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The Property Round

In This Issue

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EDITORIAL

This edition of The Property Round comes at a time when the market appears relatively stable, but beneath the surface there is still plenty for property owners, investors and developers to think about.

Across the UK, residential and commercial markets are showing signs of greater stability than we've seen in recent years. House prices have largely levelled off, rental growth is beginning to moderate, and in the commercial sector there remains a clear focus on high-quality, well-located assets. At the same time, investors are becoming increasingly selective, with many taking a longer-term view before committing capital.

Alongside market conditions, the regulatory and tax environment continues to evolve. Whether it's HMRC's focus on property structures, changes to reliefs, or the ongoing complexity surrounding areas such as ATED and VAT, navigating property ownership is rarely straightforward.

One thing we see time and again is that these issues rarely exist in isolation. Decisions relating to a single property can have wider implications for ownership structures, financing arrangements and long-term succession planning. Taking a step back and considering the bigger picture is often where the greatest value can be found.

In this issue, we've brought together insights from across the firm and our wider network, covering market trends, lending considerations and some of the tax topics our clients are asking about most frequently. Our aim is not only to explain what's changing, but also to highlight opportunities and practical actions worth considering.

At Gerald Edelman, we work with clients throughout the property lifecycle, drawing on expertise across corporate tax, VAT, international structuring and private client advisory services. Most importantly, we focus on providing practical, commercial advice that helps clients navigate complexity and make informed decisions.

If any of the themes covered in this edition resonate with you, we'd be delighted to continue the conversation.

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REAL ESTATE MARKET UPDATE

The UK real estate market has continued to show resilience in 2026, with both residential and commercial sectors demonstrating steady growth.

HOUSE PRICES

House prices across the UK have remained broadly stable so far in 2026. According to the latest Office for National Statistics data, the average UK house prices remained unchanged, at £268,000 in the 12 months to March 2026, reflecting a marked slowdown from the 12 months previously.[1]

This reflects a market that has lost some momentum following a quieter period towards the end of 2025 and into early 2026. Affordability constraints and higher mortgage costs continue to weigh on buyer sentiment.

Recent insights from Savills suggest that, while there was a modest uplift in activity at the start of the year, new buyer enquiries and sales agreed have begun to ease again, pointing to a more cautious market overall.[2]

At the same time, more properties coming onto the market are giving buyers greater choice. As a result, homes are often taking longer to sell and price growth has become more subdued. This is helping to create more balanced conditions between buyers and sellers, particularly in areas where available stock had previously been limited.

AVERAGE UK HOUSE PRICES, JANUARY 2005 TO MARCH 2026

(Sources: HM Land Registry, Registers of Scotland, Land and Property Services Northern Ireland, and Office for National Statistics)

Looking ahead, the consensus remains that house price growth will be modest over the remainder of 2026. Most forecasts are in the range of 1% to 3%. While improving affordability and more stable mortgage rates should provide underlying support, any recovery is expected to be gradual and uneven, with performance continuing to vary by region and price point.[34]

RENTAL MARKET

The rental sector remains active, although the pace of rent inflation has eased from the peaks seen in 2023–24. According to the latest Office for National Statistics data, average UK monthly private rents increased by 3.5% to around £1,381 in the 12 months to April 2026, marking a clear slowdown in growth.[2]

The North East continues to record the strongest rental growth in England at around 6.5%, while London has seen much lower inflation at approximately 2.0%, despite retaining by far the highest average rents at around £2,200–£2,300 per month. Despite this cooling, rents remain significantly higher than a few years ago, and affordability pressures persist, particularly in high cost urban areas.[24]

COMMERCIAL PROPERTY

The UK commercial property market remains subdued in 2026, with higher borrowing costs and slower economic growth continuing to weigh on occupier and investor confidence. Tenant demand has softened across offices, retail and industrial sectors, with leasing transactions taking longer and greater availability of space, particularly in secondary stock.[56]

A clear “flight to quality” is evident, with demand concentrated on well located, energy efficient buildings. Prime office and industrial assets continue to see modest rental growth where supply is constrained, while secondary offices and retail space face ongoing pressure on rents and values.[7]

Retail performance remains mixed, with weaker conditions in secondary locations but more resilient demand for dominant, convenience led and mixed use schemes. Industrial and logistics continues to perform relatively strongly, although rental growth has moderated as supply has increased and occupiers have become more selective.[8]

Construction

The UK construction market remains stabilised in 2026, supported by a strong pipeline of infrastructure and public sector projects, though delivery remains uneven as affordability pressures and delayed investment continue to slow progress.[59]

Skills shortages and rising labour costs remain key constraints, and have done so for several years, with workforce gaps continuing to impact delivery and project margins.

While improving financing conditions are supporting confidence, capacity and labour constraints are likely to keep growth steady rather than rapid in the near term.

MERGERS AND ACQUISITIONS

Date Acquired	Target/Company	Acquirer	HQ	Deal Type	Deal Size (£m)
12/05/2026	Picton Property Income	LondonMetric + Schroder Real Estate	UK	Acquisition	403
20/04/2026	Life Science REIT	British Land	UK	Acquisition	150
25/03/2026	Ebb & Flow	Pension Insurance Corporation	UK	Acquisition	200
12/03/2026	Eastdil Secured	Savills	UK	Acquisition	880
09/02/2026	HC-One	Welltower Inc	USA	Acquisition	1,180
11/12/2025	PRS REIT Holding	UK Housing Platform	UK	Acquisition	629

M&A activity in the UK real estate sector in H1 2026 has remained consistent with trends seen in the second half of 2025. Early data indicates that deal volumes are down approximately 35% year-on-year, whilst median deal values have remained robust at approximately £100m. Geopolitical uncertainty, most prominently from the escalation of tensions in the Middle East towards the end of Q1, has added further headwinds, reinforcing the broader UK trend towards fewer but larger transactions.

> Early data indicates that deal volumes are down approximately 35% year-on-year, whilst median deal values have remained robust at approximately £100m.

In the residential market, legislative change has been a key driver shaping deal activity. The introduction of the Renters' Rights Act in May, which abolished 'no-fault' evictions and increased compliance burdens on private landlords, has accelerated institutional demand for professionally managed rental stock.

The pension-fund-backed acquisition of the PRS REIT's operating portfolio and the sovereign wealth-backed buyout of Ebb & Flow are the clearest examples of this. In the commercial market, British Land's acquisition of Life Science REIT and the joint takeover of Picton Property Income by LondonMetric and Schroder Real Estate both reflect appetite for consolidation among listed players. Meanwhile, Welltower's £1.18 billion acquisition of HC-One points to sustained US institutional demand for income-secure UK healthcare real estate.

Looking ahead to H2 2026, the M&A market enters the second half with more stable conditions. The Bank of England's decision to hold rates at 3.75% gives buyers and sellers a degree of visibility they have lacked for much of the past two years, and with inflation closer to target, further modest easing is widely anticipated before year-end. If that materialises, deal volumes should begin to recover as pricing gaps narrow. The ongoing conflict in the Middle East continues to create uncertainty, but early indications from H1 suggest that the market has shown an ability to transact around it. Against this backdrop, deal volumes appear well-placed to improve, supported by continued appetite for residential investment and listed sector consolidation.[10,11,12]

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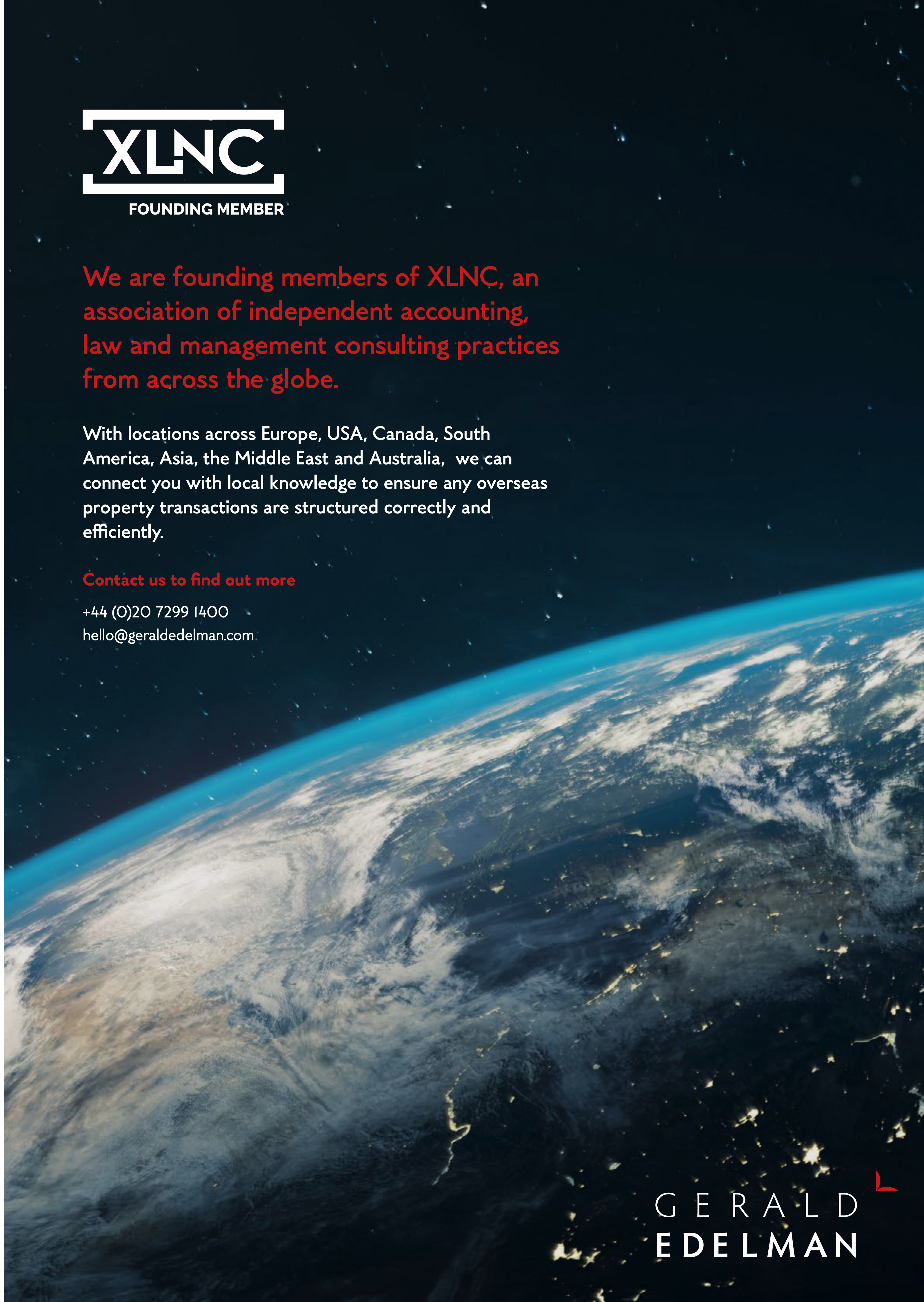

WHAT HMRC'S LATEST CRACKDOWN MEANS FOR BUY-TO-LET INVESTORS

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HMRC's crackdown on mixed-use and habitability claims has hit buy-to-let (BTL) investors particularly hard, with two of the last remaining tax mitigation options being closed off. This has resulted in many investors reconsidering the long-term future of their portfolios.

The specific areas impacting BTL investors include:

1. NO MORE "FIXER-UPPER" SAVINGS

BTL investors frequently focussed on buying highly dilapidated properties, with the intention of securing them at lower non-residential tax rates to get around the Higher Rates for Additional Dwellings (HRAD) surcharge as well as the non-resident surcharge (2% at present). However, following the Court of Appeal's ruling in Mudan v HMRC, buying a property with stripped pipework, no boiler, and holes in the roof, no longer qualifies as a non-residential purchase.

Investors must now pay full residential rates, plus the increased 5% HRAD surcharge, on the purchase price, thus significantly reducing the return on their investment.

The bar on what is considered uninhabitable is now set so high that very few properties will qualify. The temporary removal of kitchen or bathroom facilities, unsafe wiring, severe damp, and even floors that require full replacement, are not sufficient enough defects to render a property uninhabitable.

As a general rule of thumb, if the building was last used as a dwelling then unless it is so structurally unsound that it is physically dangerous or it requires demolition, it will remain habitable in HMRC's eyes!

> Investors must now pay full residential rates, plus the increased 5% HRAD surcharge, on the purchase price.

2. ATTACK ON "MIXED-USE" PROPERTY

Landlords often tried to classify suburban or semi-rural rental properties as "mixed-use" by focussing on detached garages, shared access tracks, or small paddocks to secure lower non-residential tax rates and side-step both the HRAD and non-resident surcharges.

For a BTL investor purchasing a £500,000 property, failing to claim mixed-use status means an additional SDLT liability of £25,500, more if the buyer is not UK resident.

HMRC recently launched an aggressive campaign against mixed-use claims, triggered by significant amounts of spurious claims, and they have been very successful at Tax Tribunal.

One area where HMRC have been most successful is around grazing licences. Even where land is used commercially, if it ultimately forms part of the natural setting, privacy or rural character of a house, it is part of its grounds and therefore residential in nature. Ideally, the arrangement should be under a formal tenancy that gives the farmer exclusive possession of the land in return for paying a market rent. Timing of the arrangement is also critical, as the tenancy agreements should not be entered into retrospectively and should ideally be in place before the purchase completes.

By closing off these opportunities, the upfront capital outlays for BTL investors are ever-increasing. Anyone who still tries to exploit these approaches can be faced with severe penalties. It is important for anyone considering buying a property that might have once got through the system as uninhabitable or partly commercial now seeks specialist advice in advance of the purchase.

> HMRC recently launched an aggressive campaign against mixed-use claims, triggered by significant amounts of spurious claims, and they have been very successful at Tax Tribunal.

GERALD EDELMAN ATTENDS THE 34TH ANNUAL VARIETY PROPS AWARDS 2026

On 14 May, Gerald Edelman was delighted to host a table at the 34th Annual Variety PROPS Awards Lunch, held at the JW Marriott Grosvenor House in London.

Representing the firm were Howard Freedman, Daniel Hildebrand, Katie Byan, Ben Hildebrand, Andrew Smith and Lauren Kelly, who attended alongside a number of valued clients and contacts from across the property sector.

The PROPS Awards remains one of the industry's most respected events, bringing together nearly 1,000 property professionals to celebrate excellence within the sector while supporting the important work of Variety, the Children's Charity.

A highlight of the day was hearing first-hand about the impact of the charity's work from a recipient. Through the funds raised by the PROPS Awards since its launch in 1992, Variety has provided life-changing wheelchairs, specialist equipment, Sunshine Coaches and memorable experiences for disabled and disadvantaged children throughout the UK.

We were particularly pleased to see our client, Peter Lowy, recognised with the Newcomer of the Year Award. Many congratulations to Peter on a thoroughly deserved achievement.

The event also featured a presentation from Katie Piper, helping to drive fundraising efforts that generated significant support for children and families across the country.

The PROPS Awards continues to demonstrate the strength of the property community and its commitment to giving back, and we were proud to support such a worthwhile cause.

UKREiiF® THE UK's REAL ESTATE INVESTMENT & INFRASTRUCTURE FORUM

UKREIIF 2026 CONNECTIONS, CONFIDENCE AND CONVERSATIONS

In May, members of the Gerald Edelman Property Team attended UKREiiF (the UK Real Estate Investment & Infrastructure Forum) in Leeds, one of the UK's leading events for the property and real estate sector.

With more than 16,000 delegates attending, UKREiiF continues to provide a valuable platform for bringing together developers, investors, advisers, local authorities and occupiers from across the industry.

While the programme of panel discussions offered plenty of insight into market trends, infrastructure investment and regeneration opportunities, one of the most striking themes this year was the value of face-to-face engagement. Across the three-day event there was a strong emphasis on relationship-building, collaboration and the sharing of ideas as businesses look to navigate an evolving market landscape.

Our team spent time meeting with clients, lenders, legal advisers and property consultants, discussing current challenges and opportunities across the sector. Encouragingly, many conversations reflected a growing sense of confidence, particularly around development activity, investment appetite and the long-term outlook for UK real estate.

Events such as UKREiiF provide an excellent opportunity not only to strengthen existing relationships but also to develop new connections that support our clients' ambitions. We look forward to continuing many of those conversations in the months ahead.

THE MODERN DEBT ADVISER - STRUCTURING LENDING AROUND WEALTH, LIQUIDITY AND LONG-TERM STRATEGY

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The role of the debt adviser has evolved significantly in recent years. What was once viewed primarily as a transactional function has become increasingly strategic.

Today's clients are not simply seeking access to capital; they are looking for advisers who understand the relationship between borrowing, business ownership, investment structures and long-term planning.

At Henry Dannell Private Clients, we increasingly see lending used as part of a wider strategy around liquidity, flexibility and capital preservation. Whether supporting portfolio landlords navigating regulatory reform, entrepreneurs following a business exit or families structuring liquidity around inheritance tax planning, the modern adviser's role is to bring coherence to complexity.

PORTFOLIO LANDLORDS, THE RENTERS' RIGHTS BILL AND EPC REGULATION

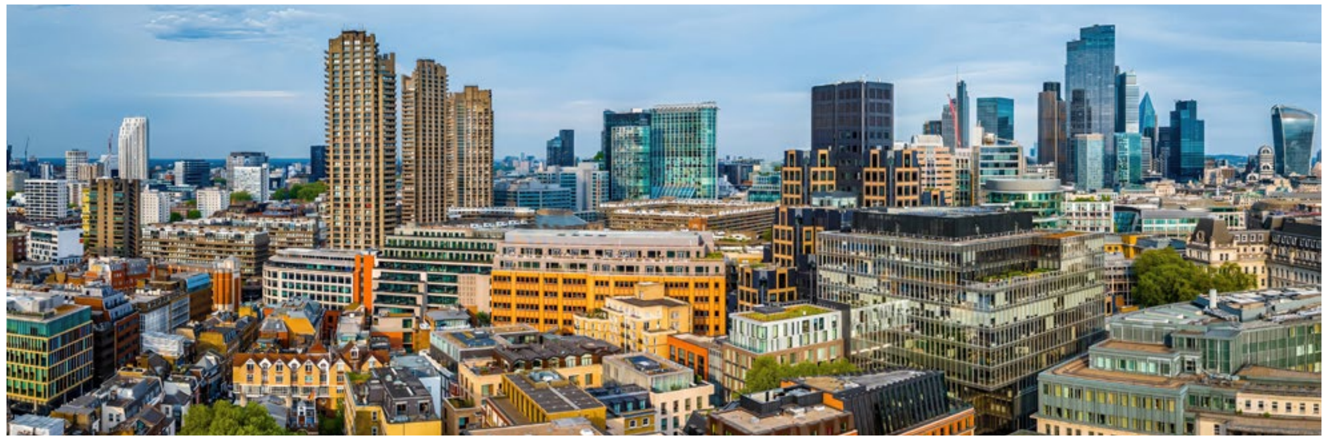
The UK buy-to-let market is entering a period of meaningful structural change. Proposed reforms under the Renters' Rights Bill, alongside evolving EPC and sustainability requirements, are reshaping how portfolio landlords approach financing, portfolio management and long-term investment strategy.

For many landlords, the conversation is no longer simply about acquisition. Increasingly, it centres on portfolio resilience and how assets are structured and financed within a changing regulatory environment.

The proposed abolition of Section 21 notices, stronger tenant protections and tighter compliance obligations are expected to increase operational pressures across the sector. At the same time, continued focus on minimum EPC requirements is creating additional capital expenditure considerations, particularly for landlords with older or less energy-efficient stock.

As a result, landlords are increasingly reassessing:

- refinancing strategies;



- leverage levels across portfolios;
- the viability of certain assets;
- incorporation and Family Investment Company structures;
- and the cost of future regulatory compliance.

Lenders are evolving accordingly. Greater attention is now being placed on EPC ratings, rental stress testing, portfolio concentration and the borrower's ability to absorb rising operational costs.
For some landlords, these changes may accelerate disposals or portfolio reduction. For others, they create opportunity to acquire selectively as market dynamics shift.

In this environment, debt advice becomes increasingly strategic. The adviser's role is no longer simply to arrange borrowing against individual properties, but to help clients structure lending in a way that supports long-term flexibility, portfolio resilience and evolving investment objectives.

LENDING SOLUTIONS FOR BUSINESS OWNERS FOLLOWING AN EXIT

A business exit often represents both a liquidity event and a transition point. While substantial wealth may have been realised, traditional underwriting models do not always interpret post-exit financial structures effectively.

Many entrepreneurs emerge from a sale with significant liquidity, diversified investments and sophisticated ownership arrangements, yet no conventional income. Traditional affordability models, focused heavily on current earnings, can struggle to reflect the true strength of these clients' financial positions.

This is where strategic debt advice becomes particularly valuable.

Following an exit, clients may seek lending to:

- acquire or refinance residential property;
- preserve investment capital rather than deploy cash into illiquid assets;
- or restructure existing liabilities.

The complexity rarely lies in the client's financial strength, but in how that strength is presented. Sale proceeds may sit across investment portfolios, holding companies or trust structures. Future income could be derived from those investments, deferred consideration, consultancy arrangements or retained business interests. These profiles require interpretation rather than standardisation.

Encouragingly, parts of the lending market are becoming increasingly sophisticated in their approach. Many challenger banks and private lenders are now willing to assess:

- retained liquidity;
- diversified investment assets;
- notional income;
- and future income expectations rather than purely historic taxable income.

For many exited business owners, borrowing is not driven by necessity but by strategy. Clients often prefer to preserve investment exposure and maintain liquidity rather than use cash to fund acquisitions outright. Structured lending can support this approach while maintaining flexibility and long-term capital efficiency.

The adviser's role is therefore to bridge the gap between entrepreneurial wealth and lender understanding, translating complex financial positions into coherent lending strategies.

LENDING SOLUTIONS TO COMPLEMENT INHERITANCE TAX PLANNING

As inheritance tax planning becomes increasingly important for high-net-worth families, lending is playing a growing role in supporting liquidity, flexibility and long-term wealth preservation strategies.

For many families, wealth is concentrated in illiquid assets such as property, businesses and investment portfolios. While these assets may have substantial value, generating liquidity to support wider inheritance tax planning objectives can be challenging without triggering asset disposals, disrupting investment strategies or restructuring long-term holdings.

Strategically structured lending can provide an effective solution.

Increasingly, borrowing is being used to:

- support gifting strategies while allowing families to retain investment exposure;
- provide liquidity against existing assets rather than requiring disposals;
- facilitate acquisitions within Family Investment Companies or trust structures;
- support intergenerational wealth transitions;
- and create flexibility around future inheritance tax liabilities and estate planning arrangements.

For many families, preserving control of long-term assets remains a key priority. Rather than liquidating property, business interests or investment portfolios, structured borrowing can allow clients to unlock liquidity while maintaining ownership of appreciating assets and preserving broader family wealth strategies.

This can be particularly relevant where families are undertaking longer-term inheritance tax planning and wish to ensure sufficient liquidity exists within the wider structure without disturbing core investments or creating unnecessary tax events through disposals.

> **While insolvency law enshrines equal treatment of creditors, rescue tools can create differential outcomes.**

As a result, debt is increasingly being viewed not simply as a financing requirement, but as a strategic component of modern estate and liquidity planning. The adviser's role is to ensure lending structures complement wider inheritance tax planning objectives while maintaining long-term flexibility and avoiding unnecessary complexity. Achieving this requires a detailed understanding of lender appetite, ownership structures and liquidity management, while working alongside legal and tax advisers where appropriate.

THE DEBT ADVISER AS STRATEGIC PARTNER

Across property investment, entrepreneurial wealth and multi-generational planning, a common theme is emerging: borrowing decisions are increasingly interconnected with wider financial strategy. Clients now expect advisers who can:

- Interpret complex financial structures;
- Align lending with broader liquidity objectives;
- Understand sophisticated ownership arrangements;
- Structure borrowing in a way that supports long-term flexibility and capital preservation.

The most effective debt advisers are no longer simply sourcing products. They are helping clients navigate complexity, structure opportunities and align lending with broader financial intent.
At Henry Dannell Private Clients, we believe lending should be approached strategically, not transactionally. When structured thoughtfully, borrowing becomes more than a financing tool; it becomes part of the wider architecture of wealth, liquidity and long-term planning.

ANNUAL TAX ON ENVELOPED DWELLINGS (ATED): WHAT DO YOU NEED TO CONSIDER

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Since 2013, Non-Natural Persons (NNPs) including companies, partnerships with corporate members and certain collective investment schemes have been required to consider and submit annual ATED declarations if they hold high value UK residential property.

Here we outline what you need to know if you are investing in a UK residential property via a corporate vehicle.

WHO IS SUBJECT TO ATED

An ATED return is only relevant if a high-value UK residential property is held within a 'corporate wrapper' which is known as enveloped.

Whilst the threshold for high-value UK residential properties was initially set at £2,000,000, it was subsequently reduced to £1,000,000 from 1 April 2015 and from 1 April 2016 dwellings valued above £500,000 came within the scope of ATED.

Question	Yes/No
Is the property located in the UK?	
Is the property residential?	
Is the property not one of these: Hotel, B&B, Hall of residence for students or care home?	
Is the property owned by a company, partnership with a corporate member, or a collective investment scheme (i.e. 'enveloped')?	
Is the property worth more than £500,000?	

Result:

All Yes → ATED likely applies (return required)

Any No → ATED likely does not apply

WHAT IS A DWELLING?

Broadly, a dwelling is a property where *all or part of it is used, or could be used, as a residence*. This would typically include a house or flat, together with any gardens, grounds or buildings within them. HMRC's guidance confirms that the test includes property which could be used as a residence, not only property that is actually being used as one. A dwelling can also include a property that is *in the process of being constructed or adapted for domestic use.*

WHO IS EXEMPT FROM ATED?

Certain types of residential accommodation are not treated as dwellings for ATED purposes. As a result, where a company holds these types of property, it may not be required to submit an annual ATED return.

Examples include hotels, care homes, hospitals, boarding schools, military accommodation and guest houses.

In addition, charitable companies using a property for charitable purposes, public bodies, and bodies established for national purposes may also fall outside the ATED charge.

WHAT IS THE CHARGEABLE PERIOD?

A chargeable ATED period commences from 1 April until the following 31 March. ATED returns are usually submitted a year in advance. For instance, the ATED return for 2026/27 chargeable period ought to have been submitted to HMRC by 30 April 2026.

WHAT ARE THE ATED CHARGES?

To calculate the ATED charge, you'll need to value your property. The valuation date is a fixed date and property is revalued every five years for ATED purposes. Currently, ATED returns up until and including 2027/28 year are based on a property value as at 1 April 2022. If a property is acquired after 1 April 2022, the value used for ATED purposes is its Market Value as at the date of acquisition.

Unless the property qualifies for relief, each ATED return reports the value of the property within a certain valuation band, based on which the annual ATED charge is applied. The annual ATED charges for 1 April 2026 to 31 March 2027 can be found below.

Property value	Annual charge
More than £500,000 up to £1 million	£4,600
More than £1 million up to £2 million	£9,450
More than £2 million up to £5 million	£32,200
More than £5 million up to £10 million	£75,450
More than £10 million up to £20 million	£151,450
More than £20 million	£303,450

ATED charges increase annually in line with the previous September's Consumer Price Index.

ATED RELIEFS: WHEN THE CHARGE CAN BE AVOIDED

The rules do recognise that some properties are held in companies for genuine commercial reasons. Relief from the ATED charge may be available where, for example, the property is used in a qualifying property rental business, property development business, property trading business, or is occupied by certain qualifying employees.

Importantly, even where relief is available, an ATED return must still usually be submitted to claim the relief.

Care is also needed, as relief can be denied or withdrawn if the property is occupied by someone connected with the company or ownership structure. These are known as "non-qualifying individuals" and can include the person who ultimately benefits from the property, as well as certain family members.

For example, if a company owns a high-value UK residential property and that company is ultimately owned by a trust settled by Mr A, relief is unlikely to be available if Mr A, his spouse or certain relatives are allowed to occupy the property.

The ATED relief rules can therefore be very valuable, but they need to be considered carefully to avoid unexpected charges.

IS IT TIME TO REVIEW THE OWNERSHIP STRUCTURE?

In some cases, the reasons for holding a property through a company may no longer be as strong as they once were.

Where the property is to be retained rather than sold, one option may be to remove it from the company structure. This is often referred to as "de-enveloping" and, once completed, the property would generally fall outside the ATED regime.

However, de-enveloping can have wider tax and legal consequences, so it is important to take advice before making any changes. Should you wish to pursue this, please do get in touch with us so that we can assist you.

WIDER POINTS TO CONSIDER

ATED is only one part of the picture when holding UK residential property through a company. Corporate ownership can also bring wider tax and compliance considerations, including higher SDLT costs on acquisition and, for overseas companies, reporting obligations under the Register of Overseas Entities.

The right approach will depend on the ownership structure, the use of the property and the long-term intentions of the owners.

In summary, the ATED rules can be complex, particularly for companies holding high-value UK residential property. Taking advice early can help ensure the correct filing position is taken, available reliefs are considered and unexpected charges are avoided.

If you would like to discuss how ATED may apply to your property or structure, please get in touch with our team today -we're only an email away.

OPTIONS TO TAX - PITFALLS TO WATCH OUT FOR

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Making an option to tax (OTT) on land and property is an old, tried and tested method to secure VAT recovery.

The law around options to tax is old, but not as old as the UK VAT legislation which dates back to 1973. In 1988, the European Commission took action against the UK ruling that new commercial property attracted VAT at 20%. In response the 1989 Finance Act came into force and shortly after further legislation was introduced that allowed a person to opt to tax. This ensured that, VAT would not be a cost when renting or disposing of commercial property, if the property had been bought as new with VAT incurred.

While the concept of the option to tax was quite straight forward, in reality there have been some issues with the operation in practice and here I have set out some common issues.

NO FORMAL ACKNOWLEDGEMENT

During Covid there was a lengthening backlog of a formal acknowledgement of an OTT. Possibly partly to solve this backlog, HMRC decided that the OTT unit would no longer formally acknowledge the OTT sent by the taxpayer. Instead, when the OTT form was sent by email there would be an auto response email from the OTT. It was recommended that a basket of evidence was kept, with the email from the taxpayer including the VAT registration details and the address on the subject line.

> My advice therefore would be to revoke and obtain HMRC agreement *before* selling the property.

ISSUES

1. Inadequate records.
2. Not all taxpayers and advisers keep records that are sufficient to prove that an OTT has been made.
3. Incorrect notification.

In a number of cases when looking at the application there were errors. An automated response from the OTT Unit only confirms that it has been received, not that the application is correct. I had a recent case where the seller sent full details of the OTT. However, when I examined the VAT1614a, the date of the OTT was more than four weeks before the email was sent.

> **My advice therefore would be to revoke and obtain HMRC agreement before selling the property.**

That meant that HMRC would have rejected the application or at least have asked for evidence that the conditions for a retrospective application were met. While eventually the seller did demonstrate that their OTT was valid, there was the possibility that it was not, and VAT claimed on the purchase would have been disallowed as the seller had not met the conditions for an OTT. The lack of a formal letter from HMRC means that buyers, or their advisors, need to carefully check the seller's evidence that they have opted to tax and have robust protections in the contract

REVOCATION

Some 15 years after the OTT was introduced, HMRC set out details of when a person could revoke their OTT. The main condition was that they had opted over 20 years before revoking. However, as always, the devil is in the detail and HMRC can ask questions and draw conclusions that do not feel reasonable.

My advice therefore would be to revoke and obtain HMRC agreement *before* selling the property. I had a case where the client had sent a revocation to HMRC and sold the property. They came to me as HMRC were insisting that the revocation was not valid. The reason for this, they gave, was that while the client had OTT more than 20 years ago, they had also OTT the same property 15 years ago, and it was that OTT that still applied. This was clearly incorrect – one can only waive their right to exemption once, but for a couple of months HMRC insisted that VAT was due which clearly caused unnecessary worry.

Deregistration

Note that HMRC are sending out long questionnaires to businesses that are deregistering and have OTT, even when the property in question has been sold a number of years previously. The questionnaire asks questions that feel partly irrelevant but if not answered correctly and in full HMRC may not process the deregistration.

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