

PROPERTY SERIES

Buying Bargains at Property Auctions

**A comprehensive guide to the alternative
way of buying property**



AUCTION
Friday June 20

SOLD

Howard R Goodie

This is an excerpt from Lawpack's *Buying Bargains at Property Auctions*.
To find out more about bagging a bargain property at auction,
[click here](#).

Buying Bargains at Property Auctions
by Howard R Gooddie

1st edition 2001

Reprinted twice 2002

2nd edition 2003

Reprinted twice 2003

Reprinted 2004

3rd edition 2004

4th edition 2005

Reprinted 2006

Reprinted 2007

5th edition 2009

© 2001, 2003, 2004, 2005, 2006, 2007, 2009 Howard Gooddie

Lawpack Publishing Limited

76–89 Alscot Road

London SE1 3AW

www.lawpack.co.uk

All rights reserved.

Printed in Great Britain

ISBN: 978-1-906971-10-6

Exclusion of Liability and Disclaimer

While every effort has been made to ensure that this Lawpack publication provides accurate and expert guidance, it is impossible to predict all the circumstances in which it may be used. Accordingly, neither the publisher, author, retailer, nor any other suppliers shall be liable to any person or entity with respect to any loss or damage caused or alleged to be caused by the information contained in or omitted from this Lawpack publication.

For convenience (and for no other reason) 'him', 'he' and 'his' have been used throughout and should be read to include 'her', 'she' and 'her'.

Contents

<i>About the author</i>	x
<i>Acknowledgements</i>	xi
<i>Author's note to fifth edition</i>	xii
1 Auctions – the place to pick up a bargain	1
The UK is awash with bargains	1
What you will learn from this guide	2
What types of auction are there?	3
Large	3
Medium	4
Small	5
The single lot	6
What properties are offered for sale by auction?	6
Thatched cottages	6
Properties that are almost unsaleable	8
Repossessed houses	9
Investment properties	9
A portfolio of lots being sold by property dealers	11
The auction houses	11
Select firms that cover your area	11
How to choose which firms to follow	12
2 How to find your bargain property	15
First, find your bargain	15
Finding your property – the first steps	16
Where can I find out about auctions?	16
How to get on a mailing list	17
Where are auctions advertised?	18
What else will help in the search?	20
How to unearth a bank or building society repossession	21
What information will an auctioneer give me?	22
What price should my top bid be?	25
How to decide on your top bid	27

How is property valued?	34
How to estimate what price to pay for a house	35
How to calculate the rent and value of a shop	36
How to track what properties fetch at auction	39
Magazines that publish auction results	40
Auctioneers' telephone information	41
3 Clearing the contracts and arranging the finance before the auction	43
When to use a solicitor	43
Choosing your solicitor	43
What advice should I seek?	45
What questions will my solicitor put to the vendor's solicitors?	46
Conditions of sale	50
What are the conditions of sale?	50
What types of conditions are there?	51
What do the general conditions mean?	66
What do the special conditions mean?	67
Are these special conditions not unlawful?	68
If you can't stand the heat, get out of the kitchen!	70
Hidden pitfalls to watch out for	70
Major arrears	70
Local authority charges, public health and other notices	71
Do not take plan sizes for granted	72
View, view and view again	72
Financing the purchase	73
Will I need an accountant's advice?	73
Tax allowances for investment properties	73
The VAT minefield	76
The deposit and balance	76
What other costs should I allow for?	77
4 Going for your bargain	83
Doing a dummy run	83
Get the feel for how an auction works	83
Key points for the dummy run	84
Cut out the competition and buy your bargain before auction	84
Move in before the auction happens!	85

Contracts must be exchanged quickly for pre-auction sales	86
Buyer's timetable	87
Attending the auction	88
How to attend	90
What will it be like?	90
How to behave at auction	91
How will the auctioneer know I am a bidder?	93
Exchanging contracts or memoranda	94
The full contract	94
The memorandum	96
Financial, legal and tax traps – a last-minute check	98
Will the owner's solicitors be present?	98
Watch the legal traps	99
How and when is the deposit paid?	100
What is payable in addition to the deposit?	101
Value Added Tax	107
How can I find out the reserve price?	108
Reserves that are published	109
A published reserve puts you in the driving seat	109
Without reserve	109
A cautionary tale	110
Disclosing when the reserve has been reached	111
Discovering the reserve price	112
5 Bidding and winning your bargain	115
How does an auctioneer conduct an auction?	115
The auctioneer's opening speech	115
Persuading, cajoling and bullying for the highest bid	117
How large do the bids jump?	118
Watch out for changes to the lot details	121
How to make your bid	122
Use your own style	122
Bidding by telephone	123
Can I employ someone to bid for me?	124
Bidding by proxy	125
Bidding tactics to beat the competition	125
Use a jump bid to put off the competition	126
How to reduce the size of the auctioneer's increments	126

How to reduce the increments even more ...	127
Tricks the auctioneer will use against you	130
Watch out for the auctioneer bidding on behalf of the vendor	130
Watch out for bids that are 'off the chandelier'	132
What an auctioneer is not permitted to do	134
What an auctioneer is permitted to do	135
Watch out for subtle changes in the auctioneer's behaviour	135
Bids on behalf of the vendor	136
How to act and bid at the auction	139
Shout, wave and stand up if necessary!	139
How quickly do the lots sell?	141
Expect to see properties sell at 20 to 30 lots per hour	141
In the auction room, the auctioneer is God	142
The auctioneer's code of conduct	143
What happens if the lot is withdrawn or remains unsold?	144
Check before you attend that your lot is still for sale	144
Why lots get withdrawn	145
Unsold lots	147
6 After the auction – what happens next?	149
What to do when you have got your lot	149
Is the property insured and secure?	149
Speak to your finance house	150
What to do after the auction	151
What happens if I decide not to complete?	152
Losing your deposit	152
Is there a get-out?	154
Misdescribing the property	154
Wait until the auction is over to pick up a better bargain	157
Make your offer when the vendor is 'down'	157
Find out the reserve, if you can	158
How to buy a bargain from withdrawn lots by private treaty	159
The best bargains can be found even later	161
How to find your bargain property	162
7 The insider's guide to an auction house	165
The auctioneer's timetable – sale day is A-day	165
Entry fees	166

The inspection and the preparations	170
The catalogue details	172
Final copy	172
Printing and first advertising	175
Enquiries and offers before the auction	177
Immediately before the auction	179
The auction	180
Immediately after the auction	181
After the auction	181
8 Thinking of selling your property?	183
To auction or not?	183
Seek the auctioneer's advice	184
Advantages of selling by auction	184
The types of auction houses	185
Auctioneer's offices	185
How to choose your auction house	185
Agreeing the auctioneer's terms	188
When are the fees payable?	188
What type of agency?	188
What level of fees can a seller expect to pay?	189
The legal clauses to watch out for	191
Responsibilities of the seller	202
Getting the catalogue details right	203
Instructing your solicitor	206
Agreeing the figures	208
The guidelines	209
Varying the guidelines	209
The reserve	210
The post-auction price	211
Disclosing personal interest	213
The Estate Agents Act	213
When should a vendor accept an offer before the auction?	215
How great is the interest?	215
Exchanging contracts	216
How should the vendor behave at the auction?	216
What happens afterwards?	218
Your lot has been sold	218
What happens if your lot is withdrawn?	219

Should you put your lot in another auction?	220
When does the vendor get paid?	220
How much does a vendor receive out of the purchase price?	221
9 'We bought at auction' — what buyers have to say	225
Caroline Titley bought two semi-detached Victorian houses for her business	225
'We didn't go over what we could afford'	226
Don Lee paid 33 per cent less buying his house at auction	226
'I was surprised they did not go for more'	227
'I paid 33 per cent less'	227
'I would definitely buy another property at auction'	227
Michael Kirby is a chartered surveyor who buys commercial property for clients	228
'I always try to do a deal beforehand'	229
Michael Roe has bought two houses successfully at auction	229
'It is usually cheaper to buy property at auction'	229
<i>Appendices</i>	231
<i>Index</i>	269

About the author

Howard Gooddie was head of auctions at Longden & Cook Commercial in Manchester, before retiring from the practice in December 2000. His father and grandfather were auctioneers before him and he grew up immersed in the world of auctions. During his boyhood he was a 'lotter' and clerk at many of his father's auctions. Howard's first property sale was in 1957 when he was 25. Legend has it that his audience contained only five people, of whom three were bank officials. In 1979 Howard returned to the auction world and started running quarterly auction sales, progressing to monthly sessions four years later. The firm's auction catalogue expanded rapidly when it started selling many lots on behalf of British Rail Property Board.

Novelty has always been part of Longden & Cook Commercial sales. The firm was the first to pioneer holding auctions simultaneously in London and Manchester, show pictures electronically of the properties being offered, introduce bidding paddles to property auctions and place the full catalogue on the internet.

Howard Gooddie has conducted more than 210 composite auction sales and has offered nearly 13,000 lots, inspecting virtually all of them himself. He was a member of the auctioneering skills panel of the Royal Institution of Chartered Surveyors, and is a Master of Arts from Cambridge University with a Certificate of Proficiency in Estate Management. He also holds a Diploma in Town Planning and is a Fellow of the Royal Institution of Chartered Surveyors.

CHAPTER 4

Going for your bargain

'I went to an auction a couple of times before to get the feel for it and to see what the prices were like. I thought just before Christmas would be a good time to buy because people haven't got a lot of spare money and have other things on their mind and as it turns out I was proved right.'

Don Lee, buyer of a residential property at auction.

Doing a dummy run

Get the feel for how an auction works

Although you can be armed with the information in this guide and be made aware of what happens in an auction, nothing can be better than experiencing several auctions before you go to the first one at which you intend to bid. Doing a 'dummy run' is highly recommended. Ideally, this should extend way beyond merely calling at one or two auctions to see how matters proceed. Earlier on in the previous chapter, you read the recommendation that you approach your solicitor and accountant at an early stage for the relevant pieces of advice that they can give. You could focus your enquiries to them by indicating a general interest in a lot in an auction during your dummy run. By doing so, you will be able to develop and research the enquiries and questions you will put to them when your 'run' is for real.

Key points for the dummy run

1. Choose a specific lot to focus your interest.
2. List and rehearse the questions you would wish to ask your professional advisers.
3. Visit your dummy property and make a thorough inspection as if you were intending to buy. (You may find that you can discuss it with a surveyor without charge, if you warn him that this is a dummy run but that you are looking to develop mutual business in the future.)
4. Ask the seller's solicitor the questions that your solicitor would put to him.
5. Look at a copy of the local search or ring the relevant local authority if the search is not available.
6. Read carefully the conditions of sale, general and additional conditions and auctioneer's conditions. This will prepare you for similar research when it really matters.
7. Contact the auctioneer's office. Consider having a trial negotiation with them to practise your negotiating skills. Your experience with them in such negotiations may cast a revealing light on their approach and the reality of their guideline figures.
8. To avoid fees, you will probably not wish to ask your solicitors to research the title of the dummy lot.

No play takes place without rehearsal.

Cut out the competition and buy your bargain before auction

'I always try to do a deal beforehand because you never know what opposition you are going to come up against at auction. But you should never show your hand in case it does go to auction. The vendor is generally only going to accept a higher price before the auction.'

Michael Kirby, Chartered Surveyor.

‘Chief rents’ –

These rents are also known as perpetual annual rent charges which are payable by the owners of freehold land annually. In the main, the rents only exist in the Greater Manchester, Bristol and Channel Isles’ districts. The period over which they can now be collected is restricted by statute.

‘OPP’ –

This is an acronym for ‘outline planning permission’.

FRANK R MARSHALL & CO at Nantwich, Apr 7	
<i>Shavington</i> — Green Bank Farm, B5071 Rd. Arable/pasture farm. Hse, 10 rms, 3 attic rms, tradn belgs, loose boxes, stores, barns. 106.10 a. F, P	400,000
BIGWOOD at Birmingham, Apr 8	
<i>Goostrey</i> — Buckbean Way etc. Chief rents on 57 units at £1,140 pa.	6,000
<i>Holmes Chapel</i> — Danefield Rd etc. Chief rents on 80 units at £1,299 pa.	6,500
DENTON CLARK & CO at Rowton, Apr 14	
<i>Ashton</i> — Gable Cottage, Kelsall Rd. Terr cottage, 2 bed. F, P	66,500
<i>Cuddington</i> — Cuddington Barn, B5069 Rd. Barn with PP conversion to hse, 4 bed, adj cottage, 1 bed. Stables/store. 2.62 a. F, P	65,000
<i>Marbury</i> — School Hse, School Lane. Cottage, 3 bed. Adj bdg plot with OPP1 dwelling. F, P	60,000
<i>Tilston</i> — Constabulary Cottage, Church Rd. Det cottage, 3 bed. F, P	66,000
Adj garden land, 110 ft x 50 ft. F, P	8,500
Apr 15	
<i>Helsby</i> — Off A56 Chester Rd. Accom pasture, 13.07 a. F, P	52,000
Accom pasture, 10.73 a. F, P	26,000
Accom pasture, 28.54 a. F, P	28,500
Paddocks, 2.99 a. F, P	5,000
<i>Manley</i> — Manley Rd, Riley Bank. Pasture/conservation land, 27.95 a. F, P	35,000
Morley Lane, Dunham Heath. Pasture, 10.02 a. F, P	20,000

Illustration 3. Estates Gazette auction results

Move in before the auction happens!

Negotiating the purchase of a lot before auction is not at all unusual. Do remember that all the steps previously recommended should be undertaken. Before the day of the sale, you may feel confident enough to risk negotiating for the property. Lucky buyers can acquire bargains in this way but they do run the risk of ‘disclosing their hand’ to the auctioneers and they can be passing the initiative to them. Whether you take up such an initiative is undoubtedly a gamble. Only you can decide whether it is worthwhile in the light of your desire to buy the lot and to beat the competition that might take place on auction day. On the other hand, by revealing your interest so soon, you can lose what would otherwise be a strong position in your bidding at the auction.

Before you start such negotiations you will no doubt have decided how much you wish to pay for the property. If you are endeavouring to buy before auction, this must be either because you wish to buy the property

noticeably cheaper than the amount you are ready to pay on auction day, or because you want the lot so badly that you do not want anybody else to have the opportunity to purchase and ‘bid you up’ on that day. The decision is entirely yours.

Key point

You must realise that disclosing your interest and your figure at this time gives the auctioneer and the seller an opportunity to adjust the reserve and take into account the amount which they believe you are prepared to bid.

Key point

By bidding before the auction you are likely to remove any opportunity of buying the property any cheaper than your pre-auction bid. But this has to be balanced against the advantages of cutting out the competition.

Contracts must be exchanged quickly for pre-auction sales

If you decide to bid before the auction, you must be prepared to negotiate quickly and if your bid is successful, to sign a contract and pay your deposit even faster. The auctioneer will require you to exchange contracts before the auction (and probably by several days in advance). **You have an even greater need for speed.** If you have decided to buy before the auction, you must be aware that there could be other people who have a similar desire to buy early. If, therefore, you have agreed a pre-auction purchase, you should not then leave your solicitor to exchange contracts or memoranda in the normal course of ‘legal’ time. You should press him to complete his enquiries at top speed and to exchange contracts or memoranda as a matter of urgency. You will have to provide your ten per cent deposit at the time the exchange takes place.

Many auctioneers are willing to allow you to leave your deposit with them and to complete and exchange memoranda or contracts in their office. This will speed the passage of the sale but it is not recommended unless your solicitor is satisfied with his enquiries about the title and background

to the property. Only those who want a lot so badly that they are prepared to risk irrevocably committing themselves to a purchase before their solicitor is satisfied should proceed before then. Having exchanged, if you then decide to 'go back' on the purchase, legal sanctions (including loss of your deposit and other responsibilities to meet damages) will follow. The same sanctions apply if you succeed with a bid on the auction day itself and subsequently withdraw. The extent of your likely loss and damages is explained on pages 152–4.

Key point

You must realise that a purchase prior to the auction does not change any of the procedures, responsibilities or actions detailed in this book other than those that relate to attending and bidding at the auction itself.

Buyer's timetable

For most auctions, you will have about a month from the initial advertisement to the auction itself to carry out all your preparations. The following timetable provides a useful guide for buyers on when you need to make the necessary arrangements prior to the auction.

Days Prior To and After the Auction	Action
30	See advertisement and apply for auctioneer's catalogue
28	Receive catalogue
26	First inspection of property Check auctioneer's particulars
25	Instruct valuation surveyor
23	Read and understand the conditions of sale
20	Receive surveyor's report
19	Instruct solicitor Visit accountant Arrange finance

Days Prior To and After the Auction	Action
17	Second inspection of property Assess quality of tenants
6	Consider a pre-auction purchase
5	Check solicitor's report on title Check availability of finance
3	Decide on your maximum bid
1	Final visit to property prior to the sale
Auction day	Attend auction Bid successfully Exchange contracts or memoranda Pay ten per cent deposit (or minimum specified)
1	Insure property Revisit property Check security Meet tenants
1/3	If your lot was withdrawn on the day, negotiate to buy
28	Complete purchase Pay balance of purchase monies Pay stamp duty Pay solicitor's fees

Attending the auction

'You always feel a little apprehensive before you go in. You go in with nothing and come home with something else.'

Michael Roe, buyer of residential properties.

You have picked out your lots, you have done your research, you have spoken to your solicitor, accountant and other advisers and your finance is arranged. You have settled in your own mind the maximum figure you are prepared to bid for the lots you are interested in. Now you are ready to go

to your auction. The next sections address the atmosphere, the nature of the auction, details of the procedures you can expect to have to follow and suggests ways you might go about the purchase of your bargain lots.

The following checklist gives the key points you should watch out for at auction. Each one is discussed in depth below.

Auction checklist: For the bargain hunter

- 1 Wise to attend yourself.
- 2 Check the etiquette.
- 3 Follow any registration procedure.
- 4 Choose a good vantage point.
- 5 Pay attention.
- 6 Listen to the auctioneer's speech.
- 7 Check for any amendments.
- 8 Watch out for VAT.
- 9 Check whether the auction house will be collecting an amount in addition to the bid price as a buyer's premium to cover an element of his own or the seller's expenses. This will be charged on top of the deposit and collectable at the time you sign the contract.
- 10 Make your first bid loud and clear.
- 11 Subsequent bids should be obvious.
- 12 Only bid enough to buy.
- 13 Only bid up to your maximum.
- 14 Watch competitive bidders.
- 15 Try to read the auctioneer.
- 16 Be aware the auctioneer rules the roost.
- 17 Concentrate on what is happening even if you have stopped bidding.
- 18 Be aware of the lots you have bought.

- 19 Sign the contract or memorandum before you leave the room.
- 20 Expect to pay a ten per cent deposit (subject to a stated minimum).
- 21 An unsold lot could be a bargain – move in quickly to negotiate.

How to attend

Although you may expect most buyers to attend an auction in person, this is not necessary. Methods of bidding without attending are given below. But if you are to have the best opportunities of securing a bargain, you would be wise to be in the room so that you can weigh up the atmosphere, judge the approach of the auctioneer and, particularly, to out-manoeuvre your opposing bidders.

What will it be like?

As we saw in chapter one, auctions are of various types but by the time you attend you will have had every opportunity to judge the nature of the auction to which you will be going. A large and composite auction in a central city venue will have had extensive advertising and a large, high quality catalogue. You can expect a crowded room with between 200 and 1,000 potential bidders and a thoroughly organised room and reception laid out in theatre seating. With luck, you might even be offered free coffee and refreshments. There is still likely to be only a single auctioneer on the rostrum but he will probably be supported by two or three ‘spotters’ alongside who are there to help him pick bidders out of the large audience. Beside the auctioneer is likely to be his clerk who will record all bids as an aide-memoire during the sale. In some auctions, part of the room will be allocated as an area where contracts are signed after successful bids have been received. In other auctions there will be an area allocated for tables where solicitors, acting on behalf of owners, will be presiding ready to exchange contracts if their clients have been successful in selling.



A wonderful, Grade II-listed Regency house with three gardens and bags of charm and character, ripe for renovation, located at 42 Olive Lane, Liverpool, sold at auction for only £55,000.

Key point

You will have the choice to sit or stand but do find a position from which you are able to watch your competing bidders.

Make your first bid obvious

In such a crowd, you can expect quite a hubbub with people moving around the room. The auctioneer will have amplification equipment to assist him, but it is very probable that you will need to make a large and obvious gesture, or even to call out to attract the auctioneer's attention at your first bid for each of your chosen lots.

The size of the auction audience often comes down as the scale of the auction reduces. A composite auction, where the number of lots on offer is between approximately 50 and 100, is likely to attract an audience of between 200 and 500 people. The room and atmosphere are similar to that of larger auctions, but it will probably be easier for the bidder to attract the auctioneer's attention. Because of the size of the audience, it is possible for you to make your bids discreetly. Where auctions of this size occur outside London, it is more usual for the sellers' solicitors to attend the auction.

At smaller auctions, the audience is also frequently smaller (unless the lots offered are of overwhelming interest) with between ten and 100 people attending. For a smaller auction, the venue chosen is often a smaller sale room or hired room in a public house or local hall, instead of a large hotel or conference centre. At this size, the proceedings are a little less formal. The auctioneer does not need spotters and the sellers' solicitors usually attend. The bidding is much more discreet and you will have more opportunity to see the quality and strength of any opposing bidders.

How to behave at auction

Listed below are the key points you need to know about auction room etiquette and behaviour:

1. The auctioneer and his staff welcome anyone who swells the crowd, who is dressed reasonably presentably, regardless of his intention to bid or not and who intends to behave reasonably quietly.

2. There is always a constant to-ing and fro-ing of people. You are welcome to arrive and leave whenever it suits you, although it is usual for the audience to avoid interfering with the enjoyment of the proceedings by other people while bidding on a lot is taking place.
3. Arriving late or leaving after the lot in which you are interested is not at all unusual, although it is unwise to miss the auctioneer's opening speech and announcements.
4. Auctioneers often seem to comment on vacant seats available at the front of the auction room, despite research showing that lots are no more expensive whether you are sitting at the front of the room or standing at the back. Don't hesitate to use empty seats if you are happy to do so, but it is a useful tactic to gain a vantage point from where you can observe opposing bidders.
5. Sitting or standing is left to the choice of the attenders. If you are intending to bid, you need to be in a position where you can see the auctioneer and he can see you easily.

Arrive early and make your final checks

6. Auction rooms usually open approximately one hour before the auction commences. Most of the audience turn up in the 20 minutes before proceedings start. Auctions often start approximately five minutes late, but do not rely on this. Amazingly, it is not unusual for 90 per cent or more of the audience never to bid. If you have questions to ask the auctioneer's staff or solicitors before the auction, it is wise to arrive 30 minutes before the auction starts, if you are to avoid a crush. This will give you an opportunity to speak to solicitors, inspect local searches, deeds and leases and whatever else is available for your viewing.
7. On arrival, always check:
 - if there have been any additions or amendments to the lots and lot details;
 - if the lot in which you are interested has already been sold or withdrawn;
 - if the lots are to be offered in alphabetical or numerical order.

8. If the auctioneers have a registration procedure, it is polite to adopt it and complete the appropriate forms at their request. You will not normally be asked for confidential information.
9. If the auctioneers publish in the catalogue or elsewhere any particular requirements, ensure you fulfil them in plenty of time.
10. If you are intending to bid, do not be shy about drawing the auctioneer's attention to your bid by an obvious gesture or by calling out loudly. Once you have attracted the auctioneer's attention, it is unlikely that you will need to attract his attention again for that particular lot. However, if it proves necessary, do not lose the opportunity to bid by being shy about repeating the obvious gesture or loud call.
11. Practices vary from auctioneer to auctioneer in the registration and identification of buyers. One of the more modern systems (said to have been first used at an auction of Beatles memorabilia) is the paddle system which is described in the next section of this chapter.

Auctioneer's Anecdote: A smoked salmon bomb!

On occasion, auctioneers are known to provide refreshments for their audience and a leading firm of London auctioneers decided to push the boat out with smoked salmon sandwiches which were particularly popular. At the end of the auction, they noticed a briefcase had been left behind in the refreshment area and feared it was a bomb. Curiosity overcame circumspection, however, and the briefcase was opened to reveal that it was absolutely full of smoked salmon sandwiches and a card identifying its owner. The auctioneer was delighted to note the owner's embarrassment when he telephoned him later to tell him that his briefcase had been retrieved.

How will the auctioneer know I am a bidder?

The paddle system is one method used to register prospective bidders. As the audience arrives, each person is invited (if he expresses interest in bidding) to complete a registration form (see Figure 4.1). This form will always include the name and address of the bidder or the name and

address of the company or organisation on whose behalf he is bidding. The information sheet is then exchanged for a numbered bidding paddle which is not necessarily used for bidding but which is shown to the auctioneer by the successful purchaser after the gavel has fallen.

This enables the auctioneer to identify the buyer immediately and to pass instructions for the preparation of contract. Other information useful to the auctioneer is frequently sought including the name of the solicitors acting for the bidder. It is not unusual for the form to be used by the auctioneer to collect statistical data, to find out where you saw the advertisement for the lot which interests you.

Auctioneers who do not use a registration system generally have more 'spotters' on their rostrum. These spotters identify the successful bidder with the help of the auctioneer and then approach him, asking him to complete a form which details the bidder's name, address and his solicitors. The form is collected so that the necessary contract or memoranda can be prepared. The same spotter returns later to the purchaser to take him over to the table for exchange of contracts. Where the paddle system is used, it is usual for the bidder to be escorted over to the table for the exchange of contracts immediately after the gavel has fallen. If a bidder wishes to bid on subsequent lots shortly after his successful purchase, he may need to defer attending the table for exchange.

Exchanging contracts or memoranda

The full contract

In every case, buyers have to sign and exchange contracts or memoranda before they leave the auction room at the end of the sale. If they fail to do so, the auctioneer invariably has the right to sign the contract on their behalf. The contract is virtually identical to the contract which any purchaser signs to buy a property. It often follows a standard layout used by many solicitors throughout the country.

What the contract contains

- the names of the buyer and the seller;

- the price that is being paid (the final price of the successful bidder);
- the deposit to be paid;
- the completion date;
- whether or not vacant possession is given;
- details of the property and its tenure;
- the status by which the seller will convey the property;
- brief details of the title;
- covenants that affect the property being sold;
- fixtures and fittings that are included;
- the general conditions of the published Law Society conditions referring to the relevant edition;
- the interest rate payable if the sale is delayed;
- other specific items worthy of notice.

The memorandum

The memorandum is a much briefer contract which is usually printed in the auction catalogue. An example is shown in Figure 4.2. Where full contracts are not available for signing by buyers, then the memorandum in the catalogue is used. This details:

- the contract lot number and the property;
- the price and the deposit payable;
- the name of the purchaser, declaring him the highest bidder at the sale;
- the amount of any buyer's premium or owner's additional charges.

The memorandum is not normally detached from the copy of the auction catalogue, so that the details of the property and its lot number are linked to the memorandum. A small table in the memorandum details the purchase money, the deposit paid and the balance to be paid on completion.

In the case of both the memorandum and the contract, one copy is signed and dated by the purchaser. The other copy is signed and dated on behalf of the vendors. The two documents are then 'exchanged' with the one received by the purchaser acting as a receipt for the deposit.

Key point

If you buy a property and exchange contracts, pass your copy of the contract or memorandum to your solicitor immediately.

When a contract is created

It is an interesting feature of auction law that the moment of contract is the point at which the auctioneer bangs down his gavel. The exchange of contracts or memorandum that takes place afterwards is merely a recording of the existence of the contract. The auctioneer has the legal right to sign the contract on behalf of the vendor and also the right to sign on behalf of the purchaser provided the signature takes place in the environs of the auction room within a reasonable time of the sale having taken place. The right to sign on behalf of the vendor is frequently used, but it is most unusual for the auctioneer to sign on behalf of the purchaser. However, it does leave the auctioneer in a position where he can sign either part of a contract or memorandum prior to the exchange of the parts. This is a convenient arrangement where the owner of the property is not present at the sale or where the purchaser has sent in a written bid or is at the other end of a telephone.

Auction	
15th November	
Memorandum of Contract	
Contract Lot No.
Property
Price: £	Deposit: £
I/We
of	do hereby acknowledge that I/we:
(1)	were the highest bidder(s) at the Sale by Auction this day of the lot detailed above.
(2)	was/were declared the Purchaser(s) thereof subject to the Particulars and Conditions and Special Conditions of Sale at the price detailed above.
(3)	have paid the deposit detailed above to the Auctioneers.
(4)	agree to complete the said purchase in all respects according to the Particulars, Conditions and Special Conditions of the Sale.
Purchase money	£
Less Deposit paid	£
Balance to be paid on completion	£
AS WITNESS my/our/hand(s) this	day of
	Signed
	(for and on behalf of/the Purchaser(s))
We hereby confirm this sale and acknowledge receipt as agents for the vendor of the said deposit of £	
in accordance with the Particulars, Conditions and Special Conditions of Sale.	
	Signed
	(signed on behalf of the Vendor(s))
Abstract of Title to be sent to

Figure 4.2 Memorandum of contract

Key point

No purchaser or bidder should think they have an opportunity to renege on their bid, after the gavel has fallen, by leaving the room without completing their part of the memorandum or contract.

Financial, legal and tax traps – a last-minute check

Will the owner's solicitors be present?

Across the country, the practice of solicitors attending auction varies. It appears to be a more usual practice in the north than the south that solicitors acting on behalf of the sellers attend the auction. An enquiry to the auction firm will always give you the answer.

Key point

If the answer is yes, the vendor's solicitors are attending, you should, nevertheless, arrange for your solicitor to check the title to the property well before the sale.

Check for late information

If the vendor's solicitors are at the auction, they may have some late information or be able to show you the results of a local search. Your own solicitor may ask you to look at this essential item if he has not had the opportunity and if he thinks it will be available on the day. The vendor's solicitors may be holding other documents that you would like to see again. It is a good idea to check whatever are available and ask if any changes have occurred. These may include:

- plans of the lot being sold;
- leases and their actual wording;
- local searches;
- title details;
- a copy of the contract or memorandum;

- requirements to pay VAT.

Key point

Do not rely on your own researches unless you have either a satisfactory legal background or no alternative.

It is not unknown for some bidders at auction to read through the catalogue as they arrive and recklessly decide to bid for a property unseen from the catalogue. If you are feckless enough to consider such a course, do at least check through whatever documents are available at the solicitors' table or at the auctioneer's clerk's table before you bid.

Auctioneer's Anecdote: Unseen is unsafe

It is not as unusual as you would think for bidders to buy lots unseen. There are investors who will tell you 'I have always had my most successful deals where I never saw the property until after I bought it'. There are those who have walked up to the auctioneer afterwards and said 'I liked the look of that lot on the slide, so I bought it. Can you tell me exactly where it is?'

There was a man with £30,000 (at 1995 values) burning a hole in his pocket who bought 27 properties in one lot at that figure in the belief that he could not go wrong getting those properties for that price. He did! They had subsided, were subject to various closure and repair notices and 15 of them were about to be purchased for clearance at a very small site value.

Watch the legal traps

It is not the purpose of this book to be a legal treatise. Nevertheless, every buyer must be aware that the contract is created at the moment that the gavel comes down. The exchange of contracts or memoranda thereafter is only a documentation of the existence of that contract. As we have already seen, the auctioneer can sign on behalf of both sides certifying that the existing contract is satisfactorily documented by the written details.

All auctioneers are aware of the Sale of Land by Auction Act 1867 which prohibits vendor's bids being made by more than one method. In property auctions, the Sale of Goods Act 1979 is partially relevant, but more important are the Estate Agents Act 1979 and the Property Misdescriptions Act 1991. These Acts regulate the propriety and behaviour of the auctioneer and his employees and business colleagues. The Property Misdescriptions Act is intended especially to ensure that auctioneers' particulars are not misleading. Details of the Property Misdescription Act are given on pages 203–6.



A Victorian townhouse in the English Marches bought prior to auction for £135,000, revalued after renovation costs of £50,000 at £295,000.

More important to the purchaser are the Auctions (Bidding Agreements) Acts 1927 and 1969. The main purpose of these Acts (as far as the bidder is concerned) is to ensure that you do not come to any agreement not to bid against anyone else at an auction unless the existence of such an arrangement and the parties to it have been declared in writing to the auctioneer before the sale begins.

Key point

The Act makes it a criminal offence for a potential bidder, who is in business as a dealer, to offer an inducement to anyone else not to bid.

How and when is the deposit paid?

Immediately the gavel has fallen, the purchaser is due to exchange his memorandum or contract and to pay over the deposit. Usually the payment is ten per cent of the purchase price, subject to a specified minimum. The amount due is indicated in the auctioneer's catalogue, generally somewhere in the conditions of sale. It is not unusual for these terms to be displayed on the walls of the sale room as well as in the catalogue and it may also be referred to in the auctioneer's opening remarks.

What is payable in addition to the deposit ?

As a purchaser, you need to find out by looking in the brochure, amendment sheets and the auctioneer's brochure whether there are any additional payments due at this time. These may well be in the following ranges:

- | | |
|--|--|
| 1. Auctioneer's administrative charges: | £200 to £600 |
| 2. Vendor's local search fees: | £125 to £200 |
| 3. Vendor's legal conveyancing charges: | £500 to £1,200 |
| 4. Local authority's surveyors' charges: | one per cent to 1.5 per cent of purchase price |

Be ready to hand over your money

Most auctioneers will accept a normal cheque drawn upon a recognised bank or building society. Cash is only accepted by certain auctioneers; if you intend to pay this way, check before the sale. No auctioneer has yet indicated that he will accept payment by credit card.

Certain auctioneers require certified or guaranteed cheques or banker's drafts. Personal or building society cheques are not acceptable. This does create a slight problem, since you will need to arrange for the cheque or draft to be prepared before the auction and you will not know how much the purchase price is going to be and therefore, how much the cheque should be. The only way of covering this is to ensure that the amount specified on the draft is at least ten per cent of the maximum bid proposed – and maybe a little higher to allow for a touch of indulgent bidding. It is normally sufficient for the payment order to be made out to the auctioneer's firm but, on occasion, the catalogue may specify different instructions. Where auctioneers have a practice of inviting the solicitors acting on behalf of the vendor to attend the sale, then sometimes (but not very often) the solicitors for the vendor ask for the cheque to be made payable in their name. In a few instances, where sales are being conducted for government or local authority departments or quangos, cheques are occasionally requested to be made payable to them. Cheques are normally only payable to the vendor if it is a reputable and well-known body.