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SINTONS

The **Leisure Industry** 2022

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Covid-19 **Bounce Back**

When we sat down to discuss our annual North East Leisure Supplement two years ago, we planned to highlight the peaks and troughs experienced by the leisure industry over the previous 12 months, as we had done routinely for years.

Neither of us could have imagined, within a few weeks of that meeting, that such monumental and world changing events would have taken place. We decided not to proceed with our publication at that time, as it felt inappropriate to be expressing views on the health of the sector as the whole world, not just the leisure industry, appeared to be looking into the abyss.

Two years on, and with the Coronavirus pandemic, hopefully, becoming a manageable part of our lives, we can start to reflect on what has happened, review the positive lessons we have all learnt, and think more confidently about how the leisure industry is placed to bounce back.

As professionals working in the leisure sector - with over 60 years' experience between us - we have always been acutely aware of the tenacity and strength of our clients. However, in the face of ever-changing Government regulation, nervous customers and significant staffing issues, it would have been easy for operators to close up shop and ride out the storm on Government loans and furlough pay-outs.

On the contrary, many of our leisure leaders took the opportunity to develop and expand their leisure offerings, investing in the future and positioning themselves to be in the strongest possible position once the restrictions lifted.

Those decisions showed a confidence not only that "this too shall pass", but gave a huge endorsement in the industry more generally. A major lesson learnt in the pandemic is that we are social beings and need to be in the company of others to maintain good mental health. Where better to seek out those interactions than in the bars and restaurants of our cities and towns? They are an integral part of our lives and of our future.

During the last two years, we have seen some of the most bold, creative and innovative measures taken by operators to keep their businesses trading and their staff in employment.

From restaurant operators developing "cook at home" and delivery services of the highest a la carte food, to bar operators creating exotic cocktail nights to enjoy with friends via Zoom; not to mention the reinvention of much of our street scene into magical outdoor spaces inviting us to linger even on the chilliest of North East winter nights.

These offerings became reminders that there was still pleasure to be taken in the most difficult of times.

Many of the changes created through necessity have been so successful they are likely to remain.

Certainly, the continental cafe culture, that was a dream of New Labour at the turn of the century, is here to stay. Officers were always wary of the potential noise and disorder issues that outside drinking may have on a city centre. However, this imposed trial has clearly been successful, with pavement cafes being well managed; they have clearly added a vibrancy to many town and city centres.

The introduction of table service has also been welcomed by customers and operators alike. No more jostling at the bar and spilled drinks as you fight your way back to your table; this offering creates a more relaxed atmosphere with customers staying in venues longer.

Customers' appreciation of their leisure time has also led to a change in what they want from a night out. The importance of maintaining a work/life balance is reflected in people's desire to reconnect with friends and family and enjoy leisure at an experiential level. The sector has obliged by offering 'Instagram-able' afternoon teas, locally-produced artisan products and competitive socialising experiences aplenty, leading to a general uplift in quality.

Town centre bars and restaurants have seen a surge in popularity as people want to 'stay local' and support their local operators. That in turn has seen existing and new operators investing in town centres which will have long-term benefits and is set to continue.

Staycations have also increased interest in the region and tourism is likely to continue to increase as both the pandemic and Brexit see people keen to explore the UK.

As the world starts to unlock - hopefully we have been shut down for the last time - the true impact of the pandemic on the leisure sector will start to show. There will be a long-term impact and not all of it will be positive.

Some parts of the sector - theatres, cinemas and nightclubs - have been hit hard with the tightest regulations applying to them and that will take a long time to repair.

Staffing issues in the hospitality sector are at crisis level with some venues, particularly in the hotel sector, not operating at full capacity simply because they do not have sufficient staff to allow them to operate safely. Time will tell if the issue is purely down to Covid-19 or the fallout of Brexit, but changes need to be made to address the shortfall.

The "work from home" culture is here to stay to some extent, and that will inevitably impact on footfall in city centres. The partnerships between councils, responsible bodies, Business Improvement Districts and operators are more important than ever. Working together to create vibrant city centres with innovative offerings, which will give customers the desire and confidence to return, is key.

"The opportunities and potential gains for operators are many"

ALOK LOOMBA

Ladhar Group acquisition **paves way for sector resurgence**

Despite the hugely difficult conditions for leisure operators, we have continued to see ambition and investment in preparation for the recovery and future prosperity of the industry.

While some have been forced to scale back, and others have sadly ceased trading altogether, others have weathered the storm as they look to emerge stronger from the other side.

Operators across the North East and beyond have taken the opportunity to invest in their premises, diversify their offering and sometimes add new properties to their portfolio. For tenants, landlord incentives have enticed them to move into buildings which have lost their occupiers during the pandemic, helping to revive town and city centres in the process.

But for some operators, their confidence in the future of their operation and the wider sector has seen major movement, huge investment and significant ambition.

One of the biggest leisure deals in the North East scene in recent years has been the acquisition of the Sir John Fitzgerald group by the Ladhar Group - both family-owned, longstanding operators in the region's leisure economy, with Sir John Fitzgerald dating from the 1850s.

The deal - named Property Deal of the Year at the North East Property Awards 2021 - comprised the purchase of 16 leisure businesses and their associated properties, and retains ownership of a famous North East brand within the region.

The transaction was completed by Sintons, as the longstanding advisor to Ladhar Group, and was completed during a lockdown period with all parties working remotely - quite a feat to achieve, and certainly a deal like no other I have worked on, but a fantastic outcome for both businesses and the region.

The Ladhar Group have long been a hugely ambitious leisure business in the region, with an array of highly popular venues in central Newcastle which continue to see investment to ensure their offering is at the top of their game, and ongoing plans for the redevelopment of other areas of the city.

Their move to acquire another leisure business, despite the huge challenges that faced the leisure industry at that time, was brave and showed great leadership in the sector for others to follow by giving a very timely endorsement of the strength of the North East's hospitality sector and the fact it would rise again.

Whether working with premises they already occupy, or looking to acquire new or different ones, the confidence that is returning to the sector - as well as North East town and city centres - makes this a great time to explore options and exercise ambition.

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"2022 looks to be another strong year for the UK Hospitality industry"

KEVIN MCGORIE

Checking In and Checking Out
The Hotel Market

Well what a strange few years' it has been for the hotel industry. Already embattled following Brexit, and the enforced shutdown of the industry until July 2020 and the almost overnight end of international travel with the first UK lockdown caused many hoteliers to believe this could be the final nail in the coffin of a once vibrant industry.

Whilst government interventions such as the furlough scheme and a reduction in the VAT rate kept the wolf from the door for many, things looked unlikely to get any better through 2021, as we entered the new year in the grips of a third national lockdown.

But how wrong the majority have been proved to be.

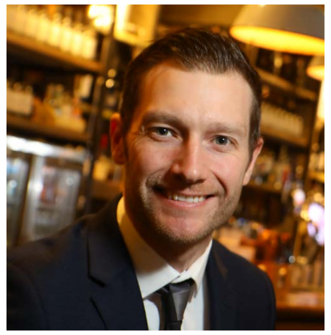
With the successful vaccine programme and the roadmap out of lockdown for 2021, the hotel market has shown a significant bounce back and a degree of resilience few expected. Of course, it hasn't been a path without stumbles. There has been a stark contrast in the route to recovery for the leisure sector to the corporate market. The restrictions on outgoing international travel led to a boom in so called 'staycations' and hotels in popular UK leisure locations, such as the South West of England, the Lake District and the Northumberland National Park capitalised on this demand, with reports suggesting that after the opening up of the industry on 17 May 2021, hotel rooms became available with 97% of supply trading in the UK regions vs 93% in London, reversing the trend that had been established for many years.

Occupancy levels were on an upward trend too, with regional occupancy reaching over 63% at the end of June 2021, London pick up was slower at 40% (source: Christie & Co). Business was strong at weekends in regional destinations and continued through the highly anticipated summer season where most traditional leisure locations were fully booked, as overseas travel was still off the radar for many UK residents. This has meant EBITDA profit performance for many has been far better than expectations.

So, what does this unexpected recovery mean for the market? Well the one thing that has been clear is that there hasn't been the flood of disposals many anticipated as the industry stared down the barrel of Covid-19 in spring/summer 2020. The strong summer trade and funders looking to work with operators were key elements that caused many potential sellers to hold back from putting their business on the market. Where assets have been brought to market, the level of demand has been very high, with a North East budget hotel asset Sanderson Weatherall have been marketing, generating five offers received in excess of asking price. There has also been a key shift in the weight of money coming into the sector. In 2020, less than 30% of investment in the hotel market was in regional assets, whereas like for like in 2021, more than 50% was in the regional and leisure market. This has also meant a real shift in hotel values. In 2020, real of hotels fell by circa 7.5%, but the lack of stock for sale has caused values to recover in 2021, with a positive shift of 4% being seen.

With continued uncertainty around international travel and what the next Covid-19 wave may bring, 2022 looks to be another strong year for the UK hospitality industry. With many travellers still reluctant to book overseas holidays and undertake the risk of sitting in an enclosed space for 3-4 hours with 250 strangers, meaning Summer 2022 bookings are already looking strong.

The old saying that every cloud has a silver lining, may well be true for the sector, with many holidaymakers being forced to forego the guaranteed sunshine of a package holiday over the last 2 years, but they have rediscovered the beauty of the British coastal and mountain areas, hopefully this will be a long term shift in behaviour.



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Managing **Unpredictability**

For businesses operating in the leisure industry, to say the last 24 months have been turbulent would be an understatement, with Covid-19 and Brexit combining to create significant challenges for operators.

On January 1, 2020, the UK's departure from the European Union became a reality. Little over two months later, on March 23, the UK went into lockdown as the result of a global pandemic.

These two successive events have really affected the leisure and hospitality industry.

As we move into 2022, the operational difficulties faced by the pandemic are clear. Staffing is sporadic, menus are reduced, outlets are closing, there is a strain covering for absent colleagues and employers need to manage Covid-19 in the workplace and consider how to move forward.

How to keep staff and customers safe?

Whilst it would be hoped workers and customers would take a sensible view if they contract Covid-19, ending free testing and changing statutory sick pay and isolation payments at the same time could create a scenario where individuals, avoid taking tests, don't communicate a positive test, don't isolate or unknowingly walk around with the virus.

It is therefore important that employers update risk assessments to reflect the probability that Covid-19 may be coming into the workplace.

Forced vaccinations?

Workers with Covid-19 no longer need to isolate. It may therefore be worth considering a contractual change forcing those with Covid-19 to remain at home, on pay to avoid spreading the virus.

It is important to assess how this will work in practice, for example, how long will the isolation period be, what pay will employees get whilst isolating and how they will evidence having Covid-19?

How to entice applicants to the industry?

As a consequence of Brexit, workers no longer have freedom of movement. Employers need to sponsor individuals to work in the UK who are not settled workers or who do not have some other immigration permission allowing them to work in the UK.

This has naturally had a significant impact on recruitment in the industry and can be seen by the number of unfilled posts. In December 2021, there were 163,000 unfilled posts in the leisure industry, a marked increase from 75,000 unfilled posts in December 2019.

One of our national clients, Motel One, has seen its non-UK national workforce reduce from 60 per cent to 30 per cent. That being said, its chain of hotels is expanding across the globe and while applications are reduced, calibre remains high. So, it may not be all doom and gloom.

So, what can you do?

Consider paying above the National Living Wage to attract applicants. The job site Indeed reported that wages in the leisure industry have increased by 4.6 per cent and employers need to remain competitive.

Also, engage workers on a guaranteed hours contract, with an option for overtime rather than a casual worker contract. Whilst the flexibility of casual arrangements can be beneficial, the certainty of hours provides security which is attractive to all in uncertain times.

What if I cannot provide work for the full workforce?

Unfortunately, in the last 24 months, restructures and redundancies have been commonplace. A restructure is not a temporary measure, it imposes a permanent change and so you may want to consider other avenues first. Check if your contracts permit lay-off or as an alternative staff may be amenable to a temporary change to their contract if it protects the job role longer term.

If redundancies do become necessary ensure that you follow a fair and transparent process and be mindful that 20 or more dismissals from the same establishment within a 90-day period will trigger collective consultation obligations.

"Appetite for new types of social experience was leading to many 'new' (or new to this generation of revellers) bar and game concepts, such as crazy golf, shuffleboard, or social darts"

MARK CONVERY

Ready Player 1

I don't know about you but if someone suggested going for a night out, I'd be thinking of a few pints around town and if they said 'do you fancy a game of something?', I'd imagine they'd mean a game of pool or at a push maybe 10 pin bowling. But over the last few years there has been a real explosion in experiential leisure and 'competitive socialising' has become a buzzword in the industry.

Up to the end of 2019 (and prior to the onset of the Covid-19 Pandemic), prospects for the UK leisure and hospitality industry looked very positive, with the sector exceeding a market value of £5bn for the first time. The relatively low value of the pound at the time was driving many brits to seek better value options on home soil. As such, many expected leisure activities to benefit from increased disposable income as consumer confidence soared to the highest point in a decade. Clearly Covid-19 put the brakes on this, but this doesn't mean that reveller's expectations have changed. Indeed, it is arguable that the after the lockdown experience, an even greater variety would be welcomed.

Appetite for new types of social experience was leading to many 'new' (or new to this generation of revellers) bar and game concepts, such as crazy golf, shuffleboard, or social darts.

The leisure industry has faced several new realities: not necessarily alternative ones, but trends that were already beginning to transform it have accelerated and will continue to influence how leisure businesses may operate in the coming decades.

The first is well documented: younger guests prioritising experience over consumption. Consumers want something exciting and different, whether being in an architecturally amazing or unique environment; or with an activity – hence the rise of urban golf experiences, retro arcades, ping pong bars and activities such as axe throwing.

The second reality is that leisure no longer plays second fiddle to retail. Leisure uses in many locations around the world were once found outside city centres. This is however no longer the case. Leisure concepts are becoming the anchor tenants of schemes.

The third, and perhaps the most exciting, is virtual reality (VR) but that's a whole other article on its own!

Here in the North East we have seen this expansion in competitive socialising over the last 5 years or so, with Tim Wilks', Lane 7 being one of the early adopters, with their high end 10 pin bowling sitting alongside other activities such as beer pong and table tennis, and more recently operators such as Junkyard Golf, Game of Throwing (Axe Throwing), Point Blank Shooting have opened venues in Newcastle and Retro Arcade operator NQ64, who have been looking for a venue in the city for some time, recently announced they had secured the old Intermezzo bar on Pilgrim Street.

Established businesses are also changing some of their venues to offer a unique experience to guests. One such innovative venue is the Apartment Group's 'Howlers' on Collingwood Street, Newcastle's first and only Ball Pit Bar, we asked Debrah Dhugga, CEO of the Apartment Group, why they decided on such a different angle for this venue? "First and foremost, at the Apartment Group we believe we are a great team of fun givers, we love nothing better than ensuring our beloved customers have a fun time as soon as they step through our doors. We're professional and positive, with a runaway success story that keeps growing. The blend of cool cocktails and a childhood nostalgia fun night out came up at a team brainstorm. What did our city not have? An adults ball pit! Sounds crazy, yes... but after that our new permanent Howlers was born. Twice the size we originally planned filled with thousands of balls, Howlers is on everybody's "must do" list. It may sound ridiculous, but the audience love it. Trust us when we say, our ball pit is a must, even just one jump in to say you have experienced it!"

Demand for venues in the city remains high, with operators such as The Bat & Ball Club, Boom: Battle Bars & Flight Club all having ongoing requirements and we see no real reason this will change. Newcastle has always been a party city, with a strong and vibrant nightlife and long may that continue. Our operators have always been innovators and have led the changes. Without question leisure has changed over the last 10 years and is still changing, but great operators helping guests enjoy themselves will be the one thing that never changes.

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"The hospitality industry employed 3.2m people and was the UK's third largest private sector employer"

MARK QUIGLEY

Is the Hospitality Industry at **Breaking Point?**

The hospitality industry is often regarded as a springboard into the workplace for many young people but recently the UK has experienced rising staff shortages, with job vacancies at their highest levels since records began.

Covid-19 and Brexit have been cited as contributing to the problem. Since the start of the pandemic, 1 in 5 workers have left the sector, according to industry bodies such as Hospitality UK.

Prior to the pandemic, the hospitality industry employed 3.2m people and was the UK's third largest private sector employer, with vacancies consistently around 90,000.

Figures from the Office for National Statistics reveal that job vacancies in the industry were already at high levels before the UK went into in lockdown in March 2020.

Much of this shortfall could be attributed to the perceived culture of very long working-hours and low wages. Hospitality insiders suggest that some shortages, particularly of chefs, waiting staff and restaurant managers, are being seen because the Government reopened the whole economy at the same time and so everybody is looking for staff. Hospitality UK state that the industry can return to pre-pandemic levels of demand by the start of 2022, but warns it is "undoubtedly going to take the industry a long time to recover".

The situation could be seen as a "reset moment" with employers looking at working conditions, training, and skills development.

Staff shortages are impacting on hospitality businesses in many ways - with reduced opening hours, it is highly likely that with overworked teams, customer service will suffer alongside reputational damage and an increase in complaints. Pressure on existing staff where they are covering multiple job roles that they may not be trained or qualified to do. Pressure on staff who are training new staff and the time and effort this takes alongside trying to do their own jobs.

With increasing challenges facing the hospitality industry, it is important to ensure that all staff are fully trained ahead of starting their first shift.

By ignoring the importance of workplace training, you could risk:

- **An increase in workplace accidents, decreased staff morale and increased absence. There is a legal obligation to ensure staff are provided with adequate health and safety training.**
- **Inadequately trained staff are likely to experience poor job performance and increased levels of work-related stress.**
- **Lack of training leads to staff feeling undervalued, which will reduce workplace productivity, loyalty and engagement.**

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"There are more breweries than ever before in the UK, and over 500 micropubs - there's a huge demand whether in city centres, suburbs or villages"

JON SIBLEY

Let's say **Cheers** to the **Micropubs**

It will be no surprise to anyone that the pub trade has suffered badly over the last 24 months, just like the rest of the leisure industry, but that said, it's not all been bad news!

Just before Christmas 2019, for the first time in 15 years the number of small pubs in the UK rose. And whilst there have been closures and losses since the start of the pandemic, one of the most startling features of the market in 2021, has not been the numbers of empty pubs or the remnants of failed businesses, but the level of demand for operational businesses and new sites.

So why is this?

It doesn't seem to be due to the big PubCos, who have been sitting tight with their established portfolios. But in Newcastle and the North East, the rise of micropubs could certainly be a contributing factor.

The first recognised micropub in Newcastle, The Split Chimp, was opened by Mark Hall, and grew so quickly it moved to bigger premises just a year later. The business has gone from strength to strength expanding its presence across the region with the opening of outlets in Seaton Delaval and at Whitley Bay's Spanish City.

We asked Mark what drove him to open the Split Chimp? *"I opened the first 'micropub' in Newcastle in May 2015, having left a 30 year career in the NHS. I heard Martyn Hillier the founder of the first UK micropub, The Butchers Arms in Kent, talking on Radio 2 and that night I went home and announced to my wife, Jeanette, that I was going to open a micropub. Her face was a picture. I opened The Split Chimp micropub on Forth Street in a railway arch 3 months later. There was a lot of interest in what we were doing and how we were providing quality ales without a traditional cellar, even from some of the big players and it wasn't long before several other micropubs opened in and around Newcastle, and the real ale standard began to improve with Newcastle now being one of the best places in the country to sample beers served at their best".*

From these small city centre acorns there has been the growth of a veritable forest, with The Town Mouse Ale House on St Mary's Place (CAMRA Tyneside Pub of the Year 2020), The Wobbly Duck on Old Eldon Square, The Mean Eyed Cat on St Thomas' Street, Beer Street and Delta Lounge (the tap room for Alpha Delta brewery run by Ross Holland) on Forth Street, not to mention all the tap rooms and brewery's in and around the Ouseburn, including Full Circle Brew Co. The refurbishment and re-opening of the Station East, Gateshead is also welcome news for Gateshead's beer lovers, bringing this well-loved venue back to life.

We asked Jon Sibley of the multi award winning Town Mouse Ale House how he felt the scene was evolving today and where it sits in respect to the licensed trade as a whole?

"There are more breweries than ever before in the UK, and over 500 micropubs - there's a huge demand whether in city centres, suburbs or villages. People are wanting a connection with and knowledge of what they are consuming, and a relationship with the brewery and pub, and with the increase of small retail and leisure units becoming available on the high street and communities losing traditional pubs there is an increasing demand for community spaces and pubs".

The micropub hasn't just stayed in the city centres though, with micropubs popping up in suburban locations such as Whickham, North & South Shields, Heaton & Gosforth, making 'the local' truly local once again. The Heaton area of the city has become a hotbed for beer lovers with three outlets, The Heaton Tap, The Elder Beer Café and The Tipsy Toad all within a short walk of each other.

One of the most surprising Micros is Hop Secret. Hidden in the back corner of Coppers at Gosforth in Brunton Park, just past the fruit and veg is a row of beer taps and a hidden outside area, where beer fans can enjoy a pint and a pizza!

The micropub scene has also reached out to the Coast. Both Monkseaton and Tynemouth Metro stations have micropubs (the Left Luggage Room and Platform 2) and the plethora of small outlets in and around Whitley Bay includes Gilbert & Smiths and The Dog & Rabbit on Park View, The Front Street Tap House and not forgetting The Split Chimp at the Spanish City.

As the world opens up again, and as evidenced by the market activity throughout 2021, we see no real signs that this is going to change in the immediate future, so let's raise a glass and say cheers to the entrepreneurial spirit of the independents and micropub licensees!

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"Ensure the collection of visitors Covid-19 status is necessary, clear and transparent"

LOUISE WEATHERHEAD

COVID-19 vaccine passes and vaccination status checks - **are you privacy compliant?**

In addition to Government guidance and Covid-19 safety measures, business owners should consider whether its processing of Covid-19 pass information meets the requirements under the Data Protection Act 2018.

A visitor's Covid-19 status constitutes health data, a type of special category of personal data under UK data protection laws. Compliance obligations around processing this type of personal data are more onerous, due to its inherent sensitivity, and a failure to comply with the 2018 Act could lead to sanctions issued by the ICO, the UK Regulator responsible for data protection matters.

For operators, where you do check or record people's Covid-19 status, you must justify this in terms of what you collect, what you do with the information, how long you keep it for, and how you keep it secure, amongst other things. The Data Protection Act 2018 requires that you ensure the collection of visitors Covid-19 status is necessary, clear and transparent. What you do with this information should be set out in your Privacy Notice, statement or policy.

The same applies for those employees from whom you seek a vaccination status. An employee has the right to understand what information is held about them, and the easiest way to demonstrate this is with an Employee Privacy Notice. The processing of employee personal data must be fair and justifiable in all the circumstances and where you operate a business with a sizeable number of employees, you should carefully consider the purpose for retaining an employee's vaccination status long-term.

Remember that the cornerstones of the 2018 Act are transparency and accountability, and that even where you are acting in line with government guidance, this must be demonstrated by your policy documents.

If you have any questions regarding this article, please feel free to contact Louise Weatherhead, a data protection lawyer, by email at louise.weatherhead@sintons.co.uk, on Twitter @LNWdataprotect, or by telephone on 0191 226 3699

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Buyer/Tenant Beware! The Importance of Pre-Acquisition & Due Diligence Surveys

Did you buy your house without getting a survey? No, I didn't think so, but you'd be surprised by how many people buy or enter into long term lease commitments on commercial premises without the same due diligence.

When buying a commercial property, or more particularly entering into a commercial lease there are many hazards to be aware of which aren't all immediately obvious. But things that could well come back to bite you at the end of the lease.

Key considerations before entering a commercial lease - Some of the key issues worth considering are the property's condition at the start of the lease, what condition you are expected to hand it back to the landlord at the end of the lease, any maintenance issues you might encounter during occupation and whether you will have to upgrade services to accommodate your business.

The above issues could be mitigated through the commission of a pre-acquisition survey.

Things that a pre-acquisition survey can identify and help with include:

Capping leasehold liabilities at the end of the lease - If the building you are leasing is in poor condition at the start of the lease, having a 'schedule of condition' attached to the lease could prevent an unexpected liability at lease end. A repair clause 'to keep' in repair has an implied obligation to also put the property in repair (as you cannot keep something in repair that isn't already). You can cap that liability though, by documenting the repair of the property at commencement fully and undertaking an obligation to keep the property in no better condition than documented. Such a schedule could apply to the whole

demise, or perhaps just part, e.g the roof, if that is the only area of concern. Repairing liabilities at the end of a lease, also called Dilapidations can be an unexpected and costly surprise for a tenant, who may think they have left the premises in repair, but the landlord may have a different view!

Planned and preventative maintenance schedules - The survey can identify elements that will likely need repair or replacement during the lease, which will allow for you to plan for this expenditure, by putting a timeline in place and an estimated cost.

Identification of risk issues with the premises including: access & egress, services, insurance and reinstatement liabilities – This is a very wide ranging area, but one where 'joined up' thinking can be absolutely vital to avoiding bumps in the road. For example, access and egress, this isn't just about how your guests get in and out of the property, it can cover how you deal with deliveries and whether there are appropriate emergency means of escape. Sustainability and ESG are also particularly key and in a pre-acquisition survey, the type and nature of the services to the building, are they functional, would upgrading them save money and whether it has an appropriate EPC rating can all be considered.

Fixtures and fittings schedules – If you are taking on a fully fitted business, do you have a list of exactly what are landlord's F&F? If there isn't an inventory, again this can be an unexpected hurdle at the end of the lease. If the landlord claims he let you a fully fitted bar, with 50 tables and 200 seats, DJ Booth and full PA system, and that is what he expects back, without a schedule, how can you dispute what was there at the. This leads also onto;

Review of lease covenants – Whilst this primarily will fall to your solicitor to advise, often the solicitor will not have visited the property, whereas your surveyor will. So, this knowledge of the property can feed in to whether some of the clauses in the lease are acceptable or they should be opposed. Elements such as an obligation to replace F&F, as and when it fails or becomes obsolete. If the F&F is poor at commencement, is the landlord just looking to pass a cost onto you that they would otherwise have to incur themselves? Advice on this can give you some ammunition to use in a negotiation.

As I said at the beginning, a pre-acquisition survey can be a very useful tool to help you avoid future liabilities, and whilst there may be a cost up front, the savings that it can help you make later on, could be so much greater. They say forewarned is forearmed and that is particularly true in respect of lease commitments. If you only take one piece of advice away from this, it is, always understand the value, not just the cost of taking the right advice at the right time.

"Be aware of the time limitations. Most operators will maximise their use of their pavement cafes in the warmer months, but applications take time to process"

SARAH SMITH

The **great** outdoors

One of the positives that came out of the pandemic was the introduction of pavement licences.

These permissions allow business, such as bars, pubs, restaurants and cafes, to use public highways as outdoor seating areas to serve food and drink.

Pre-pandemic, to operate a pavement cafe, operators had to apply for both a planning permission for the change of use of the highway and a highway permission to place the tables and chairs on the highway.

Pavement licences, introduced under the Business and Planning Act 2020, offer an alternative process which is both simpler and quicker. It also requires a lower application fee.

However, whilst the new process may be easier - and on the face of it cheaper - there are pitfalls in both processes so, prior to investing significant money in outdoor furniture and parasols, operators would be wise to do their homework.

It's important to remember that there is no right to use an area of highway for a pavement cafe. A local authority will only give permission if they are satisfied that the public's right to use the highway is not detrimentally affected so it is imperative that any cafe is located, designed and managed in a way that takes into account the needs of all highway users, including disabled people.

A scale plan of the proposed area, highlighting these points, must be lodged with the application. Prior to commissioning that plan, and to save time and money, we would strongly advise engaging with the highway officers to agree the area they would accept for pavement cafe use.

Both pavement licences and highway permissions come with their own set of standard conditions. It's important to understand what they are, and whether you can comply with them prior to submitting the application. If the purpose of your application is to allow customers to smoke outside and a standard condition on your licence prevents any external smoking, it's best to know that before you spend the money.

Be aware of the time limitations. Most operators will maximise their use of their pavement cafes in the warmer months, but applications take time to process. The older process can take more than three months. The newer process can be finalised in around 10 days but delays often arise if the paperwork is not in place at the outset.

Give yourself time to prepare and address any issues. There's no point starting the process at the first sight of sunshine, expecting the licence to be granted overnight.

It's also important to note that all pavement licences (unless they state an earlier end date) will expire on 30th September 2022. Highway permissions are usually granted for a 12-month period, so whilst more expensive at the outset, may have more value in the long term.

Finally, remember, there is no right of appeal if an application is refused.

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SW Sanderson Weatherall SINTONS

"It is no surprise that two recent holiday park listings in the North East both generated very strong levels of competitive interest from existing operators"

ADAM BURKINSHAW

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Strong demand for **caravan parks** reaching **premium prices**

With the start of a new year, it is perhaps worthwhile considering the state of the current market for holiday and residential caravan parks of all types.

Prior to the Covid-19 Pandemic, the market for parks was undoubtedly buoyant with prices achieved at the highest level for over 40 years. Although generally only marginally in excess of those achieved immediately before the financial crisis in 2008 on an inflation adjusted measure.

The pandemic itself created considerable uncertainty, with many parks having to close, causing wide ranging instability for a short period. However, the Government stepped up across all sectors with favourable treatment of hospitality businesses helping to weather the storm whilst park owners got on with implementing the necessary measures to ensure a return to Covid-19 safe parks as soon as possible.

Following the lifting of restrictions, a combination of pent-up demand caused by the enforced lockdown and well managed Covid-19 precautions saw exceptionally strong demand from visitors to parks across the country. Moreover, the sector further improved its prominence amongst the wider investment community leading to many well-funded new entrants to the market competing against existing operators in a sector that has previously been considered something of a closed shop.

As a consequence, parks are being re-appraised with much stronger multiples of earnings and pitch values being achieved than has ever been the case. This coupled with continuing strong demand has resulted in premium prices being achieved and the consolidation of operators and medium to larger parks continues.

We have experienced parks across the country being in strong demand and have concluded sales across all types of park, including on and off market transactions. In recent years more vendors have emphasised their wish for a discreet, confidential sale and Sanderson Weatherall are well placed to oblige. Utilising our expertise and knowledge of the marketplace alongside our database of active applicants, operators and investors has ensured we have been able to generate the competitive interest that is key to maximising the realisation achieved and success of any sale.

Park Sales in the North East

Activity in the North East has been no exception being a very attractive holiday area. Northumberland has such a wide ranging offer from the quiet, expansive, sandy beaches and dunes along the coast to the forests, historic castles, country houses, market towns and pretty seaside villages.

At the end of 2021 Sanderson Weatherall were pleased complete on the confidential sale of Angrove Country Park, Nr Stokesley. Offering both private lodge ownership and a successful holiday lodge rental model the park was seen as the perfect business to profit from the current and future demands of the UK holiday market. Situated in a beautiful rural setting, surrounded by farmland and woodland the park boasts impressive views of Roseberry Topping and has permission to accommodate up to 79 holiday lodges. The property and business was sold, following a confidential targeted marketing campaign, to the Leisure Resorts Group, becoming the fifth park in their portfolio of high quality lodge parks across the North of England. Angrove has been developed to an exceptionally high standard by the previous owners and offers tremendous scope for further development both within the existing planning permissions and utilising the substantial land that extends in excess of 70 acres. Development is already underway to expand the rental offer including the siting of new highly specified geometric glamping domes.

It is no surprise that two recent holiday park listings in the North East both generated very strong levels of competitive interest from existing operators. Following a short marketing period, due to the high level of interest an early closing date was set with the guide price significantly exceeded in both cases. Silver Carrs Caravan Park and Allendale Caravan Park are both presently under offer with sales due to complete shortly.

If you are an operator and contemplating whether to capitalise on the buoyant market conditions that presently exist and would like a discreet and confidential appraisal on your business please do get in touch.

"Trade secrets are exactly what they say they are, it is a secret that only a handful of people are aware of"

PIPPA AITKEN

Protecting **inventive passion**

Protecting your creations is not something new and the law can help you achieve this. Those that want to protect their inventive passion are not limited to the well known mechanical inventions, protection also extends to literary, artistic and even culinary and cocktail creations. However, protecting those culinary and cocktail creations can often be more challenging in practice than other inventions.

The protection available to creators can be summarised into the following categories of intellectual property rights: copyright, trademarks, patents and trade secrets. But where do food and drink recipes sit in this?

COPYRIGHT

A recipe itself may have copyright protection as a literary work under the Copyright, Designs and Patents Act 1988, if it is written down in a cookbook, with any accompanying photographs also potentially attracting copyright protection as artistic works. Whilst you could protect the written recipe and photographs from being republished the law of copyright would not prevent someone from following the recipe and making and selling the dish.

TRADEMARKS

Trademarks protect a brand identity. Names, slogans, and logos are the most common form of trademarks and are often used in conjunction with each other.

A trademark can consist of words, designs, letters, numerals, colours, sounds or the shape of goods or their packaging. To be considered a trademark, the trademark must be capable of being represented graphically on the trademark register. This ensures that the mark can be viewed clearly and precisely. The trademark must also not be generic or descriptive.

If you had an inventive name for a recipe or a cocktail, provided it is not descriptive, you could apply for a trademark to protect that name but that would not protect the recipe itself.

PATENTS

A patent is something which protects an invention. The patent must be new, involve an inventive step and be capable of industrial application. Unlike the above, patents can protect ideas themselves.

Whilst recipes are patentable in theory, it can be very difficult to register a patent in practice. You would need to show that the recipe had not been used by anyone else before and then demonstrate that the recipe would not have been obvious to a person skilled in the art of food creation. Both these tests can be a substantial barrier when applied to recipes.

TRADE SECRETS

Trade secrets are exactly what they say they are, it is a secret that only a handful of people are aware of. This type of protection can be very powerful and can last indefinitely if the recipe is kept strictly confidential and is not communicated to third parties. Perhaps most notably, Coca Cola has protected its drink recipe since 1891 through the law of trade secrets. However, a third party could still attempt to reverse engineer the recipe.

In conclusion, protecting your hard thought-out recipes can be rather tricky, with the best solution to never show or tell anyone how you do it and ensure all your employees have robust contracts of employment. However, it is important to note that using trademarks and being aware of copyright, alongside your creative process, can be very useful in building your brand and selling your product or service, as even if others try and copy your work, if your brand is well known, people will often prefer the original.

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"Being active in managing your rates liability can save you money, quite substantially so in some cases"

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How **Business Rates** Can **Save The Pub**

After rent, rates are often the biggest expense for business owners. The rateable value of a property is periodically set by the Valuation Office Agency (VOA), a part of HMRC (with the next revaluation due in 2023, for which the preparation is already ongoing). In its most basic form, the rateable value of a property is the annual rent which a hypothetical tenant would pay on the valuation date, which for the current 2017 rating list is the 1st April 2015, and the rates payable are approximately 50% of the rateable value. Being active in managing your rates liability can save you money, quite substantially so in some cases.

Whilst the next revaluation is coming, it's not too late to challenge your 2017 assessment if you haven't already, and there are several elements that are worth considering that may impact on your liabilities. Perhaps one of the most significant for many licensed operators is the manner in which the property is described. Sanderson Weatherall can review and challenge RVs with the opportunity to backdate changes to 1st April 2017.

For licensed & leisure properties, the rateable value is usually calculated either based on the receipts generated at the property (Fair Maintainable Turnover) or on a comparable rental basis. It is critical that the assessment is correctly described in the rating list, as this can have a big impact on the valuation approach (public house, restaurant, bar, cafe etc), and the approach to assessment can have a marked effect on how much you will pay every year! If you believe your property is incorrectly described, getting the correct advice is vital to get the 'right' basis and our team of experts can review your assessment and challenge it, if required.

The SW Team at The Delaval Arms, Old Hartley

Covid-19 reliefs/grants - Over the last few years, in light of Covid-19, the Government have introduced a raft of reliefs and grants, which most leisure properties have benefitted from. These included a rates holiday from 01/04/2020 to 30/06/2021, with a 50% discount applicable to the end of the rating list 31/03/2023 (capped at £100,000 per business). Grants were also available to limit the impact of Covid-19, initially between £10,000 and £25,000 depending on rateable value size. The latest Grants are in response to the Omicron variant and range from £2,667 to £6,000 depending on the RV of the property. Grants are still available, but it is important to remember, to receive them, positive action needs to be taken, they are not applied automatically.

2023 Rating list - Another very important thing to remember is that a new rating list will become live on 1st April 2023, with an expected valuation date of 1st April 2021. If previous timescales are adhered to, draft rateable values will be published in December 2022. Taking early and proactive action is essential to ensure your assessment is correct and you aren't missing out on potential savings.

One final matter to discuss, is, in October 2021, after many years of discussion, HM Treasury published a review on Business Rates, which sets out proposed changes to the non-domestic rating system in England. Changes which could include:

- A legal duty on ratepayers to supply property information to the VOA
- Three yearly revaluations
- Removal of the 'check' stage
- Introduction of a three-month window for challenge submissions (2026)
- Exemptions for green improvements (renewable energy)

So, as you can see, the world of non-domestic rates looks likely to change fundamentally again in the next few years, making this technical area of taxation even more complicated.

Here at Sanderson Weatherall, our expert team of specialists deal with business rates estimates/reviews/appeals, offer rates management/payment services and provide advice on rates liability mitigation if you have a vacant property, to clients all over the country on a daily basis. If you would like any help with any of the topics discussed, please get in touch with one of our experts in the rating team.

"The more diverse offering, many believe, will help to attract people back into the town and city centres which have been deserted for so long"

DANIELLE DALE

Leading the retail generation

The challenges faced by the high street have been building for a long time, amidst the rise of online shopping and changing buying habits. But the events of the past two years have taken that to a new level, with many businesses who had been battling for survival for some time sadly no longer being sustainable.

The Covid-19 pandemic heaped intolerable pressure on retailers of all sizes, with many scaling back and downsizing premises, others closing much of their portfolio, and other names - from the huge Debenhams and Arcadia brands through to independent retailers - disappearing from our high streets altogether.

As a result, the British Retail Consortium now estimates that one in seven retail units are vacant, leaving a huge void to fill in the hearts of town and city centres across the country.

For landlords, the competition to attract new tenants to such units is unprecedented - for those businesses which do have the confidence to take on new premises in what remains a difficult climate, the choice is vast. For this reason, tenants can be clear in their demands for more favourable terms to what would have perhaps been offered pre-March 2020, or in seeking incentives to commit to a lease.

But for landlords, while the competition is significant, the scope of potential tenant is too.

Rather than the traditional dominance of larger retailers on the high street - many of whom are now relocating units to out-of-town retail parks, which have plentiful parking and an array of big brand names, and are fast becoming regarded as go-to shopping destinations - we are seeing diversification into a different tenant mix.

Leisure businesses and smaller retailers, particularly those owned by independent operators, are seizing the opportunity to move in to empty units, attracted by the lure of a prime location with favourable terms.

The more diverse offering, many believe, will help to attract people back into the town and city centres which have been deserted for so long, with the quest for 'something different' becoming increasingly popular. The desire to support local businesses is also a key factor in this.

For the larger sites which have, for many years, been occupied by the staples of the high street, we are seeing a repurposing of such units, as in today's climate they are unlikely to be filled by one single tenant. Landlords often look for one 'anchor tenant' which will attract other high quality tenants and customers alike.

By creating the resources for a number of smaller businesses to occupy sizeable premises, with few having the capacity or confidence to want to commit in the current climate, landlords are diversifying their ability to attract tenants and generate new streams of rental income.

Clearly the situation for landlords remains very difficult, with the impact of the end of the rental moratorium - a hugely important measure of support during the pandemic - remaining to be seen, particularly the approach to striking a balance between rental arrears and void units.

But through the repurposing of traditional high streets and retail units into leisure and independent venues, this new and brave approach from landlords in attracting such a diverse array of tenants is helping to breathe new life into our town and city centres and will create the new future.

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