

REFERENCE

LP-NOTE-01

A note on option agreements, for UK landowners

# How option agreements actually work.

A plain-English note for landowners; what they are, what they commit you to, and the questions worth asking before signing anything.

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DOCUMENT

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minutes

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**FROM**

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**A NOTE BEFORE WE START**

**RE** What an option agreement is, in plain English

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If you've received a letter from me, you'll know I work with landowners across the UK to explore what their land could be worth with my planning lens on. The arrangement that makes that possible is called an option agreement and it's the part most landowners want to understand before they pick up the phone.

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This note is meant to do that. It's short on purpose. It explains, in plain English, what an option agreement actually is, what it commits you to, what it doesn't, where things can go wrong, and the questions worth asking before you sign anything.

Nothing here is legal advice. Before signing any option agreement, you should have your own solicitor read it through. But by the end of this note, you should know enough to walk into that conversation with your eyes open.

Hayri

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**WHAT AN OPTION AGREEMENT IS, IN ONE PARAGRAPH**

An option agreement is a contract between you (the landowner) and a developer. It gives the developer the right, but not the obligation, to buy your land at a price you've both agreed in advance; provided they exercise that right within a fixed window of time. In exchange, you agree not to sell the land to anyone else while the option is live. Depending on the site, the agreement may also include a small upfront sum (the 'option fee'). This is sometimes part of the arrangement and sometimes not, and where it is, it's typically a modest amount paid on signing.

You keep ownership of the land throughout. Nothing changes hands until and unless the developer decides to go ahead and buy.

The purpose is straightforward. The developer typically wants to spend their own time and money trying to obtain planning permission on the site before they commit to buying it. The option agreement gives them the certainty they need to invest in that work, knowing that, if planning comes through, they can buy at the agreed price. It gives you the certainty that if the work pays off, you get paid a price that reflects the land's real value.

## HOW IT ACTUALLY WORKS

# Three stages, from a first conversation to either completion or the option falling away.

## STAGE 01

## We agree terms.

We agree the price I'd pay you for the land and the length of the option period typically 12 to 18 months on the kind of sites I work on. Both of us appoint our own solicitors. Yours reads the agreement and advises you.

Once both sides are happy, we sign. The agreement is then registered at HM Land Registry as a notice against your title, this protects me, but it doesn't change your ownership.

## STAGE 02

## I apply for planning.

I take on the full cost and work of the planning application. I'll keep you informed as it progresses, and I'll need to ask for your cooperation on small things, signing the planning application as the freeholder, allowing surveyors onto the site with notice, but I don't need money from you for any of it.

Through that period, your land continues to be yours. You live on it, farm it, or use it as you always have. You just can't sell it to anyone else.

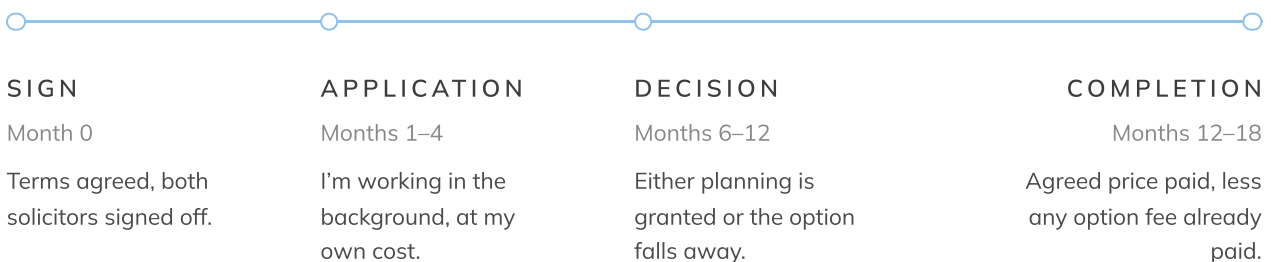
## STAGE 03

## Either I buy or the option falls away.

If planning is granted and I want to proceed, I serve formal notice that I'm exercising the option, and we complete the sale within a defined window set out in the agreement. The price is the one we agreed at the start (less any option fee already paid, where one was part of the arrangement).

If planning is refused, or if the period runs out without me exercising, the option simply falls away. The land remains yours, unencumbered, and any option fee paid stays with you.

## A TYPICAL TIMELINE



## COMMITMENTS

# What you are and aren't agreeing to.

Plain English on both sides. The point of an option agreement is to give a developer time and confidence to pursue planning at their own cost; not to put you under obligation. These are the two columns laid out side by side.

## You **are** agreeing to...

- Not sell the land to anyone else while the option is in place.
- Hold the agreed price for the option period, even if the market moves.
- Cooperate on the planning application in small administrative ways; signing as the freeholder, allowing pre-arranged site visits for surveys.
- Not do anything that materially harms the planning case. For example, you wouldn't grant a new long lease over the land or put up structures on it during the option period.
- Sell with vacant possession at completion the land is handed over free of occupiers (worth thinking about if you farm it, let it, or have anyone using it).
- Sell on an 'as seen' basis; you're not warranting things like ground conditions or contamination; those are my problem to investigate before I commit.
- Allow me to assign the agreement if I need to, with your consent, which a reasonable agreement says can't be unreasonably refused.
- Accept that I can walk away. I can choose to end the option at any time during the period; usually a feature for you, since it frees the land sooner.

## You are **not** agreeing to...

- Pay anything. The cost of the planning application, the legal work, the surveys, the consultants, those are all mine.
- Sell the land if planning fails. If it doesn't work, the option falls away. You keep both the option fee and your land.
- Give up ownership. You remain the registered owner of the land throughout.
- Give up future value. Once the option ends, whether or not we complete, your land is fully yours again.
- Stay in the dark. A reasonable option agreement requires me to keep you updated on the planning application's progress.
- Anything beyond the timeframe. When the option period ends, so does every obligation in this document.

## WHAT TO LOOK OUT FOR

# Most option agreements are written reasonably. A few are not. Here's what to watch for.

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01

**An option period that's longer than the work needs.**

A small residential site doesn't justify a ten-year option. Twelve to eighteen months is normal for the kind of sites I work on; anything beyond two years should have a clear reason. There should always be a long-stop date.

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02

**A price mechanism you don't understand.**

Whether the price is fixed or based on a formula (a percentage of the eventual planning value, for instance), you should be able to explain it back in your own words. If you can't, the agreement isn't ready to sign.

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03

**Vague obligations on the developer.**

A reasonable agreement requires the developer to actually do something; submit a planning application within a defined period, keep pursuing it in good faith. An option that lets a developer sit on your land without progressing is one to be cautious of.

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04

**An 'assignment' clause without context.**

Most option agreements allow the developer to transfer the agreement to another party; this is normal and usually has to do with funding arrangements. But ask who the developer might assign to, and what notice you'd receive. You're entitled to know.

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05

**Restrictions that stop you using the land normally.**

During the option, you should still be able to live on the land, farm it, or use it as you do today. If the agreement materially restricts your ordinary use, that's worth pushing back on.

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**QUESTIONS WORTH ASKING YOUR SOLICITOR**

## Nine questions a good developer should be glad you're asking.

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- 01 *Is the option period reasonable for the work being proposed?*

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- 02 *Is there a long-stop date, and what happens at it?*

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- 03 *How is the purchase price calculated, and what happens if I disagree with the figure when the time comes, who appoints the surveyor, and on what terms?*

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- 04 *Can the developer assign the option, and to whom, and do I have to consent?*

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- 05 *On what basis is the land being sold at completion, vacant possession, 'as seen', any warranties?*

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- 06 *Am I free to use the land normally during the option period?*

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- 07 *What obligations does the developer have to actually progress the planning application?*

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- 08 *What are the tax implications for me?*

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- 09 *Will I be reimbursed for my legal costs?*

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**IF YOU'D LIKE TO TALK IT THROUGH****PHONE** [+44 7471 127212](tel:+447471127212)**EMAIL** [hayri@laterna.partners](mailto:hayri@laterna.partners)**WEB** [laterna.partners](http://laterna.partners)

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*This note is for general information only and is not legal advice. Before signing any option agreement, please obtain advice from a solicitor who can review the specific terms being proposed on your land. A short phone call is the best place to begin if anything here raises a question.*

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