



**ROSE**  
Financial Planning

## **SPANISH MORTGAGES – GENERAL INFORMATION AND GUIDE**

Thank you for contacting us. You can access further information by contacting us directly on 0034 950 069 050 (o) or 0034 677 874 948 (m), SKYPE: mark.mountney1 or via e mail to [mark@rosefp.com](mailto:mark@rosefp.com).

I have pleasure in providing some standard information.

Our interest rates are varied ranging from Fixed Rates for 1 to 5 years from circa 6% (January 2012) and Variable linked to EURIBOR from 4% dependant upon the quality of the application and the percentage of the mortgage borrowing. Repayments are due in Euros and so will fluctuate with the exchange rate of any foreign currency. Once the funds have been released and the rate set, this rate then applies to the account for a given period depending on the mortgage product. This can be a monthly, quarterly, half yearly or yearly variable. After the given period, the interest rate is then reset depending on the current EURIBOR rate at that time.

Mortgages are available up to 70% (the norm being 60%) for Non Residents and possibly up to 100% for Residents of Spain of the mortgage valuation (but this is often restricted to a maximum of the Purchase Contract or even the price being declared in the escritura). Spanish banks can only lend on the basis of a mortgage valuation. Mortgage valuations are carried out as prescribed by law in Spain, and are NOT a market valuation. Spanish law requires that valuations be set by reference to the recorded transaction values of at least 6 similar properties, which have been sold in the area in the preceding 6 months. The valuer derives an average price per square metre from these comparison properties, and this is then multiplied up by the size of the property to arrive at the mortgage valuation. This valuation therefore excludes VAT, Property Transfer Tax, Stamp Duty and all the other costs of buying the property.

Where a property is bought "off-plan", we can lend on the mortgage valuation, which will be done at the end when the property is ready. If prices continue to rise, this may be 100% or more of the agreed price. In this case we can lend 100% of the agreed price, but no more. This is because if the mortgage is more than the declared value, the tax authorities will suspect that the property has been under-declared, and the transaction could be investigated and the buyer could be penalized. A similar situation can also arise where part of the price is paid in cash and the full

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amount is not declared on the escritura - we can lend 80% of the valuation, but this is often restricted by the amount being declared.

If it is a resale property, and especially a rural one (referred to as 'rustico'), the Spanish legal system for property purchase and mortgage valuations can give rise to a number of problems. To summarize, they are:

- 1) Vendors often insist that the price is under-declared on the escritura, and that part of the price is paid unofficially to avoid tax. The mortgage is often restricted by this reduction;
- 2) Mortgage valuations are based on comparison values taken from the Property Register, so only reflect declared values. On average these are 20% below the full market price;
- 3) Mortgage valuations are essentially only "bricks & mortar" valuations – the value of any exceptionally large plots of land is not included;
- 4) Mortgage valuations are only based on the size of the property recorded in the property Register – very often owners have not registered the full size to avoid tax;
- 5) We can only lend on properties that are registered for residential occupation ("viviendas" or "casas"). Again to avoid tax, rural properties are often not registered in this way;
- 6) If one of the above problems arises and the property is in an area zoned for building ("urbano"), getting the registration changed should not be a problem; but if it is in a rural area ("rustico") building is not allowed, so getting the registration changed will be more difficult, or maybe impossible. To check the registration status, we need to see a "nota simple" (this is an extract from the Property Register which gives us the necessary information). This really needs to be considered as a priority BEFORE there is any commitment to buy on your part.

Especially with rural or inland village properties, it will often transpire that the maximum mortgage is around 50% of the price, as a combination of the above problems will often arise.

Generally speaking these problems either do not arise, or only to a much lesser extent, if you are buying a new property.

Our status guideline is that your total mortgage and loan repayments, rent, and other commitments under court orders (including the new mortgage in Spain), should not exceed 45% of your net disposable income (after tax). That is the maximum; the norm is 30 – 35%.

There is no real equivalent in Spain of "buy-to-let" mortgages in the UK. Most lenders do not take potential future rental income into account. We may be able to take some of the rental income into account if the property has already been rented and there is proof of the income received and tax paid on it, or - if new - if the developers are renting other properties on the development and they can give us details of the rents being generated. We add this to your UK income and then apply the 45% affordability ratio. This will normally work out as being a "top-up" of between 10% and 20% of the price, and in any event your UK income always has to be the main source of income.

We lend for a maximum term of 40 years up to age 80 on normal or 'status' applications where income is available to show the lender.

'Self Certification' of income mortgages are not presently available.

The fees our lenders charge for obtaining the mortgage are a valuation fee of around 0.15% of the property value and an application fee of 1 to 2%. In addition, there are other taxes and costs which you have to pay for registering the mortgage: stamp duty of around 2% is charged on a mortgage deed; and notary and registration fees of around 1% of the mortgage amount. These taxes and fees are in addition to the costs involved in buying the property.

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A mortgage in Spain is a Notarial act and so cannot be changed. It is therefore always advisable to give yourself as much flexibility as possible at the start, especially regarding the term. You can often overpay your account by up to 10% per year in order to repay it sooner than the official term and without penalty or, at the most, 1% of the sum paid in. It is advisable therefore not to take a shorter term than necessary, as it cannot be extended later.

If you wish to redeem the loan completely, most lenders charge a fee. If they do it is usually the legal maximum of 0.5% of the amount being repaid. If you sell the property together with the mortgage which the buyer then takes over (a "subrogated" mortgage) this fee will not be charged. The lender will also consider waiving the fee, if you take out a new mortgage with them.

If the property in Spain is to be your main home, in order to grant you a mortgage you must have guaranteed income. If your UK income will continue, or you have a pension or investment income, there is no problem. If you will be employed in Spain, we will need to see your new contract and 6 months' pay slips (and if there is a probationary period, confirmation that this is ended). But if you are setting up a new business, or buying an existing one, we will need to see accounts before we could grant a mortgage, and so it will not be possible for us to help you until you have this trading record.

If the property is a new one, we cannot grant the mortgage until the property has been completed and registered. Until then it does not exist legally in Spain, so you cannot buy it, and it cannot be mortgaged. The contract you sign at the start is not a purchase contract, but a contract in which you commit to buying it at a future date when it has been completed. As a result, any stage payments are an unsecured loan to the builder, and your lawyer must make sure they have the legally required bank or insurance guarantee (about 20% of builders do not do this). So, a mortgage in Spain cannot finance the stage payments during the construction period (but we can still lend you the 80% maximum once the property is completed and registered, irrespective of how much you have paid in stage payments). You need to either finance these yourself and recover this amount from the mortgage at the end, or we can help by arranging a re-mortgage of your UK property for the amount of the stage payments, and the mortgage in Spain for the final payment.

Please note also that a new property cannot be registered (so we cannot release the funds) until the 'Certificate for First Occupation' has been issued in most cases. This can sometimes take 2 or 3 months (or even longer) after construction has been completed with the certificate to be issued by the local town hall. So you should check with the builder that they either expect the certificate to be available on time, or do not have a problem with completion being delayed until it is available. This is the only legal way of proceeding, but some less scrupulous builders insist on you paying (and put it in the contract) before the certificate has been issued (which is not possible if you are getting a mortgage).

If it is a country property, in order for it to be mortgageable, the building has to be registered as a "vivienda" ("dwelling" - i.e. for residential occupation). Most rural properties are not registered as viviendas, but just as agricultural land (in order to avoid taxes) and as such the building does not legally exist so it cannot be mortgaged. This also applies to many ordinary properties in Almería, the Costa de la Luz, and in Catalunya. To check this, we need a copy of the "nota simple" (the extract from the Property Register) and also (if possible) the agent's details of the property. You will therefore need to obtain these documents whilst you are in Spain and forward them to us (or arrange for them to be sent to us). If a country property is not registered as a vivienda (which is often the case as a result of past tax evasion), then you must consult an independent lawyer about the consequences, as you may find that you do not have total security of tenure.

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In addition, it must be structurally sound, be habitable, have a working kitchen and bathroom, and have mains electricity and water installed.

It is quite common in Spain for vendors of resale properties to demand that you pay part of the price in cash, and under-declare the official price on the escritura. This practice seems to be particularly common in the more traditional and rural areas such as the Costa de la Luz and in Almería. The under-registration itself is not illegal, so notaries will accept it, but the resultant avoidance of tax is, and you as the buyer are held responsible if it is discovered by the tax authorities and you will have the penalties to pay, which can be quite severe. It is also creating a potential CGT liability to you for the future, so both for legal and financial reasons we have to advise that you do not agree to under-declare by more than 20% (the authorities normally do not take any action below this level). It is often something that vendors will try to slip into the deal at the last minute, so it is as well to make your intentions on this clear from the outset. So far as the mortgage is concerned, this cannot exceed the amount being declared on the escritura. If this is an issue in your proposed purchase, it is something that you must discuss with your lawyer.

If you wish to make an application simply e-mail the enquiry form from our website or call us on 0034 677 874 948. We do not require any documentation to support your application at this stage. Completing an enquiry does not commit you to anything - it does not have to be signed.

You do not have to wait until you have found the property before you send the enquiry form. You can send it in advance so that we can consider issuing an approval in principle, based on your current financial situation, before you commit yourself to the purchase.

Finally, the mortgage takes about 5 weeks from start to finish, taking into account the time to get the documents to you from Spain for signature, and their return to us.

I hope you find the information useful, and look forward to hearing from you.

Updated 12-02-09

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