

we keep you informed

What's the Use?

If you own commercial property, you will need to consider carefully the changes to the Use Classes Order which took effect on 21 April 2005.

Use Classes allow an occupier to change the use of premises without applying for planning permission provided it is to another use permitted by the Use Classes Order.

Class A3, which covered food and drink related uses, has been divided into A3, A4 and A5.

The new A3 class covers use of a property as a restaurant or café.

The new A4 class will cover use as a public house, wine bar or other 'drinking establishment'.

The new A5 class will cover the sale of hot food for the consumption off the premises, that is, food take away.

Nightclubs are taken out of the Use Classes Order altogether and any change to or from that use will require planning permission.

If premises are currently used for a wine bar under a planning permission for an A3 use, that use continues to be permitted but a change to a hot food take away would now probably need a specific planning permission.

If planning permission was given for a public house, without reference to a use class, it would now be classified as an A4 use and arguably the premises could not be used as a nightclub or take away without specific planning permission.

It is important for landlords and tenants to look at the terms of their leases to establish what use is permitted.

In the absence of anything to the contrary a reference to a use class in the lease will be construed to mean the use class in force when the lease was granted.

On the other hand, if the lease says that the use is to be read in the light of any subsequent modification to the Use Classes Order then the permitted use may well have been restricted by the recent changes.

This not only impacts on the use of the property itself but also on valuation for a rent review

There are likely to be arguments as to where the boundaries between the new use classes fall. When does a pub or a restaurant become a nightclub or a restaurant become a wine bar? Is some food being eaten off the premises ancillary to a restaurant use or a use within its own right? If you need advice interpreting these changes please contact Glyn Evans on **01934 637911** or evans@powellslaw.com.

Church Repairs – Who Pays?

From time to time, you may have read in the press that an owner of a property has been held liable for a contribution to the maintenance and upkeep of the local church which is known as chancel repair liability. That liability is usually one of which the owner in question was totally unaware. For property conveyancers and indeed for property owners, a nightmare scenario!

By way of a simplistic overview: Chancel repair liability is a liability for the maintenance and repair of the local church and falls upon property owners in the parish. It only affects parishes in which there is a medieval church.

Regrettably, the issue has always been complicated by the fact that the parish boundaries are not those as we know them today but are the medieval parish boundaries. It is difficult to determine which properties may or may not be liable.

Searches have been available in the past to try to establish the liability of a property owner to contribute to church repairs but these have been restricted to inconclusive manual searches.

However, there is a new on-line screening service which, at a current cost of £7.05, checks against the postcode of the property whether or not there is a potential liability. If so, indemnity insurance cover can be arranged to protect you at a current cost of £54.

Reported cases of demands for payment have been few and far between but as a result of a recent change in the law this may change.

Owners of properties purchased after 12 October 2013 will bear no risk of liability when no registration at HM Land Registry has been made against the property. The problem is that the church now has a deadline to register their interest which will encourage them to seek out the relevant properties with a view to putting in hand the maintenance and repair of churches prior to that date.

If you have any concern that your property may be affected please contact Nick Gilson on **01934 637913** or gilson@powellslaw.com for further advice.

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01934 623 501
www.powellslaw.com

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7-13 Oxford Street
Weston-super-Mare
North Somerset BS23 1TE

Tel: 01934 623 501

DX: 8405

Fax: 01934 635 036

Email: info@powellslaw.com