

Legal frame work guide



PLANDOME

ADAPTIVE REUSE LIGHTHOUSE

ABOUT 'PLANDOME'

Plandome specializes in delivering in-depth planning analysis reports that offer tangible and actionable insights for successful project execution. Our comprehensive reports include detailed layout plans and work breakdown structures, including Gross Development Value (GDV) analysis. These deliverables empower clients with the information needed to make informed decisions, mitigate risks, and optimize return on investment.

Our user-friendly reports translate complex planning regulations into clear, actionable steps, making the development process straightforward and accessible. Each report features a clear planning statement that outlines the development process, ensuring clients fully understand the path forward and can confidently navigate their projects.

Our Services

At Plandome, we provide a range of services to streamline the planning process and support our clients in achieving their property development goals. Our services include:

Loft Conversions: Transform loft space into functional, stylish living areas, maximizing property value and space.

Commercial to Residential Conversions: Assist in converting commercial properties into residential spaces, aligning with market demands and maximizing investment potential.

Residential Extensions: Design and manage custom rear and side extensions to expand living spaces and enhance property aesthetics.

Planning Permission Services: Handle the complexities of planning permission, managing compliance and paperwork to secure timely approvals.

Garage Conversions: Convert garages into usable living areas, adding valuable space and functionality to homes.

Permitted Developments: Guide projects that fall under permitted development rights, expediting approval processes.

Prior Approval Applications: Manage the application process for projects requiring prior approval, ensuring regulatory compliance.

Construction Drawings: Provide accurate and detailed construction drawings to guide builders and support successful project completion.

Kitchen Extensions: Design beautiful kitchen extensions that add functionality and value to properties.

Conservatories: Plan and manage conservatory installations, creating bright, versatile spaces within homes.

1. Understanding Title Splitting

Title splitting refers to dividing a single property into multiple legal titles, which can allow for separate ownership of different parts of the property. This is often done to convert a property into flats, split a house into separate units, or plan for future sales or inheritance. Here's what the process involves:

- **Dividing Property Titles:** You can create independent titles for each unit, allowing you to sell, lease, or mortgage each part separately.
- **Common Situations:** Title splitting is usually applied to convert houses into flats or to legally separate different portions of a mixed-use property.

2. Legal Framework for Title Splitting

2.1. Planning Permission

- **Requirement:** Obtain planning permission from your local authority if you are changing the use of the property (e.g., converting a house into multiple flats).
- **Where to Apply:** Planning permission is obtained from the **Planning Portal** or your local council. You can find more information at [GOV.UK Planning Permission Guidance](#).

2.2. Building Regulations

- **Compliance:** Any construction, renovation, or division must comply with **Building Regulations** to ensure safety, soundproofing, fire safety, and proper service provision.
- **Inspection:** Building control officers may need to inspect the property to confirm it complies.
- **Resources:** Find further details on building regulations and how to apply at [GOV.UK Building Regulations Guidance](#).

2.3. Mortgage Lender Consent

- **Existing Mortgages:** If the property has an existing mortgage, you must obtain **lender consent** before proceeding with the title split.
- **Why It's Needed:** The title split may affect the security interest the lender holds in the property.
- **Negotiating with Lender:** Your lender may require the loan to be restructured or paid off, depending on their policy.

2.4. Land Registry Application

- **Title Creation:** You must apply to the **HM Land Registry** to legally divide the property title. This involves creating new titles for each divided portion of the property.
- **Forms Required:**
 - **AP1 Form:** Application to change the register.
 - **TP1 Form:** Transfer part of a registered title.
- **Documentation Needed:** Include property plans, mortgage lender consent (if applicable), and any other relevant legal documents.
- **Fees:** The fees vary depending on the complexity and value of the property.
- **Resource:** For more details, visit [HM Land Registry Practice Guide](#).

2.5. Legal Considerations

- **Leasehold Creation:** In some cases, each unit may be granted as a **leasehold** from a **freehold**, which you retain. This is especially common in multi-unit residential conversions.
- **Separate Ownership:** You will need to create clear terms for rights and responsibilities of each unit, which may include shared areas, access, and service provisions.

2.6. Tax Considerations

- **Stamp Duty Land Tax (SDLT):** If a new title is created and transferred, SDLT may be payable.
- **Capital Gains Tax (CGT):** When you sell a unit, CGT may apply based on the gain in value.
- **Inheritance Tax (IHT):** Title splitting can affect how properties are taxed for inheritance purposes.

3. Detailed Steps for Title Splitting

Step 1: Initial Planning and Feasibility Assessment

- **Consult Experts:** Engage with an **architect** and a **property surveyor** to determine if the property is suitable for division.
- **Local Regulations:** Check local council zoning and planning policies to confirm if the intended split is permissible.

Step 2: Obtain Planning Permission

- **Submit Application:** Apply for planning permission if you need to change the building's use or modify its structure.
- **Approval Time:** The process usually takes **8-12 weeks**, but it may vary based on the council's requirements.

Step 3: Obtain Building Regulation Approval

- **Compliance Check:** Make necessary modifications to ensure each unit complies with **building regulations**.
- **Building Control Inspection:** Arrange inspections during key stages of construction, such as foundations, insulation, and fireproofing.

Step 4: Legal and Financial Advice

- **Solicitor Consultation:** Engage a **property solicitor** to help with drafting necessary agreements, obtaining lender consent, and guiding you through legal requirements.
- **Mortgage Arrangements:** Speak with your mortgage lender regarding restructuring. If you plan to rent, you may need to switch to a **buy-to-let mortgage**.

Guidelines

Step 5: Survey and Valuation

- **Property Survey:** Hire a **chartered surveyor** to divide the property physically and legally.
- **Valuation Report:** Obtain a valuation report for each split portion to assist in setting realistic market prices and securing loans.

Step 6: Apply to the Land Registry

- **Complete Application:** Submit the **API** and **TPI** forms to HM Land Registry with all required supporting documents.
- **Fees Payment:** Pay the Land Registry fees, which vary according to property value.

Step 7: Register New Titles

- **New Title Deeds:** Once approved, receive new **title deeds** for each unit, detailing the boundaries and rights for each newly created property.

Step 8: Post-Split Actions

- **Financing:** Apply for individual mortgages for each new unit or explore **portfolio loans** for multiple units.
- **Property Management:** Determine whether each unit will be sold, rented, or retained for personal use.
- **Marketing:** If selling or renting, begin marketing the property with real estate agents or letting platforms.

4. Key Considerations for Title Splitting

- **Legal Complexity:** Title splitting involves multiple parties (e.g., solicitors, surveyors, lenders) and steps, and each must be coordinated carefully to avoid legal issues.
- **Costs:** Consider solicitor fees, surveyor fees, Land Registry application fees, mortgage restructuring fees, and possible taxes.
- **Mortgage Restructuring:** Title splitting may require your existing mortgage to be split or renegotiated.
- **Insurance:** Each new unit will require separate insurance policies to cover building and content-related risks.

6. Government Resources and Useful Links

1. **HM Land Registry Practice Guide:**

- To understand the registration process and forms: [Practice Guide 77 - HM Land Registry](#)

2. **Planning Portal (Planning Permission):**

- Information on planning permissions for changing the use of property: [Planning Portal](#)

3. **Building Regulations Approval:**

- Guidance on applying for building regulations approval: [GOV.UK Building Regulations](#)

4. **GOV.UK Capital Gains Tax Guidance:**

- To understand CGT implications when selling units: [CGT Guidance](#)

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Legal Structure for Multiple Unit Ownership

When a property is divided into multiple units, such as flats or apartments, it can be owned and managed through different legal structures. The primary structures used for multiple unit ownership in the UK are **leasehold**, **freehold**, and **shared freehold**. Understanding these structures is essential for managing property rights, responsibilities, and any disputes that may arise.

1.1. Leasehold vs. Freehold

- **Leasehold:** In a leasehold structure, the owner of a flat holds a lease that grants them the right to occupy the property for a certain number of years (e.g., 99, 125, or 999 years). The **freeholder** (landlord) owns the land on which the building stands and is responsible for maintaining communal areas.
- **Freehold:** The freeholder owns both the property and the land outright. In a multiple-unit scenario, this means that one person or entity owns the building and the land, while individual units may be sold on a leasehold basis.

1.2. Shared Freehold Structures

- **Shared Freehold:** This structure occurs when the owners of individual units in a building also share ownership of the freehold. Typically, the freehold is owned by a **management company**, and each flat owner owns a share in this company.
 - **How It Works:** Owners of each unit collectively manage the building through the management company. This structure allows the flat owners to have more control over how the building is managed, including decisions about maintenance, service charges, and lease extensions.
 - **Benefits:**
 - **More Control:** Owners have greater control over maintenance and management decisions.
 - **Lower Costs:** Lease extensions are easier and more cost-effective compared to a leasehold structure.
 - **Challenges:**
 - **Joint Responsibilities:** All freeholders share responsibilities, which can be challenging if there are disagreements between owners.

1.3. Legal Considerations for Shared Freehold

- **Articles of Association:** The management company's **Articles of Association** outline how decisions are made, responsibilities are shared, and how any profits or expenses are handled.
- **Management Agreement:** It is crucial to have a clear **management agreement** in place to manage the property effectively and resolve disputes.
- **Maintenance Contributions:** All flat owners contribute to maintenance costs for shared areas, and the payment amounts are determined collectively.

2. Navigating Disputes Between Freeholders and Leaseholders

Disputes between freeholders and leaseholders are common in multiple-unit ownership scenarios, especially where a shared freehold or leasehold structure is in place. Common areas of dispute include **service charges**, **maintenance responsibilities**, and **lease extensions**. Here's how to manage and resolve disputes:

2.1. Types of Disputes

- **Service Charges:** Disputes can arise regarding the amount charged for communal area maintenance or how these charges are calculated.
- **Maintenance Responsibilities:** Problems can occur if one party believes another is not fulfilling their obligations to maintain shared areas.
- **Lease Extensions:** In a leasehold scenario, disagreements may arise over the cost and process of extending a lease.

2.2. Dispute Resolution Process

- **Negotiation:** Try to resolve disputes informally through direct negotiations between the parties involved.
- **Mediation:** If negotiation fails, engage a **professional mediator**. Mediation can often resolve disputes without needing to go to court.
- **First-tier Tribunal (Property Chamber):** Leaseholders can take disputes to the **First-tier Tribunal**, which is part of the judicial system that handles leasehold disputes. (First-tier Tribunal Information)
- **Arbitration:** In cases where lease agreements specify, disputes can be resolved by **arbitration**, which involves appointing an independent arbitrator to make a binding decision.

2.3. Avoiding Disputes

- **Clear Communication:** Regular meetings between leaseholders and freeholders help ensure everyone understands their responsibilities and expectations.
- **Proper Documentation:** Clear leases, management agreements, and records of decisions help prevent misunderstandings that could lead to disputes.

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