Dealing with the Energy Act

- Implications of the Energy Act
- De-risking your portfolio
- Your path to energy performance

Lambert Smith Hampton

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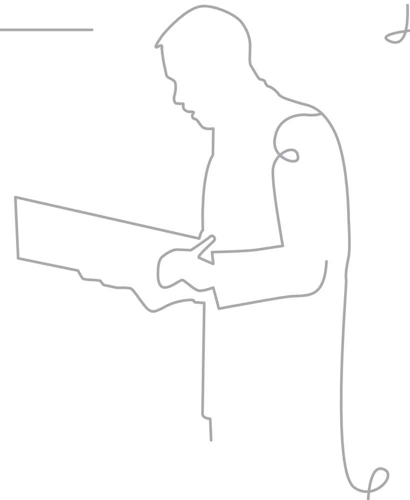
The Energy Act

The Energy Act will change the economics of sustainability in the UK. The Energy Act is the central pillar of the Coalition's programme relating to energy and climate change. It focuses on improving the energy efficiency of buildings and includes three major elements in the Green Deal, Energy Company Obligation and Private Rented Sector regulation.



The Act makes it unlawful to let premises that do not meet minimum energy efficiency standards from April 2018 (set as a minimum EPC rating of E), thereby making it unlawful for landlords to rent buildings with an F or G EPC rating until certain energy efficiency improvements are made. Whilst the energy efficiency improvements required by the Act, exceptions to the rule and links to the Green Deal are yet to be confirmed, the direction of travel has been clearly defined.

The delivery of energy efficiency improvements across the UK's commercial property stock has been restricted in many cases by the complexity of the landlord and tenant relationship and the inevitable discussion between parties as to who pays for the improvements and who benefits from them.

The response to the Energy Act will continue to be complicated, as lease terms and service charge agreements are closely scrutinised to determine who pays for improvements to the property and when.

The standard institutional commercial property lease includes a general clause stating that the tenant is responsible for complying with statute – a big question will be whether this is deemed as a 'golden' catch all clause that will result in the cost of improvements being passed down to tenants. We all await emerging case law on this subject.

The impact

Lenders need to

- Understand the risks of the Energy Act within their current loan portfolio
- Be aware of the EPC rating of any property they are considering lending on and the potential impact on the security of the loan repayments

Landlords need to

- Understand the level of risk within their portfolios and the potential impact on portfolio value and return
- Understand where the cost (and potential recoverability) of complying with the Energy Act lies
- Asset manage their properties to mitigate the impact of the Energy Act over the period to April 2018

Occupiers need to

- Be aware of unforeseen costs associated with raising the EPC rating of a property that might be passed on to them by the Landlord
- Understand whether the Energy Act will restrict their ability to sublet the building in future years therefore reducing their flexibility to respond to business needs

What are EPCs?

Energy Performance Certificates (EPCs) are required for buildings when they are sold, built or let. The certificate identifies how energy efficient a building is by providing a rating from G (least efficient) to A (most efficient). It is accompanied by a report providing recommendations for potential improvements to the building and indicative costs, pay back periods and carbon impacts.

How do EPCs work?

The rating provided within the EPC relates to the energy efficiency of the building and is based on factors including:

- The age and layout of the property
- The activities going on within different spaces
- The materials used in its construction
- How it is heated, cooled and ventilated
- How lighting is provided

Once an EPC is in place it is valid for up to ten years but cannot be amended - if any improvement works are carried out with the intention of making the building more efficient, a new EPC will need to be commissioned.

Our approach

Responding to the requirements of the Energy Act is a core strand to our overall approach to asset management. We have developed a comprehensive solution to the implications of the Energy Act for your property or portfolio.

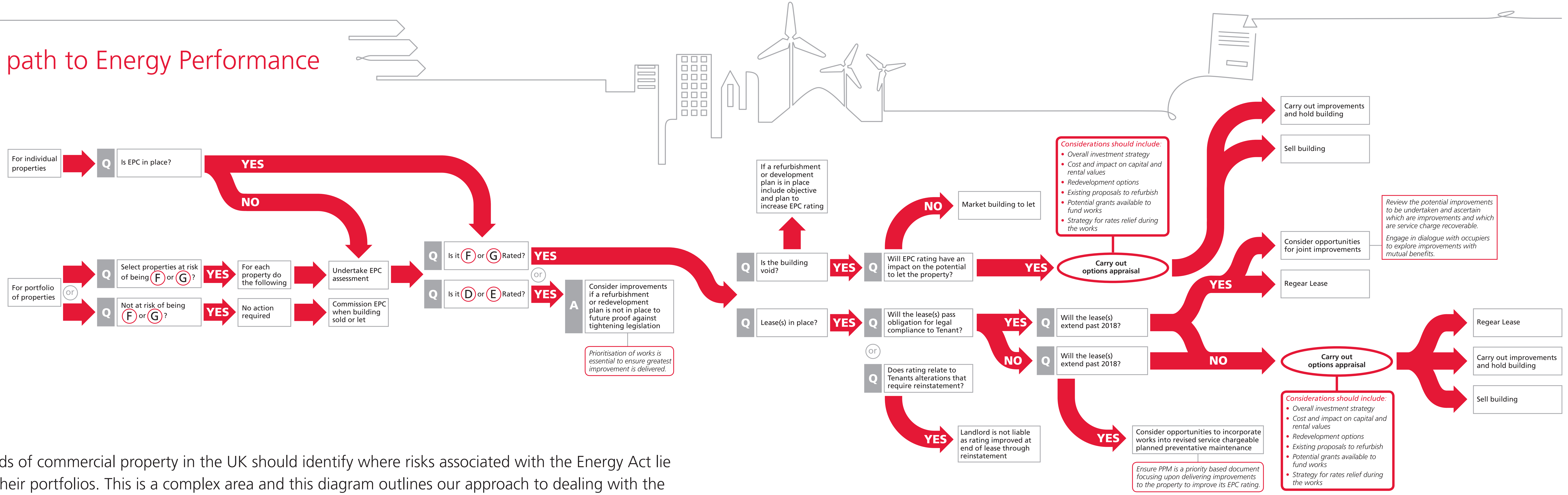
Portfolio appraisal

- Conduct desktop EPC appraisal to identify immediate problems (current F and G rated properties) and potential problems (current D or E rated properties)
- Identify potential options which could be applied to improve the rating. This would include a budget for capital expenditure, estimated outline payback, life cycle costs and potential carbon reduction
- Carry out a desktop valuation review of the portfolio in its entirety in order to ascertain the approximate percentage, in terms of value, of potentially F and G rated buildings as compared to the value of the portfolio as a whole. The level of potential risk may, thus, be identified
- This desktop review may also identify obsolete/redevelopment opportunities in the potentially F and G rated buildings
- Having identified specific properties which are at risk from an F and G rating a more detailed desktop or formal property valuation/appraisal would be undertaken, having regard to lease terms, tenant status and redevelopment potential
- Apply a detailed desktop assessment to take account of the different building types and ages. Refine the desktop phase of work before moving to a formal survey and detailed modelling process
- Assess the lease and where obligations for compliance with statutory requirements sit
- Occupier profiling to look at current tenancy profile and future intentions. Assess risk on behalf of tenants who may have long leases where they may not be able to sub-let due to the EPC rating and may be prepared to pay a premium for improvements or surrender
- Establish a strategy for implementing works which could maximise recovery of costs from tenants whilst offering savings on the service charge through reduced maintenance and or running costs and improving the EPC rating at the same time

Individual asset appraisal

- Obtain an EPC for the property
- If the property is F or G rated undertake a formal property appraisal having regard to lease terms, tenant status and redevelopment potential
- Apply a detailed desktop assessment to identify costs of improving the EPC rating. Refine the desktop phase of work before moving to a formal survey and detailed modelling process
- Assess the leases and where obligations for compliance with statutory requirements sit
- Occupier profiling to look at current tenancy profile and future intentions. Assess risk on behalf of tenants who may have long leases where they may not be able to sub-let due to the EPC rating and may be prepared to pay a premium for improvements or surrender
- Establish a strategy for implementing works which could maximise recovery of costs from tenants whilst offering savings on the service charge through reduced maintenance and or running costs and improving the EPC rating at the same time

Your path to Energy Performance



Landlords of commercial property in the UK should identify where risks associated with the Energy Act lie across their portfolios. This is a complex area and this diagram outlines our approach to dealing with the specific challenges the Act will create for property owners.

About us

At Lambert Smith Hampton, our clients mean a lot to us. Our success and reputation depends on how we contribute to their success and reputation. So why do our clients choose us? There are many reasons, but chief amongst them is that we're unashamedly and single-mindedly focused on the UK and Ireland. This means that we're on the ground, in the thick of it, at the heart of things. We're not here, there and everywhere. We're just here.

We want to understand all our clients' issues, from the huge right down to the tiny. This is – and always will be – the Lambert Smith Hampton approach. No stone is left unturned. No angle goes unconsidered. Every job is important.

It sounds like hard work. It is. But that's how success happens.

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