



Thorley Lane East Woods Action Group

legal@thorleygreenbelt.com

Callum Glenn
Barnard Marcus Auctions,
Sovereign House,
361 King Street,
Hammersmith,
London,
W6 9NA

29th August 2022

By email and special delivery

Plots A and B, Thorley Lane East, Bishop's Stortford, Hertfordshire CM23 4BH ("the Property")

Dear Mr Glenn,

We refer to two plots (currently marketed as lots 27 and 28 in your online auction catalogue) at the above Property, which you are auctioning on Thursday, 15th September 2022.

We would like to bring to your attention certain aspects of the Property that we feel it would be incumbent on you to bring to the attention of any prospective bidders in accordance with your profession's Code of Ethics and your obligation to treat all parties to the transaction fairly. *"The agent must describe the property as accurately as possible and not misrepresent the details. Agents are legally bound under the Consumer Protection from Unfair Trading Regulations 2008 to describe a property truthfully and provide material information to allow potential buyers to make an informed transactional decision"*.

The Property currently comprises an historic and established woodland site within a single registered title. We note that you are marketing it as sub lots of 2 plots of 1.6 acres, each at a guide price of £150,000. We are reliably instructed that, on the basis of its current amenity use as a woodland, each plot would be worth, at most, £20,000-£30,000.

The Property is currently subject to tree preservation orders across its entire site and falls within protected Green Belt, where there operates a presumption against development. We also understand that the Property is designated as a natural, semi-natural and other green space for the purposes of the local plan. Please note that discussions are also currently in hand with the Head of Planning at East Herts Council as regards the possibility of an Article 4 Direction being registered against the Property. Further exchanges have also taken place with the local MP, as well as the Minister of State for Housing, as regards the Property's protected status.



In light of the above, you should also be aware that a community action group has been mobilised, as a result of the groundswell in local opinion. The Thorley Lane East Woods Action Group comprises a committed and professional group of community specialists, who will be representing and campaigning to protect the Property going forward, and which has close connections with the local press, The Bishop's Stortford Independent. Indeed, several in-depth articles have already been published in collaboration with us. Further detailed coverage has also been produced, for publication in the September and October's edition of The Bishop's Stortford Flyer magazine.

Your promotional plan identifies the Property, with red edging around its boundary. This, together with the inflated guide price, would intimate to any reasonable third-party bidder that the Property has development potential. By contrast, all relevant authorities with whom we have liaised have clearly asserted that it does not. In fact, there has been a consensus amongst local councillors and the local MP that any proposed change of use will be opposed wholeheartedly. The issue of access is also not clear-cut, with a ransom strip running round the Property boundary so as to separate it from the public highway.

Whilst the Property is listed stating that *"these lots are sold on an unconditional basis only and purchasers considering alternative uses of the land or development prospects are deemed to rely solely on their own enquiries and research as to permissions required for intended use and/ or development"*, we would draw your attention to the law on misrepresentation: any untrue statement of fact which induces a party to enter into a contract thereby causing loss. A court will consider implied representations and *"what a reasonable person would have inferred was being implicitly represented by the representor's words and conduct in their context"* (to quote 2006 caselaw). Misrepresentation may also derive from what is left unsaid. Likewise, the relative knowledge of the parties is important and, in this case, there may be many bona fide interested lay bidders (especially neighbours), who would be relying on your professionalism and your quoted endeavour of *"ensur[ing] that the information and description are accurate and up-to-date"*.

We are also concerned that you are not allowing sufficient time for comprehensive legal and sales packs to be dispatched to interested parties. We refer to your website, in which you state that *"to consider buying at auction, bidders should complete all their enquiries and checks (due diligence) prior to bidding. As a minimum this should include inspecting all the documents in the legal pack and taking advice upon the contents where appropriate or unsure of understanding"*. We respectfully submit that your conduct precludes any prospective bidder carrying out the requisite amount of due diligence before the morning of 15th September, particularly when we are dealing with a woodland, in which the investment value derives so fundamentally on assessing development potential. Given the nature of an auction, where the fall of the auctioneer's hammer constitutes exchange and the creation of a legally binding contract, we submit that the gravity of this outcome requires greater transparency from you (particularly when full details of the Property's protected status have been directly provided to you by means of our website at www.thorleywoods.org). This information is now in the public sphere and should be highlighted by you to avoid charges of misrepresentation.



We are also aware of your previous connected incarnations as an auction house and the negative media that has already been generated in the national press as a result of similar marketing strategies at other sites. We refer to the following article by way of example: <https://www.thisismoney.co.uk/money/mortgageshome/article-8582117/Farmers-land-owners-warned-Country-Land-Conservation.html>.

We note that you have a prescribed complaints procedure and subscribe to a Code of Practice agreed with Trading Standards and The Property Ombudsman. We are currently taking advice as to whether these avenues should be pursued in this instance and a formal complaint submitted.

Notwithstanding the above, we remain hopeful that your company will be good to its ethos and that you will, at least, let any potential bidder be aware of the local action group, the specially designated status of the Property, the negative press coverage and the contents of our comprehensive website at www.thorleywoods.org

To protect all parties and given the fact that you run regular auctions, we respectfully suggest that the lots connected to the Property be postponed until all the facts have been properly considered and disclosed, if only to protect yourself and your own clients from avoidable litigation and legal costs.

Should you require more information, please do not hesitate to contact us at legal@thorleygreenbelt.com.

Many thanks in anticipation of your co-operation.

Yours sincerely,

Thorley Lane East Woods Action Group