

# PROPERTY UPDATE

## Commercial Property...

SWORDERS – RURAL CHARTERED SURVEYORS

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## WELCOME...



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Income from land and buildings used for commercial purposes now forms a vital, additional income stream for many farms and estates. Redundant or under-used agricultural buildings can almost always be given a useful commercial purpose and uses range from lock-up storage for local tradesmen to high quality, bespoke office accommodation.

At Sworders we pride ourselves on taking an integrated approach to managing client's assets. We can provide individually tailored advice across the broad spectrum of agricultural, commercial and residential sectors. In addition, we can provide advice in more specialist fields, including management of leisure, minerals and strategic planning schemes.

We are able to provide comprehensive advice within the commercial sector that is integrated with the management of the wider rural enterprise to ensure that potentially far reaching decisions are not taken in isolation. The following section on taxation explores some potential pitfalls and highlights the importance of taking an integrated approach to management.

We hope you find the following articles of interest and if you feel that you would benefit from advice tailored to your property please do call to discuss, without obligation.

*"Not only are the majority of our lettings instructions taken on a no tenant ~ no fee basis, many of our planning instructions are also undertaken on a no win ~ no fee basis."* ■



## Finding a Tenant

Converting redundant or under-used farm buildings is often financially attractive. However, it is easy to arrive at the point of having a portfolio of converted buildings but find that tenants are not easily forthcoming.

We undertake a range of advertising and promotional work for the commercial buildings that we are instructed to let. Together with advertising in the regional (and when appropriate, national) Press, in high impact 'commercial feature' advertisements, our website [www.sworders.ag](http://www.sworders.ag) lists details of all available properties. In addition to our own website, we use well known property websites to promote the buildings we have available. We also have advertising banners that can be installed alongside trunk roads on client's land where we have buildings to let.

Further to the blanket coverage generated through the methods above, we forward details of all our properties to business forums and support organisations in the local area. Finally, while we do not believe in blanket mail shots, we carry out targeted mail shots to businesses that are likely to occupy rural business space.

As you might imagine, this advertising and promotion can generate a great deal of enquiries but placing potential tenants is not always easy.

The main reason for this is a general oversupply of buildings available for commercial purposes. As a result, tenants (of which there are many) are able to choose a building that ideally suits their needs and are often under no pressure to compromise. We aim to increase the number of tenants and where possible generate competition for buildings which can help to maintain appropriate rent levels. Despite these difficulties, where a building ideally suits a tenant's needs it is possible to negotiate a satisfactory rent and in some cases a premium rent.

Generating enquiries from prospective tenants is relatively simple but, for the reasons above, in order to place them it is helpful to have a range of building types available across a wide area. ■



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# What Tenants Want

There are five main opportunities available to improve your chance of letting buildings quickly.

- Look into the possibility of obtaining planning consent for commercial purposes. We will look at this in more detail in the article later in this update.
- Stand back from your buildings and look at the site with a critical eye. Does it look like a commercial centre? You have to remember that your buildings are in direct competition with buildings on the local, purpose built industrial estates.
- Look into the possibility of improving access to the site. Installing a new access onto a major road adjoining your land can often make a site that might otherwise be almost impossible to let very attractive.
- Keep your options and your mind open. There may be opportunities to divide buildings to suit tenants with different size requirements. Don't discount any types of tenant until you have met them in person and found out about their business.
- Finally, sell your site on its advantages! In many cases there are opportunities to improve rural buildings in a way that makes it possible to charge rents similar to those obtained on Industrial estates with relatively modest investment because your site has other advantages over an industrial estate. Alternatively, it may well be that your only advantage over other properties is to charge a lower rent. ■

## Taxation

As part of our integrated approach to client advice, and working closely with solicitors and accountants, we are often able to identify opportunities to minimise the effects of both income and capital taxes.

### INCOME TAX

Opportunities to minimise income tax from commercial activities is often interpreted as the difference between declaring the income from a building let for office use and pocketing the cash from someone who stores his caravan 'behind the barn'. Assuming that all our clients intend to properly declare the income from let buildings, there are still a number of opportunities to minimise the tax paid on rent collected. While it might not come immediately to mind, rescheduling of finances or careful consideration of the source of finance for a new commercial conversion scheme can bring significant income tax savings. For example, securing finance against the farmland or even the farmhouse often enables much lower interest rates to be secured than might otherwise be available and the ability to offset all interest payments against the commercial rents received can give income tax savings of up to 40%.

### CAPITAL GAINS & INHERITANCE TAX

We work closely with clients' other professional advisors in order to maximise returns and minimise capital taxes, in particular looking at Business Asset

Taper Relief for let commercial properties before the tax system moves to an 18% flat rate in April 2008 (if the Government passes legislation to effect the Chancellor's Pre-budget Statement). It is also worth remembering the range of reliefs available for Inheritance Tax to ensure your assets are structured most advantageously from a tax point of view.

Inheritance Tax is one area where very careful thought should be given to commercial re-use of the buildings. For example (where the nil-rate band is used elsewhere as is often the case), a move from agricultural use to commercial use, with planning consent at a modest rent on, say, a 1,000 tonne grain store, can result in an asset that would have previously attracted 100% Agricultural Property Relief, suddenly creating a potential IHT liability of some £100,000.

### A NOTE ON VAT

The ability to reclaim VAT paid on certain commercial building costs will depend upon whether or not you have waived the exemption (often known as the option to tax). If the option to tax is taken, VAT should be reclaimable on building costs but VAT has to be charged on rent received. This is not always an issue as most tenants' businesses will be VAT registered but some small businesses may not be. If you have a collection of small units that would suit a non-VAT registered trader, not having to charge VAT on rent can significantly reduce the occupier's costs. ■

# Do I Need Planning?

“Do I need planning?” It may seem an easy question to answer but there is often more to consider than whether or not your proposed use requires planning consent.

While it is not always the case, buildings are normally more straight forward to let if they have an appropriate commercial planning consent in place.

There are pros and cons to letting buildings with or without planning consent for commercial purposes and our advice will depend on individual circumstances.

Where a building is well screened, is suitable for a low key use such as long term storage without any major works but might be unlikely to obtain planning consent due to

another factor such as poor access, we may well advise seeking a tenant without planning consent. In addition there are a multitude of reasons why obtaining planning consent is not advisable when taking a whole farm view. However, caution must be exercised to ensure that the tenant may be removed easily if necessary.

In other cases the risk associated with not having planning consent is often untenable given the level of investment required to convert or fit out the buildings. Provided that planning consent can be obtained for the proposed use without inordinate difficulty, rental value can be maximised and risk minimised contiguously. ■

## Obtaining Planning Consent

Prior to obtaining planning consent for commercial use (or any new use) of assets it is useful to consider the proposed user and their impact on other assets.

Government policy, primarily in the form of PPS 7 gives support to the re-use of rural buildings for diversification required to support an agricultural business. This support extends to the conversion of buildings for commercial letting. Accordingly, Local Plans adopted by local authorities give varying degrees of support to this re-use. There are, of course, a number of requirements attached to these policies. These conditions vary between local authorities but a primary concern is that of sustainability. Vehicle movements to and from the site can be the sticking point for

many planning applications but there are often ways in which the problem can be resolved. It is impossible to give a detailed assessment of the planning arguments required for the conversion of buildings in a general document and each case will have its own considerations that could make or break the potential to obtain planning consent. ■



## Certificate of Lawfulness

Where there has been continued use of agricultural buildings for commercial purposes, without planning consent they may become immune from enforcement by the effluxion of time. Obtaining such certificates is a useful way of effectively securing a commercial planning consent where it might not otherwise be possible. Good house-keeping is the most important factor in obtaining a Certificate of Lawfulness as the onus is on the

applicant to prove the use has occurred for the necessary period (for change of use cases – 10 years). Written documents are vital to do this. Written tenancy or licence documents should be put in place and the expired agreements retained together with rent receipts and any other relevant documents. Together with Statutory Declarations, these documents can provide a good grounding for a Certificate of Lawfulness application. ■



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# Pre-lets for offices

It is not always possible to live in an ideal world but pre-let office conversions can get you part of the way there.

A pre-let is an opportunity to secure a long term tenant at a rent that not only covers the interest on the loan but also allows you to start recouping your capital. There is also the possibility that a tenant may even undertake conversion works at their expense in return for an appropriately reduced rent for a period of time.

These agreements are far from the norm and tend to suit conversions of traditional buildings to office use best but there opportunities available both pre and post planning. If you have buildings that may suit office use but conversion costs are just too high, let us know as you never know when the right prospective tenant might come along. ■



## Formal or Informal

Several types of agreement are available for others to take occupation of a commercial building. The 'informal' method is by way of a licence agreement. These provide a quick, easy in / easy out agreement and are very often used. We would strongly recommend that the agreements are written and, as agents, we are able to prepare them at a minimal cost that is often charged to the tenant. Licences do have drawbacks, and allowing continuous occupancy for more than six months does carry the risk of an occupier claiming a secure 1954 Landlord and Tenant Act tenancy. Nonetheless, they are very useful letting tools. A 'formal' agreement takes the form of a commercial lease that must be drawn up by a solicitor and provides a strong legal background for lettings. These are far more expensive to prepare, but can provide a longer term agreement with some certainty for both sides. ■



## Property Management

We are able to provide a complete management service for your property portfolio and currently manage a range of residential, commercial, agricultural, equestrian and leisure uses.

A modest number of properties can be effectively managed by the owner but, depending on their commitments, those with a larger collection of properties of any tenure can benefit from professional management.

We are able to take a detached and commercial

view when it comes to rent review or collection of bad debts, for example. In some cases, where other managing agents were previously instructed, we have been able to increase annual rent receipts by more than our total annual costs within 12 months. ■

"The articles featured in this publication have been selected and prepared with a view to disseminating key information and are not intended to be comprehensive nor to provide advice. Before taking action advice should be sought for specific queries."

## A word of caution

Some Solicitors are comfortable for Landlords to offer a 'tenancy at will' but as these have to be terminable without notice they do not suit many tenants. Sharing occupation can also avoid creating security of tenure. Again, we would urge caution if you rely on this argument to recover possession without any documentation to support your case. ■