



DECEMBER 2011 COMMERCIAL MARKET REPORT

Knight Frank

HIGHLIGHTS

- Fixed Charge Receivership – A new concept in Ireland
- Retail - Far from dead
- Offices - Is the tide coming back in?
- Dublin Investment Market – The future looks brighter
- Sustainability Knight Frank - It's our world
- Knight Frank Ireland - Re-cycling and re-using

FIXED CHARGE RECEIVERSHIP – A NEW CONCEPT IN IRELAND



By Paul McDowell
Managing Director, Knight Frank Ireland
NAMA appointed Fixed Charge Receiver

The role of Fixed Charge Receiver (FCR) is a new concept in the context of property in Ireland. It is a form of receivership commonly used in the UK for nearly a century and codified by legal statute in that jurisdiction since 1925. This has not been the case in Ireland and, in fact, 'Fixed Charge Receiver' is a relatively unfamiliar term here.

So what is it and how does it arise?

Firstly, and most importantly, it is a very different and complimentary form of receivership to the more traditional appointment of an insolvency practitioner as receiver, with which we are all too familiar recently. The FCR role is specifically designed to take receivership of fixed assets, such as vacant property, land or investments that are leased.

It is designed to administer and manage all normal property functions to include collections of rents, payments of bills and so forth, with a view to preparing the property

for eventual sale at the opportune time in order to redeem as much of the outstanding borrowings as possible.

However, it is not a suitable form of receivership where there is any element of running a business or a company. This would include enterprises such as hotels, pubs and similar businesses that involve the management of staff, buying and selling of stock etc. This remains clearly the preserve of the insolvency practitioner who has those requisite skills.

Therefore, the FCR has to be an experienced property expert who is skilled in the asset management of real estate and has all the necessary support and management capabilities at their disposal. His or her task is to consider and implement a strategy that maximises the eventual sale value for the benefit of both borrower and lender.

In Ireland, the appointment of the FCR is usually legislated for under the respective Loan document/Mortgage Deed and it is critical that any FCR appointee ensures that their appointment is legally compliant as there is no specific legislation.

However, NAMA, under the 2009 NAMA Act, was granted extended and wide powers for the appointment of FCRs, allowing the FCR much greater discretion.

So what are the challenges for the FCR?

Perhaps the most fundamental principle of this appointment is that the FCR has a legal duty of care to maximise the outcome for the borrower, although appointed by the lender. In reality the interests of the two parties are aligned in that the best result for the borrower is also the best result for the lender. The FCR acts in an independent capacity for both of these parties.

When I was appointed by NAMA over a portfolio of Dublin properties, there were some interesting challenges as I was one of

the first such appointees, which meant there was little in the way of previous experience to rely upon, other than that of the UK.

A major challenge for the FCR is that the appointment is probably as a consequence of the fact that the relationship between the borrower and the lender has largely failed. Therefore, in taking up the role one can be largely blind as there may be little in the way of documentation or supporting facts about the buildings, other than the information in the lender's possession. At this point, a detective style process commences in order to gather this information, such as who are the tenants, are there any leases, what are the rents and so forth.

Tax Issues

One of the more interesting and evolving issues has been the treatment of taxation in Ireland. Under UK legislation, the FCR has no responsibility for taxation. That is not the case here, where the FCR is deemed to step into the shoes of the borrower under Irish taxation legislation.

This was a steep learning curve for all parties, including the Collector-General's Office. However, the protocols have now largely evolved and accounting for tax has just become one of the many practice duties for the FCR.

To sum up

It is a challenging and demanding role as the FCR must act as if the property were his or her own. The consequence of decisions must be properly thought through to ensure that the aim of maximising value is paramount and is the central responsibility, whatever difficult decisions or otherwise that may require. It is not a role to be taken on lightly.

I believe that this form of FCR receivership will become as common in the Irish market as it is currently in the UK due to its effectiveness in asset managing distressed properties and preparing them for eventual sale.

RETAIL – FAR FROM DEAD



By Keiron Diamond
Director, Head of Retail

The retail sector has been the hardest hit since the recession began and there has been extensive coverage of the difficulties that both retailers and landlords have had to endure over the past 4 years. The long

awaited decision regarding rent review legislation is now scrapped, with a glimmer of hope for tenants of buildings controlled by NAMA, and no consolation for tenants in units outside of NAMA. The urgency of negotiation between the parties to agree viable rents for both landlord and tenants is now clearer than ever.

The inertia caused by uncertainty is now at least behind us and many retailers are seeing opportunities and expanding.

Musgraves have completed their acquisition of supermarket giant Superquinn and Hollister have now opened their eagerly awaited unit in Dundrum Town Centre, both positively impacting on the retail sector. Boots, Tesco and Poundland (Dealz) are expanding rapidly as all can now take advantage of reduced rents, substantial tenant inducements and more flexible lease terms. Tenants are recognising that although the market is undeniably tough at present,

consumers will continue to spend and the watch word is "value".

We at Knight Frank have recently completed acquisitions on behalf of Pandora at Dundrum Town Centre, The Square Tallaght and Blanchardstown Shopping Centre, a further two stores are due to open shortly in other locations. Other acquisitions on behalf of clients include, Amplifon in Abbey Street Dublin and national pharmacy chain Sam McCauley Chemist at the Showgrounds in Clonmel. Terms have been agreed for Yogen Fruz at both the Jervis Centre and Victoria Square Belfast, who are seeking a further 10 units in the Republic of Ireland. We are also seeking five Drive-Thru sites for KFC around the country. We are actively advising a range of retailers with a view to continued expansion or new entry into the Irish market. Knight Frank are confident that 2012 will be a busy year ahead, and we are keen to react positively to new retail opportunities.

OFFICES – IS THE TIDE COMING BACK IN?



By Mark Smyth
Director, Head of Office Agency

Before we review the offices sector, it is worth mentioning the following which has a strong bearing on business sentiment and in turn investment.

- Unemployment is dropping
- The economy is growing

In a myriad of bad news, sometimes good news is overlooked and the above points are

very much good news for both Ireland and in this case, specifically the office market.

Like any marketplace the office sector is driven by supply and demand. Supply in the sector is slowing considerably, as new office development has ceased and speculative developments have been put on hold.

We do not foresee any new office development in the near future unless a 'pre-letting' is agreed. The simple fact is that there are neither the resources nor the appetite from banks to fund speculative development.

There is also a strong argument that we are oversupplied in the Grade B and period Georgian/Victorian offices sector in the city. This 'secondary' space is obviously less appealing to prospective tenants in the market and understandably the high quality space that is on the market will let first.

This is not to say that lettings are not occurring in the Grade B offices and Georgian sector, but where they are occurring it is due mainly to these offices being competitively priced and in most cases after substantial investment has been carried out.

So where is the demand coming from? While the phone is most definitely ringing, we

have noticed a shift in enquiries and many companies are now seeking new offices.

In the last 10 weeks alone we are aware of demand from 40 companies for approximately 30,000 sq m in the Central Business District (CBD) alone. Demand is coming from the IT/Technology and Financial/Business services companies, whereas demand from the public sector and professional practices is minimal.

While the slowdown in new available stock and noted increase in demand from tenants is most definitely good news, we do not foresee a bounce in rents in the near future.

We predict leases will be invariably short and will contain break options into the medium term and this may become the norm, to mirror US trends.

Tenants are now ultra savvy and in no rush to conclude deals, but for a sector that has seen dramatic falls in rental and investment yields since this melee began, we are seeing signs of a steadier ship.

Let's hope the sector does not take any further hammer blows and we see a return to some sort of a normal trading market in the short and medium term.

DUBLIN INVESTMENT MARKET – THE FUTURE LOOKS BRIGHTER



By Ciara Horgan
Divisional Director, Investment

The Dublin investment market has spent the past three years at a virtual standstill which has made it very difficult for agents and investors alike. Following last week's budget, which was sympathetic towards the commercial property market, we can now look forward to a functioning market and clarification on where prime yields really do lie as opposed to speculation.

The Government's budget was wholly positive for commercial property in that it introduced three key measures, which will

kick start the market. Firstly, as previously suspected, Stamp Duty on commercial property has now reduced from 6.00% to 2.00%; this brings Irish Stamp Duty for the first time below the UK, which is currently at 4.00%.

Secondly, Capital Gains Tax Relief is available to investors who acquire property between now and the end of 2013, albeit when the property investment is held for 7 years before disposal.

The third and final key measure introduced is the confirmation that the plan to abolish upward only rent reviews has now been scrapped following pressure from NAMA and other parties. Lower Stamp Duty, Capital Gains Tax Relief coupled with the scrapping of proposed rent review legislation will boost investment as it will enhance price levels and remove tenant income uncertainty from the marketplace.

There are two prime office investments currently in the market, One Warrington Place and Riverside II. One Warrington Place, arguably not as prime as Riverside II, is rumoured to be entering into exclusive due diligence with a Financial Institution.

Riverside II has attracted investor attention from both domestic and non domestic investors and is embarking on a final round of second bids. This proves that there is plenty of cash waiting to invest in Dublin and a strong sense of belief in the investment market as a whole. Investors will positively benefit from potentially reduced stamp duty and clarification regarding the rent

review legislation. The Dublin investment market is waiting with much anticipation for both deals to complete and a prime office investment yield to be officially confirmed.

Lessons have now been learnt from the past and current indicated prime office yields are well above the 30 year long term average of 6.00%. Dublin's long term average prime office yields should always be in line with large regional cities in the UK and France and not to compete with investment strong holds such London and Paris. 2011 has been a challenging year so it is time to now look towards a functioning investment market worthy of a capital city such as ours.

Going forward into 2012, we anticipate considerably more movement in the investment market. Fixed Charge Receivers and Financial Institutions will release commercial property for sale into a functioning market with willing buyers paying market values.



Riverside II, Sir John Rogerson's Quay, Dublin 2

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SUSTAINABILITY KNIGHT FRANK - IT'S OUR WORLD



By Peter Moloney
Director, Knight Frank Management Ireland

Knight Frank is committed to being an environmentally responsible firm and has an international Sustainability Consultancy team to drive innovation and value to clients.

Over 80% of today's built environment shall still be here in 2030 and, therefore,

sustainable property asset management is vital in the building life-cycle.

We work with clients to –

- Understand and comply with existing legislation
- Inform as to environmental policy development
- Apply sustainability to their property and business
- Identify and achieve cost savings through sustainability strategies
- Exploit renewable energy solutions
- Compare environmental performance with international benchmarks for asset classes

For our own part, Knight Frank takes a leading role in environmental standards and compliance in many of our worldwide markets, whether that be our Gold Label Award in the Low Carbon Office Operation programme in the Hong Kong office, our accreditation for our Environment Management System to ISO 14001:2004 Standard covering our UK offices, or achieving with our clients' teams compliance

with a range of international building rating metrics e.g. BREAM, Global Reporting Initiative, LEED etc.

Here in Ireland we also take a leading role, and our Property Asset Management business was the first in Ireland to report our own carbon emissions and also the carbon emissions of our clients' property portfolios under management.

We utilise our in-house expertise in providing Carbon Accounting and Reporting services to clients. This benefits our clients' tenants in enabling them to fulfil their commitment to the environment and also to be assured that their building is being managed in line with best practice environmental policies.

We take responsibility for our actions and carefully consider the environment in the procurement of services across our management portfolio.

We also secure commercial value for utilities charges and work in partnership with a specialist brokerage in purchasing various utilities on a portfolio basis.

KNIGHT FRANK IRELAND – RE-CYCLING AND RE-USING



By John Mockler
Managing Director, Knight Frank
Management Ireland

As part of Knight Frank's environmental policies, we advocate the re-use of computers as a better choice for the environment and work with Camara to achieve our objectives.

Camara Education, a social enterprise and charity, specialises in the re-use of computers to educate children in disadvantaged schools in East Africa, Jamaica and Ireland. Camara erases all hard drive data to US Department of Defence standard and then refurbishes computers, loads them with educational software and distributes them to disadvantaged schools.

To date Camara has re-used over 25,000 computers in this way, allowing almost 500,000 children to receive a better education as a result.

John Fitzsimons, Camara Education CEO stated that "Camara's primary focus is on education and the computer re-use solution also provides added environmental benefits by extending the life of computers. We are delighted to work with Irish businesses in re-using their equipment for the benefit of disadvantaged schools."

250,000 computers are scrapped each year by businesses in Ireland and, on average, computers are disposed of after only three years of use. Through its re-use programme, which is the largest in Ireland, Camara Education is extending the life of computers by five years.

Despite weighing an average of 20kg, over 1.8 tons of raw materials are necessary to construct each computer. The energy used to make a computer is equivalent to powering the average home for two months. Re-use of computers saves resources and reduces carbon emissions.

We at Knight Frank Management Ireland are delighted to work with Camara Education and recommend them for donation of any unused or redundant IT equipment. They are very efficient, prompt and provide all required recycling and data destruction certification. We are also pleased to know

that our computers will be re-used in disadvantaged schools.

For more details contact
computers@camara.ie
or check out
www.green.camara.ie



Pictured are John Fitzsimons of Camara, together with Pauline Madden and John Mockler from Knight Frank Management Ireland at the Camara facility in Chapelizod Industrial Estate, Dublin.

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NEW RESIDENTIAL LETTINGS DEPARTMENT AT KNIGHT FRANK



Clodagh Barry
Head of Residential Lettings

Knight Frank Ireland has expanded again. We have added a new residential lettings department and appointed new personnel so as to provide yet a further dimension to our residential client services business.

Clodagh Barry MIAVI, Assoc. RICS, Dip. AVEA has joined Knight Frank Ireland to take up the new role of running and developing the new Dublin Residential Lettings Department, working closely with our Residential Sales Department.

Clodagh previously headed up the residential lettings and property management departments at Colliers International, where she worked for the past seven years.

She joined Colliers International (then Jackson Stops) in 2004 as senior sales negotiator and later, as the recession worsened in Ireland and residential sales fell, she identified a market gap and set up their lettings department to meet demand.

Prior to that Clodagh worked with Gunne Residential as a sales negotiator. She is a graduate of DIT Bolton Street and is an associate member of the RICS.

Our Head of Residential & Country Robert Ganly says that Knight Frank Ireland has always been involved in residential lettings

on a lesser level, but that “the time has come when we now needed to put that end of our residential business onto a firm footing to give an expansive service to residential clients and to be leaders in the marketplace going forward”.

“This expansion move adds another string to our bow”, he said, “and complements our commercial & residential property and asset management business acquired about this time last year, which, trading under our subsidiary Knight Frank Management Ireland Ltd, continues to go from strength to strength”.

Robert Ganly added that being able to provide property consultancy services such as these, also puts Knight Frank Ireland in an even stronger position to handle some receiverships or similar properties that may not necessarily be being put up for sale right away.

KNIGHT FRANK IRELAND APPOINTS A 'SOARING STAR'



Jane Dolan
Surveyor

A soaring star on all fronts, but especially in sports, has joined the commercial property team at Knight Frank Ireland.

The highly skilled award-winning camogie player Jane Dolan, a graduate surveyor, has been appointed to our Office Agency and Tenant Representation Department in Dublin.

For the second year running, Jane has won the 'Camogie Soaring Star All Star Award' for her outstanding contribution as a player for the Meath team. She was also nominated for a senior All Star award three years ago.

As well as playing for Meath, Jane is on the Blackhall Gaels club team. She also played for the Dublin Institute of Technology team for four years.

From Batterstown in County Meath, Jane Dolan holds a BSc Valuation Surveying degree in Property Economics and a BSc Real Estate degree in auctioneering valuations and estate agency from DIT Bolton Street.



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