DILAPIDATIONS / YIELD UP

BBP BETTER BUILDINGS PARTNERSHIP

GREEN LEASE TOOLKIT RESOURCE

"Dilapidations" – a tenant's legal obligations to return a leased space to specified conditions at the end of the lease. This can mean reinstating alterations, repairing damage, and handing back the premises in the state required by the lease.

DILAPIDATIONS AND THE SUSTAINABILITY CHALLENGE

When a lease ends, tenants are often required to remove their fit-out and return the space to its original condition. This can create a huge amount of waste and carbon emissions, especially in offices where spaces are repeatedly fitted out, stripped back, and fitted out again as different tenants move in. Addressing sustainability challenges around dilapidations can help support the achievement of owner and occupier environmental goals and result in cost savings.

A big part of the problem is that the initial Cat A and Cat B works (the landlord's basic fit-out and the tenant's customized fit-out) heavily influence how much needs to be removed later. If the original design isn't flexible or reusable, more materials end up being ripped out and thrown away.

The industry is becoming increasingly aware that this cycle of speculative fit-outs -installing things that future tenants may not want and will remove, creates unnecessary environmental harm.

The challenge is, it's difficult to fix this during lease negotiations because landlords don't always know what the next tenant will need.

That's why there's growing interest in addressing Cat A and Cat B design earlier, during pre-lease discussions, so that the space is set up in a way that avoids waste and reduces carbon from the start. Having the right people in the room early, is key to making progress in this area. This is where the BBP's Green Lease Toolkit and Heads of Terms guidance and clause drafting can prove helpful.

Useful links

Driving Circularity in the Built Environment | Better Buildings Partnership
Yield Up | Better Buildings Partnership
Circular Economy Principles for Landlord and Tenant Works | Better Buildings Partnership
Recycling of Waste | Better Buildings Partnership
HEADS OF TERMS GUIDANCE | Better Buildings Partnership

Research

Recent reports have identified the absence of industry standard benchmarks for Cat A and Cat B fit outs and data gaps on fit out materials and made recommendations for reducing the waste and carbon emissions involved in fit outs.

A cross-industry report by Overbury in 2024 Part 1 | Counting the upfront carbon in Cat B office fit out | Overbury quantified the carbon involved in Cat B fit outs at 190kgm CO2e/m2 GIA and looked at the carbon impacts of repeated strip out and fit outs as tenants changed over a buildings life of 60 years. With new fit outs every 7 years it assessed the upfront carbon emissions from these at around double the carbon emissions of the base build and Cat A fit out demonstrating that multiple tenant fit outs can potentially form the majority of the upfront carbon emissions during the building's life.

Also in 2024 a report from AHMM considered the upfront carbon impacts of speculative office Cat A works (New Study quantifies the carbon impact of Cat A fit out – 2024 News – Allford Hall Monaghan Morris | AHMM). It looked at 4 levels of Cat A works from significant to slender and identified elements of the Cat A which were at risk of being ripped out as part of a tenant's Cat B works and those which were likely to survive the Cat B fit out. It proposed solutions to end speculative Cat A works and encouragement for pared back and adaptable Cat A works and circular principles.

JLL have produced a guide on circular fit outs JLL | Considerations for a successful end-to-end circular fit-out with case studies showing the significant cost savings on fit outs by adopting circular principles. At lease negotiation stage they suggest aligning the reinstatement clause and the dilapidations approach with circular principles or having an MOU which relates to this and at lease end stage they recommend engaging with the landlord on a green approach to dilapidations.

Building on the Overbury report, British Land have published their Sustainable Fit Out Brief How do you make every fit out more sustainable | British Land and using the principles in this have already seen very significant reductions in the upfront carbon of fit outs. They are clear that the most effective method of reducing upfront carbon emissions is by retention and re-use.

Both JLL and British Land identify a growing demand from occupiers for sustainable fit outs.

By adding a focus in pre-lease negotiations on avoiding speculative Cat A works which the tenant will rip out, retaining all or part of existing fit outs and in using reusable materials, reinstatement obligations can be reduced and any waste involved in reinstatement can be minimised.