

Robin Jones

From: Helen Galsworthy [REDACTED]
Sent: 04 November 2013 15:32
To: Robin Jones
Subject: lettons House

Dear Robin

Sorry I missed you on Wednesday and I was not in the office on Friday as my daughter was poorly.

I have read your letter and would confirm that currently our offer is withdrawn on this property.

I have emailed a couple of possible people who may be interested but I am not in a position to revert to you at this time.

My apologies that we are not able to progress matters at this time.

Thanks
Helen

Helen Galsworthy
Development Surveyor / Svrfeŵr Datblygu
[REDACTED]

Established Over 150 Years



**Chartered Surveyors,
Auctioneers, Valuers, Land Agents
and Estate Agents**

Our ref: RLJ/ACL/H60

6 November 2013

Mr P Hayman
Lettons House
Lettons Way
Dinas Powys
CF64 4BY

Rural
55a High Street, Cowbridge,
Vale of Glamorgan CF71 7AE
Tel: (01446) 774152
Fax: (01446) 775757
Web Site: www.wattsandmorgan.co.uk
E Mail: rural@wattsandmorgan.co.uk

By E-mail and Hard Copy

Dear Mr Hayman

See over

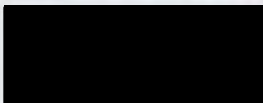
Re: Lettons House, Lettons Way, Dinas Powys

I enclose a copy of an e-mail received from Helen Galsworthy in respect of the above property. As you will note she has confirmed that the offer of £420,000 has been withdrawn.

I trust everything is in order and I should be obliged if you could please confirm how you wish for us to proceed in this matter.

Yours sincerely
Watts and Morgan LLP

Ed/B 2805



Robin L Jones BSc (Hons) MRICS FAAV

Copy to Mr L Forse

Members: John D Morgan, FNAEA, Dyfed R Miles, BSc (Hons), MRICS, FAAV, Richard Morgan, Nick Jones, MRICS, Robin L Jones, BSc (Hons), MRICS, FAAV.
Consultant Member: W Hopkin Joseph, B.Sc. (Est Man), MRICS. Consultants: Gareth J Lloyd, FRICS, IRRV, Robert L Morgan, FNAEA, Colwyn Treharne Jones, FRICS.
Head of Valuation and Professional Practice: Hilary Evans, MRICS, FAAV Head of Residential Sales: Rhys C Gould, BSc (Hons) MNAEA. Senior Associate: Matthew Jones, MNAEA

Offices also at: 55 High Street, Cowbridge, Vale of Glamorgan CF71 7AE Tel: (01446) 773500 Fax: (01446) 775757
1 Nolton Street, Bridgend, Bridgend County Borough CF31 1BX Tel: (01656) 644288 Fax: (01656) 768279
3 Washington Buildings, Stanwell Road, Penarth, Vale of Glamorgan CF64 2AD Tel: (029) 2071 2266 Fax: (029) 2071 1134
Mayfair Office: Cashel House, 15 Thayer Street, London, W1U 3JT Tel: 0870 112 7099 Fax: (020) 7467 5339



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APPENDIX FIFTHTEEN

Consultation: 201201193FUL Lettons House, Dinas Powys

Having assessed the size, design and location of the house in question in relation to the established housing need for the Dinas Powys area, I have to conclude that we would not be able to make constructive use of the property as an affordable housing unit.

With regard to the general principle of relaxing the planning restriction, I do feel that as a council we should be entitled to an off site affordable housing cash contribution in view of the considerable planning gain the owners will enjoy. The fact that this particular property is unsuitable should not disguise the fact that there is considerable need for affordable homes in the area.

A. Sinclair
Affordable Housing Enabler

30th January 2013

APPENDIX SIXTEEN

55 Lakin Drive
Highlight Park
Barry
Vale of Glamorgan
CF62 8AH
[REDACTED]

Date: 18th April 2016

Your ref: RLJ/DA W/H60.

Mr R L Jones
Messrs Watts & Morgan
55a High Street
Cowbridge
Vale of Glamorgan
CF71 7AE

Dear Mr Jones,

RE: LETTON HOUSE, DINAS POWYS.

Thank you for your letter dated 15th April 2016.

Firstly please note the correct spelling of Lakin Drive.

We are extremely disappointed in your comments, as you have appeared not to have read our correspondence. You state that you originally believe we informed you that we were cash purchasers; may we ask how you came to this conclusion? If you read or have read our first email to you dated the 25th February 2016, we quite clearly state our offer of £320,000 stc and subject to the sale of our property, copy enclosed.

We are fully aware that Mr Hayman is an elderly gentleman, we weren't aware of any difficulties in selling the property, just a question of finding someone that fits the restriction criteria and the asking price being more realistic. We have spent several hours viewing all the information held on this property by the Vale of Glamorgan Council and we are fully aware of the property being independently valued by a third party valuer. We do have concerns of the validity of a valuation carried out by an agent approximately 100 miles away in West Wales; there are just as many qualified valuers within the Vale of Glamorgan and or South East Wales. We have seen all the comparable evidence submitted within his valuation to substantiate his unencumbered valuation of £595,000 however you can equally find this same comparable information to substantiate a valuation of say £500,000. The age old adage "a property is worth what someone is prepared to pay for it" still rings true.

[REDACTED]

From: Intermediary <Intermediary@principality.co.uk>
Sent: 28 November 2016 09:42
To: [REDACTED]
Subject: RE: Property with an Occupancy Restriction

Morning [REDACTED]

Unfortunately we would not consider an application with an occupancy restriction. We have to look at the resale ability on such properties and this would fall outside our criteria

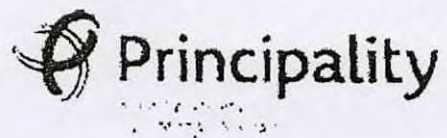
Thanks for your enquiry

Intermediary Sales

T: 0330 333 4021

Principality. Where home matters.

Principality Building Society. Principality Buildings.
PO Box 89, Queen Street, Cardiff, CF10 1UA
T 029 2038 2000 www.principality.co.uk f v



When we viewed the property we noticed a planning notice dated 2014 attached to the entrance gate. When we asked about this we were told by Mr Hayman that it was an old planning notice that they hadn't bothered to take down. Upon checking with the Council we were informed that this application is still valid and ongoing and due to go to planning committee in May of this year. We raised this question with your company on the 2nd of April 2016 and as yet are still awaiting a reply.

As to your comments, should we wish to further our interest in this property, please make the necessary arrangements to be in a position to proceed. Firstly we would not be selling our property just for the sake of moving, secondly if Mr Hayman had accepted an offer then our property can be marketed/priced accordingly. In your logic we are to market our property, agree a sale to a purchaser, then try and negotiate a purchase price with Mr Hayman, who then after all this may still want an unrealistic price.

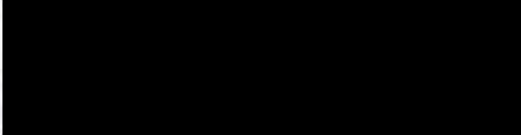
* As per your comments other intending purchasers have had difficulties obtaining a mortgage, we were told by the Hayman's that the only interested party had been a Housing Association and upon reading the file correspondence it appears the figures did not stack up and the deal then collapsed. And your further comments that should we require a part mortgage you client wishes to see evidence of the mortgage offer, however as I'm sure you are aware to obtain a mortgage offer we would need an agreed purchase price first. The small mortgage is agreed in principal with the Principality Building Society subject to valuation; however we may not even need a mortgage to purchase the property.

We are fully aware of how the property process works, as my grandfather and father as well as being farmers were also chartered surveyors then holding FRICS FSA qualifications.

Having seen them both work over the years, I have found it very strange that we have had to constantly chase your company for answers to questions and correspondence relating to Lettons House, waiting weeks for answers to questions and sometimes a point blank refusal to answer them. We get the impression from your actions or lack of them and Mr Hayman's comments on your company, that your company appears to have lost interest in marketing this property. I am personally aware that this property has been for sale for three years and I recall Mr Hayman saying a figure of five years. I would have thought and expected the vendors would have been happy that we have come along, fit the restriction criteria and they would try at least to formulate a sale to us at a mutually agreeable price.

We have underlying thoughts that there are other agendas here being played out and that Mr Hayman appears confident that the restriction will be lifted shortly and he can then market his property at the unencumbered figure of £595,000 or above.

Yours sincerely


Darren Davies & Claire Williams

APPENDIX SEVENTEEN

[REDACTED] [REDACTED]

From: Intermediary <Intermediary@principality.co.uk>
Sent: 28 November 2016 09:42
To: [REDACTED]
Subject: RE: Property with an Occupancy Restriction

Morning [REDACTED]

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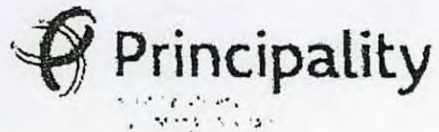
Thanks for your enquiry

Intermediary Sales

T: 0330 333 4021

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APPENDIX EIGHTEEN



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Auctioneers
Valuers Land Agents
Estate Agents
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Our ref: RLJ/DAW/H60

21 December 2016

Mr Peter Hayman
Lettons House
Lettons Way
Dinas Powys
CF64 4BY



By e-mail: hayman_dave@yahoo.co.uk

Dear Mr Hayman

Re: Lettons House, Lettons Way, Dinas Powys, Vale of Glamorgan, CF64 4BY

I refer to our recent telephone conversations in relation to the above property and in particular the planning appeal which I understand you have made in respect of the above property.

You have requested that I provide comment upon correspondence between Mr Darren Davies and Ms Claire Williams of 55 Lakin Drive, Barry and Mr S Rennie of the Vale of Glamorgan Planning Department dated 8th February 2016, 28th February 2016 and 10th May 2016.

I comment upon the three pieces of correspondence separately as follows:

1. E-mail dated 8th February 2016 from Mr Darren Davies to Mr Steven Rennie

Mr Davies outlines that when he first contacted ourselves in 2012 he was told that the above property had been sold to a housing association. I have reviewed our file and our marketing report dated 1st November 2012 and we have no record of being contacted by Mr Davies or Ms Williams in 2012. The first enquiry received from the United Welsh Housing Association was a viewing on 7th February 2013 and as such the information which Mr Davies has stated in his e-mail is incorrect. I should also point out that at no stage was a sale of the property ever agreed to the United Welsh Housing Association or any other housing association.

Mr Davies refers to the valuation impact of an Agricultural Occupancy Condition however the property is subject to a Rural Enterprise Condition which is a less restrictive planning condition.

2. E-mail from Darren Davies and Claire Williams to Mr Steven Rennie dated 28th February 2016

I note Mr Davies and Ms Williams comments in relation to the guide price of £450,000 and their belief that it is excessive. They also suggest that the valuation put forward by Messrs Morgan & Davies of £600,000 excluding the impact of the planning condition is not worth the paper it is written on.

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Consultants: Gareth J Lloyd FRICS, IRRV • Colwyn Treharne Jones FRICS | Head of Valuation and Professional Practice: Hilary Evans MRICS, FAAV | Senior Associate: Matthew Jones MNAEA
Head of Residential Sales: Rhys C Gould BSc (Hons), MNAEA



I should point out that the valuation prepared by Messrs Morgan & Davies was carried out in accordance with the Royal Institution of Chartered Surveyors Valuation Professional Standards and was prepared by Mr Andrew Morgan FRICS FAAV who is an RICS registered valuer. The valuation report was prepared in accordance with joint instructions from our clients and the United Welsh Housing Association for the purposes of negotiations which were ongoing at that time and Messrs Morgan & Davies were one of three valuers who were approached to provide quotations for a valuation. The other valuers were BJP in Carmarthen and Messrs Rees Richards and Partners in Swansea. The purpose of identifying the three valuers was that they carry out RICS registered valuations for expert witness and bank lending purposes throughout South Wales and due to their geographical location away from Cardiff and Dinas Powys they would avoid any potential conflict of interest either with Mr Hayman or the United Welsh Housing Association.

The valuation is a detailed report with supporting evidence and in my view Mr Davies and Ms Williams have no grounds to query the report as prepared. Mr Davies and Ms Williams refer to a Valuation Office valuation of the property of £400,000 although I am unaware of any report prepared by the Valuation Office. I am aware of a separate report prepared by Messrs Ingram Evans on behalf of the United Welsh Housing Association albeit my understanding at the time was that Messrs Ingram Evans were instructed by the United Welsh Housing Association hence the requirement for a completely independent valuation report to be prepared.

Mr Davies and Ms Williams outline that in their opinion there is a distinct lack of agricultural restricted properties in the Vale of Glamorgan and that all efforts should be made to find suitable purchasers within the agricultural community. I should point out in this matter that we have had 16 viewings of this property during the marketing period and we have received many more enquiries from people who have subsequently liaised with the Vale of Glamorgan planning department to ascertain as to whether they meet the necessary requirements. In the various dealings which I have had with interested parties the only people who have queried the price have been Mr Davies and Ms Williams whereas all other interested parties have queried the planning condition and the availability of finance. In all circumstances we have advised that they seek advice in relation to their suitability to occupy the property from the Vale of Glamorgan Council and seek appropriate financial advice in relation to the availability of finance.

3. Letter dated 10th May 2016 from Mr Darren Davies and Ms Claire Williams to Mr S Rennie

I note that Mr Davies and Ms Williams moved to the Vale of Glamorgan in October 2013 and that their first enquiry about Lettons House was in July/August 2013. This differs from the e-mail dated 8th February 2016 albeit in accordance with our records both in paper form and on our computer systems there is no record of any enquiry received from them in July/August 2013. They outlined that they were told by ourselves that they qualified for the tie and that a gentleman took their details. I should point out that nobody in Watts & Morgan would state that any intending purchaser qualified under the planning condition merely that they may qualify and that they should make appropriate enquiries with the Vale of Glamorgan Council.

It was stated that when the enquiry was made in July/August 2013 that someone from Watts & Morgan informed them that the property had been sold to a housing association. I should point out that at no stage was a sale ever agreed with the United Welsh Association despite various negotiations taking place with them and at no stage was the property ever withdrawn from the market or marked sold subject to contract on our website. The comments made therefore by Mr Davies and Ms Williams are incorrect.

Mr Davies and Ms Williams both outline that when they spoke with Watts & Morgan at a later date they were informed that the sale to the housing association had not gone through. I should point out that the only person within Watts & Morgan who negotiated with the housing association was myself and at no time would I have released details of our negotiations with the housing association with any third party in so far as it was subject to client confidentiality. I should also point out that at no stage would we release to any intending purchasers the details of any purchaser. Whereas it is apparent that Mr Davies and Ms Williams are aware of the interest from the housing association this information has not come from Watts & Morgan.

It is agreed that Mr Davies attended a viewing of the property on Saturday 13th February 2016 at 10am and Saturday 20th February at 10am. It is also noted and agreed that offers were made initially of £320,000 which was forwarded to you on 20th February 2016. The offer was subsequently increased to £340,000 and forwarded to you on 10th March 2016. A further offer was submitted to you on 4th April 2016 in the sum of £380,000. All three offers were subsequently refused albeit you requested from Mr Davies and Ms Williams proof of funds and in accordance with the information on my file we are still awaiting evidence of their availability to proceed with a purchase of the property.

Mr Davies and Ms Williams continue to query the valuation prepared by Messrs Morgan & Davies albeit as outlined above they are a professional firm of agricultural valuers geographically situated so as not to have any conflict of interest with the United Welsh Housing Association albeit at the same time experienced in preparing valuations throughout South Wales as bank valuers.

Mr Davies and Ms Williams continue to query that you have requested from them confirmation that they are able to proceed with a purchase of the property. This is not an unreasonable request and is indeed common practice that before considering an offer that the vendor will seek from the purchaser confirmation from them that they have available resources to purchase the property. This is particularly evident for this property in so far as previously interested parties have identified difficulties in obtaining finance and despite various requests from Mr Davies & Ms Williams for this information which has not been forthcoming.

I note that in the final paragraph they outline that their letter is not sour grapes and that everything should be done to encourage future generations of farming. I strongly agree with Mr Davies and Ms Williams comments that everything should be done to encourage future generations of farmers however at the same time it should be noted that when considering a planning application for agricultural dwellings it is normal practice that the Vale of Glamorgan Council will not consider dwellings above 150m² of floor area as being suitable for a farm worker. This property is of course far in excess of 150m². It is well situated in a very convenient location on the edge of Dinas Powys and the property has been valued in accordance with existing market evidence both by ourselves and an independent third party valuer. This property has been discounted by 25% to reflect the Rural Enterprise Condition and we continue to receive enquiries for the property from people the majority of which unfortunately do not qualify under the planning condition. It is my understanding from speaking with you that you are happy to agree a sale to Mr Davies & Ms Williams subject to a reasonable offer being received within close proximity of the guide price of £450,000 and subject to provision from Mr Davies & Ms Williams of evidence to outline that they have funds available to them to purchase the property. Any offer should of course be unconditional and as things stand you are yet to receive an unconditional offer from Mr Davies & Ms Williams.

I trust I have set out matters clearly and addressed the various points outlined by Mr Davies & Ms Williams in their three pieces of correspondence.

Yours sincerely

Watts and Morgan LLP



Robin L Jones BSc (Hons) MRICS FAAV

**WATTS
MORGAN**

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<http://www.wattsandmorgan.co.uk>

Mr Hayman
Lettons House
Lettons Way
Dinas Powys
Vale Of Glamorgan
CF64 4BY

Wednesday 21st December 2016

Dear Mr Hayman,

Re:Lettons House, Lettons Way, Dinas Powys, Vale Of Glamorgan, CF64 4BY

Please find enclosed your latest property performance report which summarises the marketing activity carried out on your property between Wednesday 14th December 2016 and Tuesday 20th December 2016 inclusive. The report also contains detailed information on other activity related to your property.

If you have any questions relating to any aspect of this report please do not hesitate to contact our office.

Yours sincerely,

Robin L Jones B.Sc., (Hons), MRICS, FAAV
Head Of Rural Department
01446 773500
robin.jones@wattsandmorgan.wales

Property Performance Report

Lettons House Lettons Way, Dinas Powys, CF64 4BY

For Wednesday 14th December 2016 to Tuesday 20th December 2016


**WATTS
MORGAN**

Marketing Summary

The following table shows the number of applicants who received your property details, and in what format:

| Date | Email | Call | Post |
|---------------------|-------|------|------|
| Last 7 days | 1 | 0 | 0 |
| Since 31st Mar 2011 | 161 | 42 | 4 |

The following table shows the number of Rightmove 'hits' on your property:

| Date | Last 7 days | | Since 31st Mar 2011 | |
|---|---------------|----------------|---------------------|----------------|
| | Your Property | Branch Average | Your Property | Branch Average |
|  rightmove | | | | |
| Appeared in search results | 1814 | 1491.1 | 326437 | 285270.9 |
| Full property details displayed | 188 | 145.9 | 47652 | 30390.2 |
| Conversion rate | 10.4% | 9.8% | 14.6% | 10.7% |

**WATTS
MORGAN**

1 Nolton Street, Bridgend, CF31 1BX
T 0165 550 1013



Presented by Watts & Morgan, Bridgend


This Best Price Guide provides comparable property information selected by Watts & Morgan to help establish the best market price.

Selection Criteria

Search Radius: 0.5 miles
Postcode: CF64 4BY
Min Price: £400,000
Max Price: £675,000
Marketed by: All agents
Date From: 01-01-2011
Date To: 22-12-2016

This guide was created using data supplied by Rightmove, which has over 20,000 members who advertise over 1,120,000 properties for sale or rent in the UK and Overseas.

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rightmove 

Best Price Guide - Presented by Watts & Morgan, Bridgend*



Watts & Morgan, Bridgend. 1 Nolton Street, Bridgend, CF31 1BX
 Telephone: 0165 650 1013
 Email: bridgend@wattsandmorgan.co.uk

*The below properties were advertised on Rightmove.co.uk during the dates specified. These properties were not marketed by Watts & Morgan, Bridgend unless otherwise stated.

Properties shown on map



The icons indicate the centre of the postcode and not necessarily the exact location



£675,000

Archived 1

TWYNCYN, Dinas Powys, CF64
 4 bedroom detached

Marketed from 01 Aug 2014 to 28 Jan 2015 (180 days)

Located in what many regard as one of the most desirable situations in South Wales, stands this individual four bedroom detached residence. Built for the current owners in the early 1960's and within a very large overall plot, the property offers a rare opportunity.

Sold Price History: 19 December 2014: £625,000



£675,000

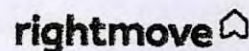
Archived 2

Pear Tree House, Pen-y-turmpike Road, Dinas Powys, Glamorgan, The, CF64
 5 bedroom detached

Marketed from 02 Jul 2015 to 05 Apr 2016 (279 days)

Currently under construction. An exciting opportunity to choose the finishes including kitchen, bathrooms (4) and tiling on this stunningly designed 300 sq meter five bedroom detached house. There are numerous design features including under-floor heating, BI-fold doors, double garage and

Sold Price History: 02 September 2014: £575,000



Sold Price History

The sold price history information is provided by Her Majesty's Land Registry and the Registers of Scotland and is matched to Rightmove properties by house number and full postcode. Please note there is not always a match.

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Watts & Morgan, Bridgend. 1 Nolton Street, Bridgend, CF31 1BX
Telephone: 0165 650 1013
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£650,000

Archived 3

Highwalls Avenue, Dinas Powys
4 bedroom detached

Marketed from 14 Jun 2016 to 30 Sep 2016 (109 days)

Double fronted detached property with stunning views over the golf course and beyond. This rarely available property has four double bedrooms, three reception rooms and a garage. In need of some modernisation this property with its well maintained gardens really must be viewed to be appreciated.

Sold Price History: 16 September 2016: £675,000



£649,000

Invisible 4

BLACKBERRY HOUSE, PEN-Y-TURNPIKE ROAD, Dinas Powys, CF64 4HG
5 bedroom detached

Marketed from 24 Nov 2014

Approximately 300 Sq Mtrs. A truly outstanding, five bedroom detached residence. Being one of just two being built on the fringes of the village with wide reaching country views, the property offers some innovative design features.

Sold Price History: 29 July 2011: £620,000



£649,000

Archived 5

Heol y Cawl, Dinas Powys, Nr Penarth, Cardiff. CF64
5 bedroom detached

Marketed from 30 Oct 2007 to 28 Mar 2011 (1246 days)

In the heart of the village, tucked away yet moments from the square, stands this unique and sizable cottage with numerous features and offering five bedroom accommodation. Formerly three cottages combined and built c.1750, the property faces south and has a surprisingly good size garden with n...



£645,000

Archived 6

Gables Cottage, Southra, Dinas Powys, The Vale Of Glamorgan CF64 4DL
5 bedroom detached

Marketed from 30 Apr 2015 to 15 Dec 2016 (597 days)

An impressive detached period residence set in a superb location fronting Dinas Powys Common. Extensive and versatile living accommodation including 4 / 5 bedrooms (large master with en-suite) 4 reception rooms and a generous kitchen and breakfast room. High quality finishes throughout.

Sold Price History: 05 October 1997: £230,000



£635,000

Archived 7

Mount Road, Dinas Powys. CF64 4DG.
4 bedroom detached

Marketed from 27 Mar 2013 to 15 Aug 2013 (141 days)

On the common, moments from the village square and within a short walk of the train service and village school, stands this magnificent four bedroom detached residence. Finished to high standards with a mixture of traditional and contemporary finishes, the significantly extended accommodation le...

rightmove

Sold Price History

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Telephone: 0165 650 1013
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£615,000

Archived 8

2 Kings Ride, Twyncyn, Dinas Powys, Vale Of Glamorgan
5 bedroom detached

Marketed from 18 Apr 2011 to 28 Nov 2011 (226 days)

A detached five bedroom property situated in one of the most sought after addresses in Wales. The property comprises entrance porch, entrance hall, living room, sitting room, dining room, kitchen, breakfast room, utility room and cloakroom. Five double bedrooms to first floor with ensuite to mast...

Sold Price History: 03 April 2012: £480,000 23 December 2008: £700,000



Guide Price £600,000

Archived 9

Merevale, Dinas Powys
4 bedroom detached

Marketed from 26 Sep 2015 to 17 Dec 2015 (83 days)

Set on a distinct and highly desirable development born in the 1970s, this unique Scandinavian style detached family home on ground level enjoys an idyllic location built around peaceful enclosed mature gardens. Of award winning architectural design with well-proportioned rooms and an easy layout...

Sold Price History: 17 December 2015: £560,000



£599,000

Invisible 10

Park Road, Dinas Powys. CF64 4HJ.
4 bedroom detached

Marketed from 02 Jul 2013

Enjoying what is a secluded yet elevated location, situated in what is among the most sought after locations within the village. Built in the early 1980 s to the current owners specification, The Oaks is an individual, four double bedroom detached residence offering excellent accommodation for l...



Offers in Region of £550,000

Archived 11

HIGHWALLS AVENUE, Dinas Powys, CF64
3 bedroom detached

Marketed from 19 Nov 2014 to 23 Nov 2015 (370 days)

This 1960's built THREE BEDROOM DETACHED RESIDENCE enjoys one of the finest locations in Dinas Powys being towards the very end of Highwalls Avenue and directly facing the golf course.

Sold Price History: 27 February 2015: £520,000



£550,000

Archived 12

Turnpike Close, Dinas Powys, The Vale Of Glamorgan. CF64
4 bedroom detached

Marketed from 26 Jul 2014 to 09 Feb 2015 (199 days)

Contemporary, 4 bedroom, detached house forming part of an exclusive & highly sought after development on the fringe of Dinas Powys. Master bedroom with en-suite, 3 reception rooms (principle with balcony & far reaching views), kitchen & breakfast room, double garage, workshop & landscaped grounds.

Sold Price History: 03 February 2015: £495,000

rightmove

Sold Price History

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Best Price Guide - Presented by Watts & Morgan, Bridgend*

**WATTS
MORGAN**

Watts & Morgan, Bridgend, 1 Nolton Street, Bridgend, CF31 1BX
Telephone: 0165 650 1013
Email: bridgend@wattsandmorgan.co.uk

*The below properties were advertised on Rightmove.co.uk during the dates specified. These properties were not marketed by Watts & Morgan, Bridgend unless otherwise stated.



£535,000

Archived **13**

Highwalls Avenue, Dinas Powys
6 bedroom detached

Marketed from 04 May 2012 to 24 Dec 2012 (234 days)

Well-presented and maintained detached family residence providing well-proportioned accommodation situated in this most sought after location in Dinas Powys within walking distance of the village itself.



£499,950

Archived **14**

Kings Ride, Twyn Cyn, Dinas Powys
5 bedroom detached

Marketed from 08 Oct 2011 to 05 Apr 2012 (181 days)

Rarely available is this superb 5 bedroom detached house set on a large plot and situated in one of the most sought after locations in Wales. The property benefits from spacious living accommodation, double garage, gardens, new bathrooms. Offers "No Chain"

Sold Price History: 03 April 2012: £460,000 23 December 2008: £700,000



£485,000

Archived **15**

Britway Road, Dinas Powys, CF64
3 bedroom semi-detached

Marketed from 23 Jun 2014 to 30 Sep 2014 (100 days)

Just off the common and a short distance from the old village square, stands this large and indeed versatile semi-detached cottage. Transformed by the present owner, the accommodation leads from a canopy porch and door to the lounge.

Sold Price History: 12 September 2014: £460,000 15 June 2004: £260,000 01 December 2000: £177,500



£475,000

Archived **16**

Ty Caredig, Old Farm Mews, Dinas Powys, The Vale Of Glamorgan CF64 4AZ
4 bedroom detached

Marketed from 11 Oct 2016 to 05 Dec 2016 (55 days)

A combination of contemporary design, clean lines, large expanses of glass & well planned, highly flexible accommodation. Offering up to 3 - 4 bedrooms, garaging for 2 cars & boasting private & enclosed outside space including a courtyard, large roof terrace & balcony off the master bedroom.

Sold Price History: 29 June 2017: £430,000



£469,500

Archived **17**

Highwalls Avenue, Dinas Powys, The Vale Of Glamorgan, CF64
4 bedroom semi-detached

Marketed from 06 Jun 2014 to 22 Jan 2015 (231 days)

Magnificent, extended and refurbished period property with direct access onto the golf course and spectacular, uninterrupted views.

Sold Price History: 21 November 2014: £450,000 29 July 2011: £427,000 14 May 2010: £315,000

rightmove

Sold Price History

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Telephone: 0165 650 1013
Email: bridgend@wattsandmorgan.co.uk

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£468,000

Archived 18

BRITWAY ROAD, Dinas Powys, CF64
4 bedroom semi-detached

Marketed from 28 Jul 2014 to 18 Dec 2014 (145 days)

What can only be described as exceptional. Located just down from the common and hidden behind security controlled electric gates, stands this totally transformed four bedroom semi-detached traditional residence with a contemporary twist.

Sold Price History: 13 November 2014: £450,000



£465,000

Archived 19

Cardiff Road, Dinas Powys, CF64
5 bedroom semi-detached

Marketed from 03 Apr 2014 to 30 Sep 2014 (180 days)

An extremely well maintained and presented five bedroom period semi-detached residence, enjoying a very good size overall plot.

Sold Price History: 06 August 2014: £449,000 27 October 1995: £108,000



£459,000

Invisible 20

Highwalls Avenue, Dinas Powys, Vale Of Glamorgan, CF64
4 bedroom semi-detached

Marketed from 11 Mar 2016

Enjoying a peaceful and enviable location with direct views across the golf course and woodland beyond, stands this substantial four bedroom Edwardian semi-detached residence.

Sold Price History: 03 October 2016: £447,000



£459,000

Archived 21

Highwalls Avenue, Dinas Powys
4 bedroom semi-detached

Marketed from 14 Jun 2016 to 17 Oct 2016 (126 days)

Enjoying a peaceful and enviable location with direct views across the golf course and woodland beyond, stands this substantial four bedroom Edwardian semi-detached residence. In need of some modernisation, the property offers spacious and versatile accommodation.

Sold Price History: 05 October 2016: £447,000



£430,000

Invisible 22

Dinas Powys
4 bedroom semi-detached

Marketed from 07 Mar 2015

EDWARDIAN RESIDENCE Generous four bedroom Edwardian family home. Enjoying fine views and retaining many original features combined with modern open plan living. Private rear garden and detached garage.

Sold Price History: 12 February 2016: £430,000

rightmove

Sold Price History

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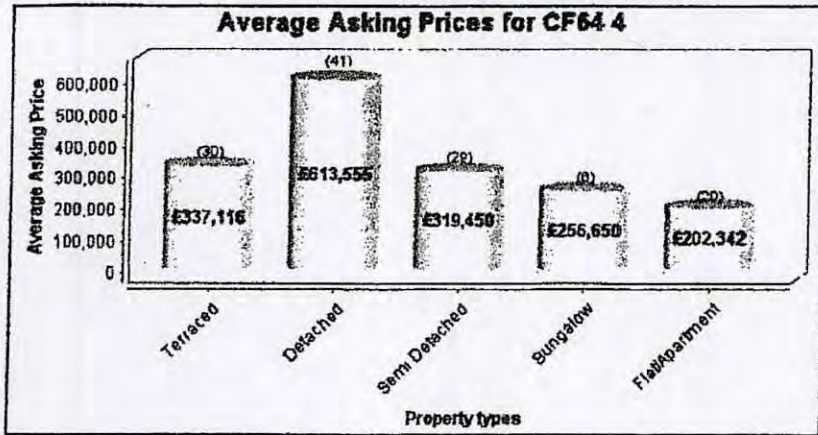
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This graph derives its data from the average asking prices of properties advertised on Rightmove.co.uk within the last 60 days.



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APPENDIX NINETEEN

Laurence Forse

From: Laurence Forse
Sent: 29 November 2016 16:54
To: VLRobinson@valeofglamorgan.gov.uk
Subject: Lettons House Appeal (APP/Z6950/A/16/3161658 (Vale Application 2014/01033/FUL

Hi Vicky,

I am currently starting to draft my statement for the above appeal, with a hearing likely in February.

I am conscious that your Authority's draft Supplementary Planning Guidance on Affordable Housing was revised in November 2015.

In terms of any contribution that you may require, am I correct in assuming that in accordance with the above document, the commuted contribution would be:

ACG for Family+five children Band 5 House X Social Housing Grant Rate X 0.4
i.e. £246,600 X 0.58 X 0.4 = £ 57,211.20 ?

I should be grateful if you could confirm this point rather than it being left to be debated at the hearing.

I am not sure who will be representing your authority at the hearing, but if it is to be Justina, you may simply wish to forward this on to her for a response.

I thank you in anticipation of a prompt reply on this point to simplify the writing of my statement.

Many Thanks

Laurence

Laurence Forse

Director

T 02920736747 M [REDACTED] E LaurenceForse@boyerplanning.co.uk

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Alzheimer's Society
Alzheimer's Society
Boyer Cardiff is proud
to support Alzheimer's Society

APPENDIX TWENTY



Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 03/03/15
Ymweliad â safle a wnaed ar 03/03/15

gan **Richard Duggan BSc (Hons)
DipTP MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27 Mawrth 2015

Appeal Decision

Hearing held on 03/03/15
Site visit made on 03/03/15

by **Richard Duggan BSc (Hons) DipTP
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 27 March 2015

Appeal Ref: APP/T6850/A/14/2229039

Site address: Derwen Fach, Trefnanney, Meifod, Powys SY22 6XX

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr & Mrs Ian & Ann Jones against the decision of Powys County Council.
- The application Ref P/2014/0666, dated 23 June 2014, was approved on 29 August 2014 and planning permission was granted subject to condition.
- The development permitted is "*Section 73 application to remove condition No. 2 attached to planning permission M6937 (occupancy condition).*"
- The condition in dispute is No 1 which states that: "*The occupancy of the dwelling shall be restricted to: a) a person solely or mainly working, or last working on a rural enterprise in the locality, or a widow, widower or surviving civil partner of such a person, and to any resident dependants; or, if it can be demonstrated that there are no such eligible occupiers, b) a person or persons who would be eligible for consideration for affordable housing under the local authority's housing policies, or a widow, widower or surviving civil partner of such a person, and to any resident dependants.*"
- The reason given for the condition is: "*The dwelling is located where it would not normally be permitted other than for agricultural or forestry purposes but satisfies policy HP6 of the Powys Unitary Development Plan and requirements of the Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010).*"

Decision

1. The appeal is allowed and the planning permission Ref P/2014/0666 granted on 29 August 2014 by Powys County Council, is varied by deleting condition 1.

Procedural Matter

2. Although section E of the appeal form refers to removing condition 2 attached to planning permission reference M6937, it was agreed at the Hearing that the appellant is seeking to vary condition 1 attached to planning permission reference P/2014/0666 and I have, therefore, dealt with the appeal on this basis.

Main Issue

3. Whether or not there is a continuing need for the occupation of Derwen Fach to be restricted, having particular regard to the need for Rural Enterprise Worker's dwellings and affordable housing in the area.

Reasons

4. Derwen Fach was constructed in 1979 in connection with the operation of Colfryn Farm and was occupied by the appellant's parents whilst farming the agricultural holding. The land and farmhouse associated with Colfryn Farm was subsequently sold, with the exception of Derwen Fach, and the appellants moved into the appeal dwelling in 2010. During my site visit I saw that the appellant has carried out comprehensive refurbishment of the dwelling and it has a large, landscaped garden with a view over the surrounding countryside.
5. Derwen Fach now has no links with the adjoining agricultural land which is now in separate ownership and it is not 'tied' to any land other than its own garden. The issue before me therefore turns on whether there is a continuing need for its retention for occupation by a person solely or mainly working, or last working on a rural enterprise in the locality, or persons who would be eligible for consideration for affordable housing.
6. Technical Advice Note 6 (TAN 6) 'Planning for Sustainable Rural Communities', issued in July 2010, indicates in paragraph 4.13.5 that where applications are received to lift an existing agricultural occupancy condition, the planning authority should consider replacing that condition with a rural enterprise dwelling occupancy condition, as set out in paragraph 4.13.1. The wording of that suggested condition was subsequently changed to that set out within paragraph 8.12 of the 'Practice Guidance: Rural Enterprise Dwellings' issued in December 2011 and this is the wording set out within the disputed condition.
7. Other advice contained within Circular 16/14 'The Use of Planning Conditions for Development Management' states that where a rural enterprise occupation condition has been imposed it will not be appropriate to remove it on a subsequent application unless it is shown that the existing need for such dwellings for rural enterprise workers in the locality no longer warrants reserving the house for that purpose.
8. In establishing whether or not there is a need for rural enterprise dwellings in the area the Council has stated that 14 No. planning applications for such dwellings throughout the County have been submitted to the Council over a period of approximately two years. No further evidence was provided with regard to the specific details of these applications, but the Council confirmed at the Hearing that the majority of these applications were justified to serve a specific, functional need on those agricultural holdings. The Council also referred to an approved planning application for a new rural enterprise dwelling in Meifod approximately 5km away.
9. Information provided by both the appellant and the Council demonstrates that within the same locality is another property known as Pen Y Berllan, which is for sale with an agricultural tie and has failed to sell since it was brought onto the market in January 2014. Whilst I am not aware of all the relevant details, this nonetheless demonstrates the presence of alternative agricultural worker accommodation which is available in the area and at a lower asking price. The evidence before me therefore points to a very limited demand in the locality surrounding the appeal site, in the context of an existing, underutilised supply in the area.

10. This lack of demand is further evidenced by the appellant's marketing exercise. At the Hearing both parties confirmed that despite some misgivings on the part of the Council with regard to the value, the process of marketing had been broadly acceptable and no more could be done. Based on the information provided, I find no reason to disagree. Derwen Fach has been marketed for sale by a local estate agent, advertised on several local and national property websites, and farmers in the area have been contacted directly, without any interest. Although no 'For Sale' board has been used at the property, the appellant suggested that this would only have been useful for directional purposes and not to advertise the property as being for sale. Given that Derwen Fach is in such an isolated and remote location, I agree that erecting a sign immediately outside the bungalow is unlikely to be of any significant benefit. Only one person has actually viewed the property and no offers have been received from buyers who could meet the terms of the occupancy condition over the period since it was placed on the market in August/September 2013.
11. The Council says there is a significant need for agricultural dwellings in the locality, and I accept that it receives a number of applications for new rural enterprise dwellings throughout the county. However, as was confirmed by the Council, these were required on existing agricultural holdings to meet the particular functional needs of a farm enterprise. In my opinion, the demand for a dwelling with no land away from a holding or a rural enterprise, even if within a tolerable travelling distance, is likely to be much more limited.
12. With regard to the valuation of Derwen Fach, the UDP offers no guidance on how to assess a reasonable market price which reflects the existence of the occupancy restriction. However, it is generally recognised that the price should be at a considerable discount from its unencumbered valuation. The advice contained within the TAN 6 Practice Guidance advises that traditionally agricultural dwellings have been marketed at prices generally between 70 and 75% of their open market value and this will continue to be the case with rural enterprise workers and local affordability constraints.
13. Derwen Fach has been assessed as having an open market value of £320,000 and is currently being offered for sale at a discounted price of £250,000, which is slightly higher than the percentage discount advised by the Practice Guidance. The Council considers the asking price to be too high in relation to other comparable properties in the area. The evidence put forward by the Council compares Derwen Fach to other 3-4 bedroom bungalows for sale within the Meifod and Llansantffraid area, only one of which, Pen Y Berllan, has an agricultural occupancy condition and is on the market for £199,950. It was confirmed at the Hearing that the Local Planning Authority has not sought any independent professional advice on the value of the appeal property or the other properties listed within the evidence, nor does it seem to me that they have undertaken any inspections of the properties.
14. On the basis of the information provided I consider it would be inappropriate to make direct or meaningful comparisons, particularly as Derwen Fach has the benefit of being extensively renovated and enjoys a particularly attractive setting. Even with a higher asking price, I am not convinced that genuinely interested parties who complied with the restriction would have walked away without at least putting forward a starting offer or seeking to open negotiations. As a consequence, if there was a legitimate demand for Derwen Fach with the occupancy restriction, then I agree with the appellant that this would have still been established to some extent at the asking

price. Overall, I find no sound reason to dispute the validity of the £250,000 discounted sale price of the property.

15. In terms of the affordability of Derwen Fach for those in need of affordable housing in the area, reference was made by the Council at the Hearing to the 2012 Welsh Government Acceptable Cost Guidance (ACG) figures for Powys. It was agreed at the Hearing that the property is a five person, three bedroom house located within the Band 3 (Llansantffraid) area which gives an ACG of £149,600. Even taking account of the fact that some flexibility or difference of opinion can occur in the valuation of Derwen Fach, this is significantly below the £250,000 discounted price currently being advertised.
16. The Council also acknowledges that the floor area of the property, at approximately 150 sqm, is larger than the 130 sqm maximum advised by UDP Policy HP10 'Affordability Criteria'. At the Hearing the Council also agreed that the dwelling is located in an isolated location with no facilities or public transport close-by, meaning that prospective occupiers would need to travel by car to access essential services or employment opportunities. I have noted the information from the Council's Housing Department regarding persons currently registered on the waiting list for housing in the Community Council areas surrounding the appeal site. Nonetheless, given the size and resulting value of the property, allied to its isolated position, I am of the opinion that Derwen Fach would not be a suitable property to be regarded as an affordable dwelling to purchase or rent.
17. When taking all of these factors into account, I am not persuaded that the preceding period of marketing at £250,000 was unrealistic or that it can be discounted. Combined with the past 7 months marketing with the new restriction, the appellant has actively marketed the property for a period of approximately 17 months without any genuine interest.
18. In my view there is little likelihood of this relatively large and recently renovated house being within the range of rural enterprise workers or as an affordable dwelling. Even though the rental market has not been tested, I consider that any discounted rental valuation would still be out of reach of the overwhelming majority of tenants who might satisfy the occupancy condition. As a consequence, this further substantiates that there is little or no demand for Derwen Fach as a form of accommodation for rural enterprise workers or persons in need of affordable housing in the area.
19. I therefore conclude that there is no longer a continuing need for the occupation of Derwen Fach to be restricted in the future. Thus, the removal of Condition 1 would not prejudice the need for rural enterprise worker's dwellings or affordable housing in the area. As a result, there is no conflict with the aims and objectives of Policy HP6 of the UDP or TAN 6 and the supporting Practice Guidance.

Conclusions

20. For the reasons given above and having regard to all other matters raised I conclude that the appeal should succeed. This means that there are now no restrictions on the occupation of Derwen Fach.

Richard Duggan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Hughes BA (Hons)
T&CP, MRTPI

Michael Hughes Town & Country Planning
Consultants

Rob Hudson

Morris Marshall & Poole

FOR THE LOCAL PLANNING AUTHORITY:

Kate Bowen BA (Hons) MSc Planning Officer

Angharad Richards BA, MSc,
MRTPI Senior Planning Officer

DOCUMENTS SUBMITTED AT THE HEARING

DOCUMENTS

1. The Council's Letter of Notification of the appeal, dated 9 January 2015
2. Policy H10, Powys County Council Deposit Local Development Plan
3. Site area comparison plans for Pen Y Berllan and Derwen Fach
4. Extract from Welsh Government Acceptable Cost Guidance, August 2012

STATEMENT FROM THINGS

DECEMBER 2016

Town and Country Planning Act 1990 ("the 1990 Act")

Section 78, Planning Appeal

Local Planning Authority ref: 2014/01033/FUL

Relating to Lettons House, Lettons Way, Dinas Powys, CF64 4BY

Appellant: Mr Peter Hayman

Appeal Reference: APP/Z6950/A/16/3161658

PLANNING APPEAL STATEMENT

1. THE APPEAL

- 1.1 This is an appeal pursuant to Section 78 of the Town and Country Planning Act 1990 by Mr Peter Hayman ("Appellant"), the registered proprietor of the property known as Lettons House, Lettons Way, Dinas Powys, CF64 4BY ("the Property") against the decision of the Vale of Glamorgan Council ("the Council") to refuse planning permission in respect of an application (Reference 2014/01033/FUL) for the removal of Condition 1 attached to planning permission 2011/0503/FUL restricting occupation of the Property to that of the person employed or last employed in a rural enterprise or for the provision of accommodation for those eligible for affordable housing.

2. BACKGROUND

- 2.1 The Property has been the subject of a varied planning history. The Property was constructed after planning permission (Reference 79/0067) was granted on 10 October 1980 ("the 1980 Permission") following an appeal to the Secretary of State. The 1980 Permission was granted subject to the following occupancy condition:

"The accommodation of a dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality and agriculture as defined by Section 290(1) of the Town and Country Planning Act 1971, or in forestry (including any dependants of such a person residing with him) or a widow or a widower of such a person".

- 2.2 The need for the Property was based on the Appellant's then nursery business - Mill Farm Nurseries Limited ("the Company") which comprised some two thirds of an acre (0.27 hectares) in area and on which the Property was constructed on or around 1982. The Property was originally registered within the ownership of the Company; however title to the Property was conveyed to the Appellant and his wife in the early 1980's. The Property comprised a substantial five bedroomed house which was subsequently extended following the grant of a further planning consent in 1989 ("the 1989 Permission").

- 2.3 The Appellant sold the Company in 1994, but remained a consultant for the new owners for a further six years until 2000. At the time that the Company was sold, the Appellant and his wife retained the Property as the purchaser of the Company did not wish to purchase the Property alongside the Company.
- 2.4 In addition, following the Company going into administration on or around 2002, the new owner of the Company for such business declined an offer from the Appellant to purchase the Property. The Appellant and his wife decided to sell the Property in 2011 in order to move to a smaller family home after almost thirty years spent at the Property. The Appellant instructed a local agent, Messrs Watts & Morgan ("the Agent") to market the Property from March 2011. The Agent is an established and well respected firm within the Vale of Glamorgan and it advertised the Property with an initial guide price of £495,000. Unfortunately, no potential buyer came forward who could meet the terms of the agricultural occupancy condition and the Agent subsequently advised the Appellant to seek to lift the occupancy condition in order to sell the Property.
- 2.5 The Appellant subsequently took further advice from a firm of planning consultants, Messrs Harmers, and submitted a planning application ("the 2011 Application") to remove Condition 3 of the 1980 Permission and replace it with a new form of Rural Enterprise Condition ("Rural Enterprise Condition") introduced by Technical Advice Note 6 ("TAN6") as part of Planning Policy Wales. Paragraph 4.3.1 of TAN6 sets out the requirements for Rural Enterprise Dwellings and paragraph 4.13.1 sets out both the requirements of a Rural Enterprise Condition and the wording, as follows:

"The Occupancy of the dwelling shall be restricted to those:

- (a) solely or mainly working, or last working on a Rural Enterprise in the locality where there is/was a defined functional need;*
or if it can be demonstrated that there are no such eligible occupiers, to those;
- (b) who would be eligible for consideration for affordable housing under the Local Authority's Housing Policies;*
or if it can be demonstrated that there are no persons eligible for occupation under either any/or (a) and (b); and
- (c) widows, widowers or civil partners of the above and any resident dependant."*

- 2.6 Council granted consent for the 2011 Application on 27 July 2011 and the original Condition 3 of the 1980 Permission was substituted with the following:

"The occupancy of the dwelling shall be restricted to:

- (a) a person solely or mainly working, or last working on a Rural Enterprise in the locality, or a widow, widower or surviving civil partner of such person, and any resident dependant;*

or if it can be demonstrated there are no such eligible occupiers;

(b) a person or persons who would be eligible for consideration for affordable housing under the Local Authority's Housing Policies, or a widow, widower or surviving civil partner of such person, and to any resident dependant."

2.7 The Appellant's wife passed away in October 2011. The Property was subsequently marketed at the reduced guide price of £465,000 from November 2011. The guide price was further reduced to £450,000 from February 2012.

2.8 Crucially, despite the revised occupancy condition which arguably opened the Property up to a potentially wider market, the concurrent reduction in the guide price by £45,000 and the strong interest in the Property, none of the prospective purchasers were able to satisfy the revised occupancy condition and were therefore not proceedable. As a result, the Property remained unsold, despite an extensive marketing campaign conducted by the Agent, including the following:

- Shopfront advertising;
- Particulars;
- On-line advertising;
- Sale board at the Property.

2.9 The Agents have produced two separate marketing reports for the Property during the sales campaign and these have been supplied within the appeal documentation.

3. PLANNING APPLICATIONS

3.1 The Appellant took further advice from Messrs Harmers in 2012 and the latter advised that an application should be made to lift the occupancy restriction in its entirety. A planning application was subsequently submitted on 8 November 2012 ("the 2012 Application") under Reference 2012/01193/FUL. During the same period, Messrs Harmers were instructed to contact local housing associations and invite their interest in purchasing the Property and Messrs Harmers also wrote to the Council on 6 February 2013 regarding the marketing of the Property for affordable housing, **Appendix [A]**. The Council subsequently responded by letter indicating that one housing association - United Welsh Housing Association ("UWHA") had expressed an interest in purchasing the Property.

3.2 UWHA viewed the Property but did not subsequently make an offer to purchase the same prior to their consideration of the planning application by the Council's Planning Committee. The 2012 Application was subsequently refused by a full committee of the Council on 11 April 2013 following the Officer's Report which concluded:

“[As] there is clear potential for the dwelling to be used as affordable housing, which would satisfy the Condition, there is no justification to permit the removal of the Condition”.

- 3.3 Following the dismissal of the 2012 Application, the Appellant met with the Council on 31 May 2013. UWHA subsequently made an offer to purchase the Property in September 2013 for £420,000, however, that offer was withdrawn shortly afterwards. UWHA confirmed that they had been instructed on behalf of the Council. During this entire period, the Appellant continued to market the Property via the Agent at the guide price of £450,000.
- 3.4 No further offers were received for the Property during 2013 and, in the absence of any further interest from UWHA, the Appellant made a further planning application to lift the occupancy condition on 5 December 2013 (“the 2013 Application”) under Reference 2013/01207/FUL. The 2013 Application was subsequently refused on a casting vote by the Council on 14 February 2014. The Officer’s Report concluded that *“it is understood that the Housing Association were forced to withdraw as there was no agreement on the sale price for the Property between the Housing Association and the Vendor”*. It is submitted that such a statement is patently misleading as UWHA had not entered into any meaningful negotiations with the Appellant.
- 3.5 The Appellant has obtained three separate valuations of the Property:
- (i) Watts and Morgan initial valuation for marketing purposes in 2011 for £600,000
 - (ii) Further valuation conducted jointly with UWHA dated 15/08/2013 for £595,000;
 - (iii) Burnett Davies Easton valuation dated 13/11/2015 for £650,000.

All three valuations have concluded an open market value for the Property at or in excess of £595,000 and, applying a 25% discount to reflect the occupancy condition, this would equate to a minimum encumbered value of approximately £450,000.

- 3.6 Following the dismissal of the 2013 Application, a further planning application was submitted on 18 August 2014 (“the 2014 Application”). The Appellant and his representatives, met with Mr Marcus Goldsworthy of the Council on 16 October 2014, following which the Appellant’s Planning Consultant, Messrs Harmers, corresponded with the Council. Copies of that correspondence have been included in the Appeal documentation. The Appellant subsequently instructed Messrs Thrings LLP to act on his behalf and copies of all relevant correspondence between Thrings LLP and the Council along with the appeal decisions referred therein are included in the Appeal documentation and the planning Consultant’s statement that accompanies this statement.
- 3.7 Following a meeting on 18 September 2015 between Thrings and the Council, Mr Marcus Goldsworthy of the Council advised the Appellant to seek confirmation from the Housing Department of the Council that there was no demand for the

Property. The Appellant subsequently wrote to Ms Toms of the Housing Department on 28 September 2015 and Ms Toms replied by letter of 5 October 2015 confirming that there was no need for a five bedroomed house. Copies of the correspondence are included in the Appeal documentation.

- 3.8 Following the above, one housing association subsequently expressed an interest in purchasing the Property - Newydd Housing Association. Following an inspection of the Property the Appellant exchanged correspondence with the representatives of Newydd Housing Association but no formal offers were received.
- 3.9 In February 2016 (shortly before the planning application was to be decided at committee), the Appellant received a further enquiry from a private individual, Mr Davies, who self-declared he was able to meet the occupancy condition. Mr Davies visited the Property on two separate occasions and the Appellant subsequently received an offer of £320,000. The proposed purchaser subsequently increased their offer to £380,000, however they were also required to dispose of their own property which was not on the market for sale and also required a mortgage. They confirmed in correspondence that they had an agreement in principle with Principality Building Society however the Appellant has received confirmation from the Principality that they would not be able to lend against this property. After receiving notification of this appeal Mr Davies put forward a further-increased offer of £390,000 but confirmed that their proposed purchase would still be subject to selling their property which was still not on the market and that they would still require a mortgage from a lender (not yet sourced) who would consider the property with such an occupancy restriction. The Property had been valued at between £595,000 and £660,000 open market value and, even applying a 30% discount to reflect the occupancy condition, this equates to an encumbered value of £416,500 to £462,000. At best, even if they were able to show they can proceed to contract, the highest offer from Mr Davies is some £26,500 to £72,000 below the realistic value for the Property and some £60,000 below the guide price

4. THE REASONS FOR REFUSAL

- 4.1 The Council's Planning Committee subsequently dismissed the 2014 Application on 13 May 2016 and the Decision Notice sets out the following reasons for refusal:

"Having regard to Policies HOU55 - Agricultural or Forestry Dwellings; and HOU56 - Agricultural Occupancy Conditions of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011 and the guidance contained in Technical Advice Note (Wales) 6 'Planning for Sustainable Rural Communities', in Planning Policy Wales (Edition 8 - 2016) and Welsh Office Circular 016/2014 'The Use of Planning Conditions for Development Management', the applicant has failed to demonstrate that there is no longer any need for the dwelling to accommodate an agricultural or forestry worker, nor that there is not a realistic potential that the dwelling could be used to accommodate those eligible for affordable housing. As such, Condition 1 of planning permission 2011/0503/FUL, which limits occupation of the dwelling to that of a person employed or last employed in a

rural enterprise or for the provision of accommodation for those eligible for affordable housing remains justified and has not outlived its usefulness. Accordingly, the proposal to remove this condition would be contrary to the above defined national and local policies including ENV1 - Development in the Countryside and HOUS3 - Dwellings in the Countryside of the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011, which seek to prevent the erection of dwellings in the countryside without an agricultural or forestry justification”.

4.2 In summary, there are three main reasons for refusal:

- (a) The Appellant has failed to demonstrate that there is no longer any need for the dwelling to accommodate an agriculture forestry worker;
- (b) The Appellant has failed to demonstrate that there is not a realistic potential the dwelling could be used to accommodate those eligible for affordable housing; and
- (c) Condition 1 of Planning Permission 2011/0503/FUL remains justified and has not outlived its usefulness.

5. NATIONAL POLICY CONTEXT

5.1 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Further, Section 70(2) of the 1990 Act requires that the authority dealing with the planning application should have regard to the provisions of the development plan, so far as material to the application and to any other material consideration.

5.2 For the purposes of the Appeal, the National Planning Policy is found within Planning Policy Wales (Edition 9 - November 2016) (“PPW”), which is supported by a series of Technical Advice Notes (“TANs”). In relation to the latter, TANs 6 - “Planning for Sustainable Rural Communities” is most relevant and considers the provision of rural enterprise dwellings and occupancy conditions on dwellings. Also relevant is Welsh Office Circular 016/2014 (“The use of Planning Conditions for Development Management”).

6. LOCAL POLICY CONTEXT

6.1 The relevant local development plan document is the Vale of Glamorgan Adopted Unitary Development Plan 1996 to 2011 (“UDP”) which was adopted on 18 April 2005. The policies most relevant to the Appeal as highlighted in the Officer’s Report are:

- (a) Policy ENV1 - Development in the Open Countryside;
- (b) Policy ENV27 - Design of the Developments;

- (c) HOUS3 - Dwellings in the Countryside;
- (d) HOUS5 - Agricultural and Forestry Dwellings;
- (e) HOUS6 - Agricultural Occupancy Conditions;
- (f) HOUS12 - Affordable Housing; and
- (g) HOUS13 - Exception Sites for Affordable Housing the Rural Vale.

7. SITE ASSESSMENT AND PLANNING POLICY CONTEXT

- 7.1 The Property was originally granted planning permission in 1980 (Planning Reference 1979/00067/DUT) following an appeal, with a reserved matters application in 1982 (1982/01750/RES). The Property was proposed to be used in conjunction with the Appellant's then nursery business - the Company which included an area of land comprising some two thirds of an acre (0.27 hectares). That is what happened, the Appellant operated the Company until 1994 when it was sold and continued to work as a consultant for a further six years until 2000. The Property was retained by the Appellant following the sale of the Company as the purchaser of the Company did not wish to purchase the Property.
- 7.2 The Appellant has long since retired and wishes to dispose of the Property. Despite the lifting of the original agricultural occupancy condition and its replacement with a rural enterprise condition, despite the reduction in the price of the Property from its open market value to a guide price which properly reflects the occupancy condition, despite an extensive marketing campaign conducted over a period of nearly six years by a local well-established firm of selling agents (who have a separate agricultural department so that properties such as this can be dealt with appropriately), despite seeking to attract the interest and negotiate with local housing associations for the sale of the Property for affordable housing, no genuine purchaser has come forward who can prove they meet the occupancy condition and who has made an offer within any reasonable estimate of the value of the Property having regard to the current occupancy restriction in place.
- 7.3 Policy ENV1 restricts development in the open countryside except in so many circumstances, for example, development which is essential for agriculture, horticulture, forestry or other developments. It is clear that the Property satisfied the criteria set out in ENV1 insofar as it is an existing development which was originally granted provision on the basis of its relationship to a horticultural nursery business. However Policy ENV1 relates to a proposed new development in the open countryside, the Property was constructed in 1982 and therefore ENV1 is not directly applicable in any event and it is submitted that it should be afforded limited weight as this Appeal relates to the removal of an occupancy condition on an existing property constructed some 34 years ago.
- 7.4 Policy ENV27 concerns the design of new developments and the Council has not raised any particular concerns relating to the design of the Property. It is

submitted that the design of the Property is wholly appropriate to its surroundings.

- 7.5 Policy HOUS3 concerns dwellings in the countryside, specifically the erection of new dwellings which will be restricted. As with Policy ENV1, the Property is an existing dwelling which was constructed over 30 years ago and is subject to an occupancy restriction. This Appeal relates to the lifting of that occupancy restriction and not the development of a new dwelling house, therefore it is submitted that HOUS3 should be afforded no weight in the determination of the Appeal. Policy HOUS5 concerns agricultural forestry dwellings. It is submitted that the occupation of the Property is in accordance with this Policy as demonstrated by the grant of the 2011 Permission.
- 7.6 Policy HOUS 6 concerns Agricultural Occupancy Conditions. Although not directly relevant to the Property as it relates to agricultural occupancy conditions and not rural enterprise conditions, it nevertheless provides an indication of those factors which the Council will take into account when considering proposals to remove agricultural occupancy conditions and should, it is submitted, carry significant weight in the determination of the appeal. HOUS 6 states that: "*Applications for the removal of agricultural occupancy conditions will be considered on the basis of realistic assessments of the continuing need for their retention*".
- 7.7 Paragraph 4.4.72 of the UDP states that "*Proposals to remove agricultural occupancy conditions should normally include evidence that the dwelling has been offered for sale over a sustained period at a price to reflect the occupancy condition*". Crucially, the Property has been marketed for a period of 5 years by a reputable firm of agents through a comprehensive range of advertising mediums and marketing campaign. The Property has also been the subject of 3 separate valuations which have confirmed the open market value of the Property - the Appellant has subsequently applied a substantial discount to the Open Market Value in order to reflect the occupancy condition. It is submitted that the approach taken to market the Property is fully in accordance with Policy HOUS6 and that the Appellant has done everything reasonably expected of him to meet the requirements.
- 7.8 TAN 6 and PPW9 are silent on applications for the removal of enterprise conditions. However PPW9 states, at paragraph 2.14.4 that "*It is for the decision maker, in the first instance, to determine through monitoring and review of the development plan whether policies in an adopted LDP are outdated for the purposes of determining a planning application. Where this is the case, local planning authorities should give the plan decreasing weight in favour of other material considerations such as national planning policy, including the presumption in favour of sustainable development*".
- 7.9 Paragraph 4.13.5 of TAN6 states that:
- (a) *Where planning applications are received to lift existing agricultural occupancy conditions or where enforcement action is being taken for non-compliance with the condition, the planning authority should consider replacing the existing agricultural occupancy condition with the rural*

enterprise dwelling condition set out in paragraph 4.13.1. This will often be justified to ensure the dwelling is kept available to meet the housing needs of rural workers and local people in need of affordable housing”.

8. **Grounds of Appeal**

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals must be determined in accordance with the development plan unless material considerations indicate otherwise. In the context of this Appeal, the development plan is the Vale of Glamorgan Unitary Development Plan 1996-2011 (adopted 2005).

8.2 The Appellant submits that the appeal proposal is fully in conformity with the development plan. In addition, or in the alternative, there are material considerations which indicate that the appeal proposal should be allowed in any event.

8.3 The Appellant submits that, following the refusal of planning permission by the notice dated 13 May 2016, The appeal involves the consideration of three main issues as highlighted in the Decision Notice:-

- (a) Whether the Appellant is able to demonstrate that there is no longer any need for the Property to accommodate an agricultural or forestry worker;
- (b) Whether there is a realistic potential that the Property could be used to accommodate those eligible for affordable housing; and
- (c) Whether Condition 1 of planning permission 2011/0503/FUL remains justified or whether it has outlived its usefulness.

9. **(a) Whether the Appellant is able to demonstrate that there is no longer any need for the Property to accommodate an agricultural or forestry worker.**

9.1 The Decision Notice sets out that the Appellant has *"failed to demonstrate that there is no longer any need for the dwelling to accommodate an agricultural or forestry worker"*. However, the Officer has misinterpreted the requirements of the occupancy condition which relates to a rural enterprise dwelling condition and therefore is not restricted to an agricultural or forestry worker; to that extent the Appellant is under no obligation to demonstrate no need for the Property to accommodate an agricultural or forestry worker. In addition, the Property was originally constructed to support an adjacent horticultural business which had established the need for the Property on the site, as set out in the Decision Notice for the 1980 Permission. However, the Company was sold in 1994 and the purchasers of the Company did not wish to purchase the Property. Whilst the Appellant continued to work for the Company until 2000, the need for the Property in connection with the Company ceased.

9.2 It is submitted that the Appellant can clearly demonstrate that there is no longer any need for the Property to accommodate an agricultural or forestry worker or, in accordance with the Condition 1 of the 2011 Permission, someone employed in a rural enterprise, as the Property is no longer connected to any agricultural or

forestry land or business. In addition, the Appellant has carried out a sustained and comprehensive marketing campaign to dispose of the Property in accordance with Condition 1 of the 2011 Permission, however no buyer who could satisfy the occupancy condition has come forward with an offer which reflects the value of the Property encumbered by the occupancy condition. The requirements to market the Property are set out in Policy HOUS6 of the UDP and it is submitted that the Appellant has complied fully with HOUS6 and therefore the Appeal should be allowed on this basis alone. A copy of the Marketing Report and the valuation reports for the Property are included in the Appeal documentation. The only individual (Mr Davies) who apparently complied with the occupancy condition (no evidence has been offered to support this and the Council have not carried out any appropriate checks) and who made an offer to Purchase the Property, was not in a position to offer anywhere near the guide price for the Property (£450,000) which the Appellant had previously set following advice from the Agent. The offer from Mr Davies was £390,000, some £60,000 below the guide price and the potential purchaser was not proceedable as detailed in section 3.9

- 9.3 The Property has been marketed over several years with clear attempts having been made to sell it in compliance with the occupancy condition. The lack of any genuine resultant interest from a potential purchaser provides a clear evidential basis for concluding that there is no continuing need for the retention of the occupancy condition. In the circumstances, Policy HOUS6 of the UDP provides clear support for the conclusion that the appeal should be allowed and the occupancy condition removed.
10. **(b) Whether there is a realistic potential that the Property could be used to accommodate those eligible for affordable housing.**

- 10.1 The Appellant has been engaged in marketing the Property for nearly six years. During this time, the Appellant, through his instructed planning consultant, Messrs Harmers, has contacted local housing associations inviting expressions of interest to purchase the Property. Messrs Harmers wrote to four housing associations in 2012 inviting their interest. Copies of correspondence from Messrs Harmers to the housing associations, together with particulars of sale, are included in the Appeal documentation along with Messrs Harmers letter to the Council in relation to marketing the Property for affordable housing.
- 10.2 One housing association, United Welsh Housing Association - "UWHA" expressed an interest and subsequently visited the Property. Following an independent valuation of the property carried out by Morgan and Davies instructed jointly by the Appellant and UWHA which valued the Property at the unencumbered value of £595,000 and UWHA subsequently submitted an offer of £420,000 on 2nd September 2013. However, that offer was subsequently withdrawn by email of 4th November 2013. Copies of correspondence with UWHA are included in the Appeal documentation. Despite indications of ongoing interest in the Property, Helen Galsworthy, Development Surveyor at UWHA, confirmed by email on 18th June 2014 that "*there are no further options we can explore to take a scheme forward*".
- 10.3 Only one further housing association expressed any interest in the Property, Newydd Housing Association ("NHA") in October 2015. However, despite representatives of NHA visiting the Property on two separate occasions, no formal offer was made for the Property and NHA did not express any further interest.
- 10.4 It is submitted that the Applicant, through his Agent and planning consultant, has made significant efforts to engage with local housing associations in order to invite their interest in purchasing the Property for affordable housing. However, only one firm offer has been received (from UWHA) and this was subsequently withdrawn without notice. In the circumstances, it is submitted that the Appellant has demonstrated that there is no realistic potential that the Property could be used to accommodate those eligible for affordable housing.
- 10.5 In considering whether the occupancy condition should be removed in accordance with the 2014 Application, the Council proposed the payment of a contribution from the Appellant based on the provision of a four bedroom affordable house, effectively, a payment in lieu of an onsite provision of affordable housing in return for the lifting of the occupancy condition. This contribution was proposed as £145,065.
- 10.6 It is submitted that there is no clear policy support for the payment of a financial contribution contained within the Council's Planning Obligations Supplementary Planning Guidance ("SPG") which, at paragraph 1 of Appendix 1 states:
- (a) "*all substantial new residential developments, including conversions and mixed use schemes are expected to make provision for Affordable Housing*"
- 10.7 The appeal relates to an existing Property and not a 'new' development and therefore it is submitted that the SPG has no application. In addition, the SPG (at

page 8) confirms that planning obligations are most likely to be sought on major developments or where a development will impact upon a particularly sensitive site. It is submitted that neither circumstance are relevant to the appeal Property. The large financial sum sought by the Council appears to be based on a formula set out in the SPG in relation to 'substantial new residential developments' and it is submitted that the payment sought is not 'fairly and reasonably related in scale and kind to the development' and is therefore not in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. Copies extracts of the Regulations are included at **Appendix [B]**. It is submitted that, in the circumstances, there is no clear basis for the proposed planning obligation and the request for such payment is not supported by national or local policy or national guidance. This view is also supported by Tim Sheppard of Counsel at No5 Chambers. In any event, the property being situated at the end of a long unlit, single-track, shared driveway with glasshouses to one side and a ditch to the other and served by a cess pit and liquid gas is plainly unsuitable for affordable housing - as is evidenced by the Housing Associations lack of interest in pursuing the property to contract.

10.8 It is submitted that the Appeal Decisions of Mr Jim Metcalfe dated 1 December 2014 (Appeal Ref: APP/N2739/A/14/2224013) and Mr Richard Duggan dated 3 March 2015 (APP/T6850/A/14/2229039) supports the view that the occupancy condition should be removed. In particular, the Appeal Decision of 1 December 2014 supports the view that where there is a lack of demand for a property with a rural enterprise/affordable housing occupancy condition, the conclusion can be reached that there is no continuing need for the occupancy condition and no resultant prejudice to the supply of affordable housing in the Council's area. In that decision, the Inspector concluded that there was little likelihood that such a relatively large house would be within the range of a rural enterprise worker or as affordable dwelling and that, even where a discounted rental valuation was applied, the property in that case would still be out of reach to the overwhelming majority of tenants who might satisfy the occupancy condition. Following this approach, the Inspector concluded that this further supported the view that there was little or no demand for the property as a form of accommodation for rural enterprise workers or persons in need of affordable housing.

10.9 In the circumstances, it is submitted that that there is no realistic potential that the Property could be used to accommodate those eligible for affordable housing and the occupancy condition should therefore be removed and the appeal allowed.

11. **(c) Whether Condition 1 of planning permission 2011/0503/FUL remains justified or whether it has outlived its usefulness.**

11.1 The Appellant has conducted a sustained marketing campaign in order to sell the Property at a guide price which reflects the occupancy condition. That guide price has been arrived at, having regard to the Open Market Value of the Property and then applying a substantial discount as advised by the Appellant's Agent. It is submitted that the discount applied (between 20-25% depending upon the Open Market Value) is a widely accepted deduction from the Open Market

unencumbered Value of the Property in the circumstances. Despite the discount and the sustained marketing campaign, the Appellant has been unable to sell the Property. It is submitted that in seeking to do so, the Appellant has gone beyond the requirements envisaged by Policy HOU56 of the UDP.

- 11.2 The Appellant has, through his planning consultant, Messrs Harmers, sought to engage with local housing associations in order to seek to attract their interest in purchasing the Property for affordable housing. However, no housing association has come forward to purchase the Property with the only firm offer being withdrawn before the Appellant had time to consider the same. In the circumstances, the Appellant has demonstrated that, following an extensive marketing campaign and several attempts to engage with housing associations, it is reasonable to conclude that there is no realistic potential that the Property could be used to accommodate those eligible for affordable housing.
- 11.3 No individual has come forward who can meet the occupancy condition and who can also purchase the Property at a price which reasonably reflects its encumbered value. In all the circumstances, Condition 1 of planning permission 2011/0503/FUL has clearly outlived its usefulness and is no longer justifiable.

12. Material Considerations

- 12.1 In the event that the Appeal proposal is not considered to be in accordance with all of the relevant national and local planning policies, it is submitted that there are material considerations which outweigh any policy harm and which, in our view, should be afforded significant weight by the Inspector and which should lead to the Appeal being allowed. These material considerations are summarised as follows:
- (a) It is submitted that the Property is a substantial dwelling which is out of the reach of the vast majority of eligible persons in relation to the occupancy condition. In the event that the Property was allocated for affordable housing it is likely that the costs of converting the Property by dividing it into smaller units would be disproportionate and prohibitive.
 - (b) The Appellant is 77 years old and lives alone in a large property which is ill suited to his current and ongoing needs. The Appellant has sought to sell the Property over the course of several years and, despite repeated attempts to attract interest, no individual or organisation has made a serious offer to purchase the Property which has not subsequently been withdrawn. It is submitted that the occupancy condition should be removed in its entirety in order to allow the Appellant to sell the Property on the open market and move into a dwelling of his choice. The consideration of personal circumstances as a material consideration has established legal authority with *New Forest District Council v Secretary of State for the Environment* [1984] JPL 178 and the leading House of Lords decision of *Westminster City Council v Great Portland Estates plc* [1985] ACC 661 where Lord Scarman held: "*Personal circumstances of an occupier, personal hardship, the difficulties of businesses which are of value to the character of the community are not to be ignored in the administration of planning control.*"

It would be inhuman pedantry to exclude from the control of our environment the human factor".

13. **Conclusion**

- 13.1 It is clear that the occupancy condition has outlived its usefulness and cannot be justified in the circumstances. The Appellant has demonstrated that there is no longer any need for the Property to accommodate an agricultural or forestry worker and that there is no realistic potential that the Property could be used to accommodate those eligible for affordable housing. The appeal proposal is also supported by both national and local policy and, in addition, there are material considerations which should lead to the appeal being allowed. The Appellant therefore respectfully requests that the Appeal be allowed and that the occupancy restriction should be lifted and planning permission granted for the unrestricted use of the Property.

APPENDIX A



HARMERS

TOWN PLANNING AND DEVELOPMENT
CONSULTANTS

39 Lambourne Crescent
Cardiff Business Park
Llanishen, Cardiff
CF14 5GG

Tel: (029) 2076 5454

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Website: www.harmers.biz

Our Ref:

5272/LAF/caj

Your Ref:

P/DC/SR2/2012/01193/FUL

Date:

6th February, 2013

Mr. M. Goldsworthy,
Operational Manager Development and Building Control,
Vale of Glamorgan Council
Dock Office
Barry Docks
Barry
CF63 4RT

COPY

FOR THE ATTENTION OF MR. STEVEN RENNIE

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990
REMOVAL OF OCCUPANCY CONDITION LETTONS HOUSE, DINAS POWIS
APPLICATION NO. 2012/O1193/FUL**

With reference to the above, and further to the writer's recent telephone conversation with your Mr. Rennie, I can confirm that we have now received a letter from Watts and Morgan supported by evidence of comparable size properties for sale, in which they explain their pricing of the property, and the discount applied. From these documents, you will see that they consider an open market value of the property excluding any high would be of the order of £600,000 whilst the current guide price of £450,000, taking effect of the rural enterprise restriction, in effect represents a discount of 25% on an open market value.

Further, for your information, I should add that prior to Christmas I wrote to the four housing associations particularly active in the Vale i.e. Wales & West Housing Association, Hafod Housing Association, Newydd Housing Association, and United Welsh Housing Association notifying them of the availability of the property, and inviting any expression of interest. I therefore enclose a copy of my letter to Wales & West, together with a copy of an e-mail that I have received from them indicating that they were not interested. I can also confirm that despite a similar letter being sent to the other three housing associations, and subsequent reminders having been sent, I have to date not received the courtesy of any response from those three associations.

I trust you will find the above information and enclosures helpful, and look forward to hearing from you further when you have received further comments from your Housing Department. I should add, that like yourself, I am aware that there is an absence of precedents or clear guidance on the removal of rural enterprise conditions, and should you therefore wish to discuss matters further with ourselves then we should be pleased to do so, as we collectively are to a degree setting a template for the consideration of future applications in respect of other properties at a later date.

Cont./.

I therefore look forward to hearing from you further.

Yours faithfully



LAURENCE FORSE

c.c. Mr. P. Hayman
Mr. R. Jones, Watts & Morgan

} letter only

APPENDIX B

DRAFT STATUTORY INSTRUMENTS

2010 No.

The Community Infrastructure Levy Regulations 2010

PART 11

PLANNING OBLIGATIONS

Limitation on use of planning obligations

122.—(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.

(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

(3) In this regulation—

“planning obligation” means a planning obligation under section 106 of TCPA 1990 and includes a proposed planning obligation; and

“relevant determination” means a determination made on or after 6th April 2010—

- (a) under section 70, 76A or 77 of TCPA 1990(1) of an application for planning permission which is not an application to which section 73 of TCPA 1990 applies; or
- (b) under section 79 of TCPA 1990(2) of an appeal where the application which gives rise to the appeal is not one to which section 73 of TCPA 1990 applies.

(1) Section 70 was amended by paragraph 14 of Schedule 7 to the Planning and Compensation Act 1991 (c. 34). Section 76A was inserted by section 44 of the Planning and Compulsory Purchase Act 2004 (c. 5). Section 77 was amended by section 40(2)(d) of the Planning and Compulsory Purchase Act 2004, paragraph 18 of Schedule 7 to the Planning and Compensation Act 1991 and paragraph 2 of Schedule 10 to the Planning Act 2008 (c. 29).

(2) Section 79 was amended by section 18 of the Planning and Compensation Act 1991 and paragraph 4 of Schedule 10 to the Planning Act 2008.