before work begins to implement the residential planning permission; this will ensure compliance with HM Revenue & Customs (HMRC) rules.

The conveyancing process for purchasing land that is to be developed is the same as for any other acquisition. Our fees still apply, as do any legal and agency fees - please read our Schedule of Fees found at:

[www.curtisbanks.co.uk/literature](http://www.curtisbanks.co.uk/literature).

We must be informed of any building work to be carried out before it begins as we need to deal with the VAT position, insurance and funding at an early stage.

To protect the position of both Curtis Banks and the SIPP, strictly no works are to be undertaken without our prior approval.

The SIPP can borrow up to 50% of its net fund value to help fund the development. We are able to support borrowing from regulated lenders and also personal borrowing from our clients (due diligence will apply to all lending). Sufficient funds must always be in place before the contractor is appointed by us and any works are initiated.

Loan repayments and other expenses such as business rates and service charges will still need to be maintained even if the property is empty. If the property becomes vacant it is important that there is sufficient liquidity within the SIPP to ensure that ongoing costs are met. Costs include insurance, third party and SIPP fees and, where applicable, service charges, business rates and loan payments. Where the property is vacant or the rent does not meet the ongoing liabilities, we will require that a cash float is available to ensure that all liabilities can be met.

### VAT

In most cases VAT payable on the building works can be recovered, but to do so we will need to ensure that the VAT exemption over the property is waived before development begins. It can take three to five months to reclaim VAT. This should be taken into account when calculating how to fund the building works.

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The following will also need to be considered:

- In most cases the work must be completed by a single contractor, who must be independent from the SIPP client.
- We require quotations from at least two different contractors. This enables us to compare the costs involved and ensure the SIPP is charged fairly.
- We are required to act as any independent landlord would in the open market. As such, in the event there is a connected tenant in place (or there is going to be following the works), we require a RICS qualified valuer to confirm whether it is reasonable for the SIPP(s) to pay for the works, and any effect this will have on the current lease terms. This advice must be obtained before a contractor is appointed.
- We will instruct the chosen contractor to complete the works but before doing so we will require a Construction Phase Plan to be provided.
- We have contract documentation that we will use in all cases. The type of contract used will depend on the specifications and nature of the development. The contract will be between us, as the landlord, and the contractor. It will set out the works to be completed for a fixed price. Our liability is limited to the net value of the relevant SIPP(s).
- We are a compulsory member of the Construction Industry Scheme, and we require the contractor to also be a member. The contractor must be noted as a 'subcontractor' for the purposes of the scheme, as we are deemed to be a 'main contractor'. We require various tax details from them in order to make payment to them in accordance with HMRC requirements.
- We may need to appoint an architect or project supervisor who will act on our behalf to complete our contract document. This includes drawing up and/or acquiring the necessary procurements, warranties and other development-related SIPP provisions and advice. The professional(s) required will depend on which contract is being used, which is at our discretion. Any professional appointed will be formally instructed by Curtis Banks as the employer.

The capital value of a property may increase due to the building works funded by the SIPP. If such a property is already subject to a lease, we would expect the SIPP to benefit from an increased rent when the work is complete. We would instruct a valuer to advise on any amendments to the lease terms to include any rent increase.

We reserve the right to appoint the correct professionals to fully protect us and the pension fund(s).

If the rent is increased, we will appoint a solicitor to document this before the contractor is appointed.

Our fee for arranging building works will be charged as per our schedule of fees, which is available on our website or on request.

### Important points to consider

- The value of your investments may fall as well as rise, so the value of your pension fund is not guaranteed.
- Your money is tied up until you take your benefits, which is generally any time after age 55, although this is due to increase to 57 in 2028.
- The land will need to be valued when benefits are drawn or loans are considered (as well as regular income reviews). On these occasions the SIPP will incur costs. This might not coincide with the best time in the market to sell.
- Holding a property in a SIPP may mean that there is insufficient cash available to pay benefits at retirement.
- If the property represents the main asset of the SIPP it would leave its investment holdings poorly diversified.
- Property can be difficult to dispose of.
- It is important to bear in mind that the value of the property is generally a matter of a valuer's opinion rather than fact.

We are unable to provide any advice in respect of Health and Safety requirements, planning permission, building control laws and any other legislative requirements associated with development works. Appropriate professionals should be appointed throughout the building work

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process to manage these requirements on behalf of the SIPP, if applicable.

## What we require before we can instruct any building works

- Confirmation of whether the works are to be conducted by the landlord or tenant.
- Details of the work to be carried out and at least two comparable quotes for that work.
- Valuation advice (no more than six months old at the point of contract (Please note this is subject to an ongoing review and we reserve the right to amend the time frame for variables such as market conditions or specialism of the property use)) confirming the market value of the property before and after the work is carried out as well as the reinstatement value. Please note that this must evidence that the works are providing capital uplift, or that they are for the benefit of the SIPP fund.
- If there is a connected tenancy, or if one is proposed, valuation advice as to whether the landlord or the tenant would pay for the work on the open market.
- Confirmation of any changes to any existing lease or new lease terms. If a new lease or any changes to an existing lease are recommended, we will need the details of the solicitor we are to appoint to deal with this.
- Details of the contract administrator to be appointed in order to finalise the contract documents, if a JCT minor works contract is required or multiple contactors are to be appointed.
- Sufficient funding within the SIPP, by either cash or an agreed and available loan facility.
- Appointment of a Principal Designer, if there is more than 1 contractor undertaking work, and evidence they are sufficiently qualified to carry out their role.
- A construction phase plan from the (principal) contractor.
- Evidence of the contractor's public liability insurance.
- Completion and authorisation from our insurers of the Contract Works Form.
- Contractor's Construction Industry Scheme (CIS) details.

- Signed and agreed contracts, whether this is our building work contract or JCT contract, which will be supplied by Curtis Banks.
- An instructed party (usually 'Contract Administrator') to sign off and certify completion of work to provide us with interim payment certificates.

We have established a panel of legal firms situated throughout the UK who are experienced at dealing with SIPP transactions and acting on our behalf.

If you advise us that you wish us to instruct one of these firms, our fees for dealing with your transaction will be less than if you choose an off panel solicitor. To find out more about our panel firms please see our Panel of Property Professionals document, available on our website. You may, however, choose a firm of Law Society registered solicitors outside of our panel to deal with the transaction if you wish.

We have also established a panel of surveyors who are experienced with SIPP transactions and are situated throughout the UK. To find out more about our panel firms, please see our Panel of Property Professionals document, available on our website. You may, however, choose a firm of RICS surveyors outside of our panel to undertake the valuation if you wish.

## Contact details

If you'd like to speak to us about anything on this fact sheet, please contact us on:

**T 01473 296 995**

We may record and monitor calls. Call charges will vary.

**E [developingproperty@curtisbanks.co.uk](mailto:developingproperty@curtisbanks.co.uk)**

Please remember not to send any personal, financial or banking information via email as it is not a secure method of communication.