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## DeVarga Newsletter – February 2007

### A1, A2, A3, B1 – what's it all about – PART I!

In 1997 the Government did a very good thing along the Planning lines. They classified most properties into User Classes. A normal retail shop is an A1 user. Shops used for offices are A2. Hot food takeaways are A3. Any change of use from A3 down to A2 and A1 does not require Planning consent. In the reverse, permission is needed. In October 2006, the User Class Order was updated. Your copy is attached.

One of the classes is called B1. It groups light industrial and offices into the same category. Putting it another way, you do not need Planning Permission to change the use from light industrial to offices. In theory, therefore, values should increase. But hang on a minute; it is firstly demand in the market that determines value, not the presence of Planning. Planning is just part of the process of creating that demand.

So how do you create that demand? Firstly, you recognise some simple ideas. One of the golden rules of successful property development, or the creation of capital growth, is to protect your downside and the upside will take care of itself. Another is a Planning golden rule. Never try to destroy an existing use which generates employment. My third (one of my favourites) is to understand the meaning of what is known as material works and how it interrelates with the three-year rule in Planning.

Let's look at an actual example. A former builder's yard in an established residential area having two houses to one frontage (in deteriorated condition but used as offices) and a small watertight shed fronting the other frontage. Where is the upside? Answer = it lies in the user which is B1. Any chance of residential over the whole of the site? Answer = no, because it would take away employment opportunity. But hey – it's a corner site. How about a mixed-use scheme having residential to one frontage and 4 x new B1 office buildings to the other. The Local Authority is, therefore, snookered because they cannot refuse a scheme on loss of employment grounds as the new office building will simply replace the existing. And, of course, a square metre of office building is worth more than a square metre of shed.

Secondly, we need to recognise that any consent will be granted on the basis that works must be commenced within three years. So how can we preserve the consent? Start foundation works which, when approved by the Building Inspector, means material works have started and, therefore, the consent attaches itself to the land. Remember, the law says you have to start the works – not complete them.

The result is a site capable of division (think joint ventures, selling off in part) or continuing with the existing use and when the time is right sell (again developers are now interested in the site) or undertake the development. Capital gain is made, existing value is firmly underpinned and the downside is protected. Putting it another way, equity has increased and lender's exposure is less.

Stay tuned for Part 2 in March in which I will deal with other Use Class Orders and how to achieve that elusive character I call super capital gain – that is increase value by working your assets.

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