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# *livework*

*with* Hurford Salvi Carr

# City living, *the future*

It is predicted that by 2006, over 30 per cent of the UK workforce will be working from home. Dedicated live/work spaces have become a popular way of accommodating this new lifestyle.

'Live/work' describes the combination of living and workspace in a single, purpose-designed unit of accommodation – new-build or converted. It is therefore distinct from the traditional 'working from home'.

In recent years, live/work has become an increasingly popular way of accommodating a new kind of city-central lifestyle. Several thousand examples have now been completed in the Shoreditch, City Fringe and Hackney areas, as well, increasingly, as in the central districts of other major cities. Between 1995 and 1999, for example, the London Borough of Hackney alone granted over 1000 planning consents for live/work units and, by January 2001, some 480 units had been completed in Tower Hamlets. During 2000, a third of all new 'residential' consents in Central London boroughs were for live/work.

## IS IT HERE TO STAY?

All the available market evidence suggests that demand for live/work will continue to grow and that values will increase. Prices of both new and second-hand units, in areas such as Hoxton and Shoreditch in Hackney, have kept pace with rises in values of purely residential properties. Live/work appeals to the new city centre-dwelling generation of entrepreneurs, innovators and specialists in economic growth areas such as IT, marketing, consultancy, Internet business and technology. Units have been developed for renting as well as for leasehold purchase, indicating a maturing and flexible market.

Occupiers evaluate live/work units in terms of:

- value for money of the accommodation offered, as compared with equivalent purely residential properties and workspace in the area (although, realistically, there is unlikely to be much of a differential)
- the convenience and business advantages of having your working and living space in a single unit.

The other main factors affecting live/work are:

- planning and development control, rating, tax and VAT.

## WHAT ARE THE PLANNING ISSUES?

There are currently no national or regional strategic planning guidelines specifically covering live/work developments, although the Government's Planning Policy Guidance 1 (PPG1) states that mixed-use developments provide the basis of its approach to planning. In London, the former London Planning Advisory Committee (LPAC) – now part of the new Greater London Authority (GLA) – had encouraged changes of use of vacant office buildings to residential.

At the July 2000 vesting of the GLA, LPAC guidelines formed the initial basis of the new authority's approach to planning. This was an interim measure, pending the finalisation of London Mayor Ken Livingstone's own strategic spatial development policy. Towards the London Plan: Initial Proposals for the Mayor's Spatial Development Strategy, published in May 2001, talks in general terms of a focus on "providing mixed use and mixed tenure housing at appropriate locations, including housing in commercial developments to create sustainable communities"; and on a "planning framework which is flexible and sensitive to the rapidly-changing needs of, and capacity for, London's businesses of different sizes and types".

## BOROUGH GUIDELINES

Most Central London boroughs have evolved guidelines on live/work and these can vary significantly. They are also mainly interim in nature, because live/work

is too recent a phenomenon to have been incorporated in most boroughs' unitary development plans (UDPs), which set out planning policies for a period of years. Again, any supplementary planning guidance (SPG) that has been issued has tended to cover early proposals for live/work schemes in existing buildings rather than for the now more common new-build developments.

The issue will be reconsidered in greater detail current and forthcoming reviews of UDPs, in the light of the GLA's overall guidance. In general, Central London planning authorities are likely to be keen to maintain the distinctiveness of live/work for development control purposes.

They will also aim, as far as is feasible, to discourage its use for activities which can be legally and effectively carried on in residential premises without the need for planning permission (eg traditional 'working from home'). In pursuit of these aims, planning consents may well:

- specify a maximum two bedrooms (and the trend is mostly to provide only one), because live/work is not considered as being suitable for family accommodation – particularly in designated employment areas (DEAs)
- preclude further sub-division without specific prior planning consent
- discourage the creation of live/work at ground level, eg to retain the commercial vitality of an employment area
- restrict hours of working, especially near residential areas
- require live/work developments to be able to accommodate the full range of Class B1 activities, in terms of floor loadings and goods access
- require disabled access in the interests of potential employees.

Depending on the size of a live/work development, there could also be a requirement for a proportion of live/work units to be affordable, in common with that applying to traditional residential schemes.

Prospective purchasers obviously need to be aware of the approaches which different authorities are adopting, and how these could affect future use of the property as business or personal needs change. An experienced estate agent will be aware of the current situation in each individual borough (although there are still large areas of London without any live/work accommodation, old or new).

## WHAT IS THE DEVELOPMENT CONTROL SITUATION?

In development control terms, live/work is classed as sui generis (ie, as being 'of its own kind'). It is, therefore, not covered by either of the B1 (Business) or C3 (Dwelling houses) use classes as set out in the Town and Country Planning (Use Classes) Order 1987. The use class system is used by local authorities to decide planning applications for development or change of use – or that no planning consent is needed. For example, a B1 building used as offices can switch to light industrial – or back again – without formalities, because both activities are covered under 'Business'.

The fact that live/work is classed as sui generis means that a unit, once given planning consent as live/work, cannot be converted into entirely residential or employment use without a fresh planning consent (unless the planning authority has adopted a policy that such consent is not necessary, as it may do for proposals to make live/work units wholly residential). In planning terms, therefore, live/work is seen as quite distinct from traditional working from home, where an individual, eg a writer or photographer, operates from one or more rooms whose residential use can resume at any time without formalities.

Planning consents for live/work will typically quantify splits between residential and workspace accommodation, in numerical or percentage terms. These can be important when it comes to financial issues such as rating and taxation.

The planning authority may also decide that it wants to check, on a regular basis, that live/work units within its area are still in use for that purpose, unless it has given express consent for change of use. Tower Hamlets, for example, has incorporated this requirement within a Section 106 Agreement.

Like any other owner of freehold or (subject to the freeholder's consent) leasehold property, you are entitled to apply at any time for consent for change of use from live/work to B1 or C3. Your application will be decided on planning policy grounds if they exist; or otherwise on their merits.

## WHAT SORT OF LEASE CAN I OBTAIN?

The lease on a live/work property is likely to be very similar to that provided for a straightforward residential unit. Most new live/work developments are sold on leases in excess of 100 years, with normal ground rents and a service charge liability similar to that applying to residential buildings. The lease will also deal with the control of the workplace part of the accommodation, and cover issues such as noise, access for both staff and supplies to and from the property, and the type of work undertaken (subject to planning restrictions).

## WHAT IS THE RATING POSITION?

The Valuation Office Agency (VOA) states that 'live/work' is not currently a recognised term, so no special rules apply. For rating purposes, it is generally treated as a 'composite hereditament' – ie, one which contains both domestic and non-domestic property, with the requirement that "there must be domestic use" involved.

The rateable value (RV), for business rate purposes, of a live/work unit classed as a composite hereditament, will be based on the standard rental value principle used for commercial premises for the work element. The Rating Manual used by the VOA states that "the RV shall be such amount of the rental value, on the statutory assumptions for RV, for the whole hereditament as 'would reasonably be attributed to the non-domestic property'" - wording, as the Manual points out, which is used to cover shared facilities.

The part of the unit treated as domestic will be banded for council tax purposes. The normal basis for deciding respective business rating and council tax liabilities will be the physical division of the unit into workspace and residential areas as laid down in the detailed planning consent. The prospective purchaser should, therefore, be able to assess these liabilities from the outset. In areas such as Hoxton and Shoreditch, where numbers of live/work units have been established, the process should be relatively clear-cut.

In making their assessments valuations officers (VOs) recognise clearly discernable patterns, as in parades of shops with living accommodation above. Developments of live/work units on a single site naturally establish their own patterns. If the planning consent does not provide a specific division between the live and work elements, the market practice has been for the entire unit given a council tax banding.

## WHAT ABOUT TAX?

Similarly, the Inland Revenue states that 'live/work' is not a recognised IR term; so no special rules apply. The general rules for allowable expenses and capital gains tax for properties which are used partly for business and partly for private use will apply. When it comes to the question of capital gains (or losses) on the disposal of an asset used partly for business purposes, the Inland Revenue advises that: "the business proportion should have been agreed when the property first started to be used for business and private purposes". As with rating, the normal basis for defining the relevant proportion will be the physical division of the unit into workspace and residential areas as laid down in the detailed planning consent.

## WHAT ABOUT VAT?

New residential properties are zero-rated, while conversions and commercial properties attract VAT. The VAT position on the construction of live/work units is that the residential part of the unit is zero-rated, while the workspace element is standard rated. If planning consent has been given on the basis of a certain percentage of the unit being workspace, HM Customs & Excise will accept that percentage and VAT will be applied accordingly. If there is no clear separation, the whole unit will be zero-rated. If you do claim back VAT on the workspace element of a purchased live/work unit, then you may have to account appropriately when you sell it (although we are not aware at the time of writing this summary of such a calculation being undertaken).

## HOW CAN I GET MORTGAGE FINANCE?

Options include a residential mortgage at up to 90 per cent of valuation, a commercial mortgage at up to 70 per cent, or a combination of the two; depending on the particular premises and lenders' experience with similar types of property. Lenders dealing with areas where live/work has taken off will be familiar with the concept, and knowledgeable estate agents can make introductions. In essence, live/work properties are mortgageable in the same way as normal residential ones, subject to valuation and status. Most high street banks and building societies will be happy to assist a purchaser.

## BACKGROUND

Live/work is generally defined as the provision of associated - but segregated - living accommodation and workspace for more than one person, within a single, self-contained unit. It has a long and honourable history; offices as such were rarities until the mid-19th century, while the 'city merchant' tradition of working and living in the same premises survived into the 20th. Its recent emergence reflects changes in economic and social trends, which are particularly evident in city-central districts and in areas of regeneration, where the planners are keen to retain employment alongside a residential community.

The changes include:

- demand for flexible and sustainable working patterns
- government initiatives to encourage working from home
- pressure for regeneration and new investment
- recognition of the economic potential of new growth industries
- official concern to reduce the need to travel

Live/work is proving particularly attractive to people who:

- are setting up their first business and may not be able to obtain finance for separate business premises
- want formally to expand a business that they are currently running from home
- are disabled and so deterred from travelling to work
- prefer the lifestyle live/work offers

It's clear that live/work units reflect a change in economic and social trends, and provide an exciting opportunity for inner city living through urban regeneration.

## BOROUGH POLICIES SUMMARISED

### CAMDEN

The borough has relatively limited experience of live/work, with only some 20 applications over the period 1996-Summer 2000, according to its development control office. Applications are decided on their merits, in accordance with a general concern for employment retention.

### HACKNEY

Hackney issued a document entitled 'Policy Guidance for Live Work Uses' in July 1999 pending review of its borough's unitary development plan (UDP). This follows an earlier Supplementary Planning Guidance (SPG15), approved in June 1996, whose requirements include:

- a minimum overall floorspace of 70sqm, including an "identified, functional workspace"
- a maximum of two bedrooms

### ISLINGTON

Islington's 'Supplementary Planning Guidance' states that:

- live/work units will not be allowed in wholly or very largely residential areas
- there should be a maximum of two bedrooms
- each unit should have a minimum of 85sqm (one-bedroom) or 105sqm (two-bedroom)
- there should always be an identifiable workspace, capable of accommodating the whole range of B1 uses
- the workspace should be at street level where possible.

### SOUTHWARK

Southwark's thinking is outlined in Supplementary Planning Guidance (SPG) on 'Live/Work Development in Bermondsey Street', published in February 1999. Current guidelines include:

- a minimum of 40sqm of "definable functional workspace", in addition to the residential element;
- workspace "physically delineated" from the residential element;
- a maximum of two bedrooms.

### TOWER HAMLETS

The borough produced a Draft Supplementary Planning Guidance Note in March 2001. Key points include:

- "defined functional workspace" of at least 50sqm in new-build developments, within a total floorspace of at least 90sqm
- a split which should be 60% workspace and 40% residential
- clear separation from the residential element
- a maximum of two bedrooms;
- workspace at street level (except in mixed-use schemes, where all business units should be at street level)
- floor loadings suitable for employment purposes