



# **VALE OF GLAMORGAN COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990  
(as amended)**

**Section 78 Appeal**

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## **WRITTEN STATEMENT**

**Appeal by Mrs. Vanessa Damiani  
Site at Post Office, 3, Station Road, Dinas Powys**

**TOWN AND COUNTRY PLANNING (REFERRED APPLICATIONS AND APPEALS PROCEDURE) (WALES)  
REGULATIONS 2017**

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**PLANNING INSPECTORATE REF. NO: APP/Z6950/A/18/3205169**

**VALE OF GLAMORGAN REF. NO: 2017/01310/FUL**

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## **1. INTRODUCTION**

- 1.1 This appeal relates to the decision of the Vale of Glamorgan Council to refuse planning permission for a change of use of the ground floor of the premises known as the Post Office, 3 Station Road, Dinas Powys from an A1 retail use (Post Office) to C3 dwelling flat.
- 1.2 The application REFUSED planning permission on 11 April 2018 for the following reason:
1. The proposal would result in the loss of an existing retail unit, which would result in an excess of 50% of non A1 retail uses and an over concentration of non A1 uses in Dinas Powys Village Local Centre, detrimental to the vitality, attractiveness and viability of the local centre. The principle of the development is therefore considered unacceptable and detrimental to the local community, failing to comply with Policies SP1- Delivering the Strategy, MG15- Non A1 Retail Uses within Local and Neighbourhood Retail Centres, and MD2- Design of New Development of the Vale of Glamorgan Adopted Local Development Plan 2011-2026 and the advice and guidance set out in Planning Policy Wales, (Edition 9) and Technical Advice Note 4 – Retailing and Town Centres (1996).

## **2. THE SITE AND ITS SURROUNDINGS**

- 2.1 The appeal property is located within in Dinas Powys' designated local centre and within the Dinas Powys Conservation Area. The property is a two storey end of terrace property, with retail space at ground floor and a residential flat above. The property is Victorian in character, retaining traditional transom and mullion detailed shop front.
- 2.2 The location of the appeal site, highlighting its relationship with the immediate surroundings, is identified on the location plans attached in Appendix 1. An map illustrating the extent of the Local Centre and Conservation area is attached at Appendix 2, and photographs of the site and its surroundings are attached in Appendix 3.

### **3. DETAILS OF DEVELOPMENT**

- 3.1 The Appellant seeks consent for the conversion of the ground floor of the retail premises to a C3 dwelling flat. No external changes are proposed as part of the submission.

### **4. RELEVANT PLANNING POLICIES**

#### **Local Planning Documents**

- 4.1 The Development Plan for this area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026 (LDP). The Development Plan was formally adopted by the Council on 28 June 2017, following the Inspector's report published in May 2017 that concluded the plan was sound. A copy of report on the examination into the Vale of Glamorgan Local Development Plan is provided at Appendix 4. The following Development Plan policies are considered relevant to the determination of this appeal:

#### **Strategic Policies**

- SP1 – Delivering the Strategy

#### **Managing Growth Policies**

- MG1 – Housing Supply in the Vale of Glamorgan
- MG12 – Retail Hierarchy
- MG15 – Non A1 Retail Uses within Local and Neighbourhood Centres

#### **Managing Development Policies**

- MD2 – Design of New Development
- MD5 – Development within Settlement Boundaries
- MD8 – Historic Environments

- 4.2 Extracts from some of the above policies have previously been provided in the Council's questionnaire..

- 4.3 In addition to the adopted Local Development Plan, the Council has approved Supplementary Planning Guidance (SPG). The Following SPG is of

relevance to this appeal:

- Parking Standards (Interactive Parking Standards Zones Maps); and,
- Dinas Powys Conservation Area Appraisal and Management Plan. A copy of the SPG is provided at Appendix 5.

4.4 Finally, the “Local and Neighbourhood Retail Centre Review updated background paper (2015)” prepared in support of the examination of the Development Plan’s soundness is considered to be relevant to the consideration of this appeal, as it provides factual analysis and information that is material to the main issue. A copy is provided at Appendix 6.

### **National Planning Guidance**

4.5 National planning guidance issued in the form of Planning Policy Wales, Edition 9 2016 (PPW) is of relevance to this appeal.

4.6 Welsh Government’s Technical Advice Notes (TAN) are also of relevance to this appeal, including:

- Technical Advice Note 4 – Retailing and Town Centres (1996); and,
- Technical Advice Note 12 – Design (2016); and,
- Technical Advice Note 24 – The Historic Environment (2017).

4.7 The following national planning documents are relevant to the appeal and the Council’s case:

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management; and,
- Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, imposes a duty on decision makers with respect to any buildings or other land in a conservation area, where special attention must be paid to the desirability of preserving or enhancing the character or appearance of the area.

### **Well-being and Future Generations (Wales) Act 2015**

4.8 The Well-being of Future Generation Act (Wales) 2015 places a duty on decision makers to take reasonable steps in exercising its functions to meet

sustainable development (or wellbeing) objectives. Consideration needs to be given to these objectives and the need to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

## **5. THE LOCAL PLANNING AUTHORITY'S CASE**

- 5.1 In the opinion of the Planning Authority, the principal issue in this appeal is the effect the proposed use would have on the vitality, viability and attractiveness of the "Dinas Powys" Local Retail Centre.
- 5.2 The appeal property is located within the designated 'Local Centre' of Dinas Powys. Development Plan Policy MG15 sets out that proposals for non-A1 retail uses will be permitted where: they would not result in excess of 50% non-A1 retail uses; it is demonstrated through active and appropriate marketing that the existing use is no longer economically viable; and the proposal would not result in an over concentration of non-A1 uses that would be detrimental to the vitality, attractiveness and viability of the local centre. It is the Council's submission that the merits of the development are contrary to criteria (1) and (2) of Policy MG15; that the resultant change would further derogate the number of non-A1 uses and that the proposed use would be detrimental to the vitality, attractiveness and viability of the local centre.
- 5.3 Local Retail Centre's play an important role in providing the day to day needs of local residents. Accordingly, the Development Plan seeks to ensure that planning permission for non A1 uses would not result in excess of 50 percent of the local centre being non A1 uses and also to avoid the over concentration or clustering of non-retail uses.
- 5.4 It is important to note that the appropriateness and soundness of Development Plan Policy MG15 has recently been test by the Development Plan Inspector who examined the evidence base and thrust of that policy. Paragraph 12.7 of the Inspector's report (Appendix 4) clearly sets out that the Council's background evidence and approach is appropriate and consistent with national planning policy on such matters. Given that there has been no change in planning policy at a national level, contrary to the Appellant's

assertion, the Development Plan Policy clearly is in line with national planning guidance retail matters.

5.5 Development Plan Policy MG15 at criterion (1) sets out a threshold at which non retail uses will not be permitted. In defining the local centre, the Council drew a tight boundary (Appendix 2) around existing land uses that define the local centre. The appeal site is located in the centre of that tightly defined local centre. The makeup of the local centre is illustrated in the table below.

Use Class	Existing	Existing (%)	Resultant	Resultant (%)
A1	7	31.8	6	27.2
A2	5	22.7	5	22.7
A3	9	40.9	9	40.9
D1	1	4.5	1	4.5
C3	0	0	1	4.5
Total	22			

**Table 1: Dinas Powys Local Centre (Uses)**

As identified above, the centre's mix of uses already falls below the threshold at which the approval of non-retail uses would be contrary criterion (1) of Policy MG15. It is the Council's submission that it is perverse to suggest that because the number of non-retail units is already below the threshold, a further hollowing out of non-retail units is acceptable. The Council is of the view that criterion (1) seeks to protect the loss of a retail use where the loss results in more than 50 percent non-retail uses. That is clearly the case here; the loss of the unit will result in a 27 percent provision of retail uses within the local centre and introduce the only residential use at ground floor into the centre of the area. Whilst the percentage change may only be a 4.6 percent reduction in real terms, the reduction harms the already limited number of retail units that play an important role and function in contributing to the vibrancy of the Dinas Powys Local Centre.

- 5.6 Criterion (3) of Policy MG15 sets that non-retail uses that result in harm to the vitality; attractiveness and viability of the local centre will not be permitted. It is the Council's submission that the use of the premises as a dwelling flat would result in a dead frontage in the centre of this concentrated local centre. That break in rhythm of active frontages in this locality would harm the vibrancy and attractiveness of the area, as well as the wider character of the conservation area, to the detriment to the area. That harm cannot be overcome by the imposition of condition or design out of the development, as the future occupiers would require the frontage to be deadened to adequately address reasonable protection of privacy and amenity.
- 5.7 Within the wider context of the appeal site, this local centre forms an integral part of the attractiveness of the area. Paragraph 5.7.3 of TAN12 states that "integration of compatible mixed uses can help urban areas become more competitive, viable and sustainable. In design terms, a mix of uses adds diversity to the townscape and the activity generated adds vitality". The erosion of such mixed uses through the loss and unjustified release of such uses that contribute to the mixed use of the local centre would, therefore, be bad design as defined by TAN12. Criteria (1) and (2) of Policy MD2 indicates that development proposals should be of high standards of design and respond to local context and character, respectively. The development is considered to be contrary to criterion (1) by reason of loss of an active frontage and replacement with a dead frontage; and, criterion (2) by reason of the introduction of a residential use at ground floor that fails to respond to the localised land uses within the established character zone of local centre.
- 5.8 The Council recognise that national planning guidance at paragraph 10.3.6 of PPW that indicates local planning authorities should monitor and manage such local centres. The paragraph indicates that a strict emphasis on retail premises numbers may undermine a centre's prospect, which is recognised by the Council. Notwithstanding that, the paragraph continues to advocate that local planning authorities consider how non-retail uses may play a greater role in increase diversity and reduce vacancy levels without harm to the vibrancy and attractiveness of such locations. Therefore, whilst flexibility over the strict application of criterion (1) may be adopted in some circumstances,

this must be balanced against the overarching aim of ensuring vibrancy and attractiveness is not compromised. It is the Council's submission that departure from the application of criterion (1) will result in harm, illustrated by reason of non-compliance with criterion (3) on retaining attractiveness of active frontages within the local centre. The appeal site is central to the local centre and the interjection of dead front will not achieve the aims of paragraph 10.3.6 in supporting such areas. Therefore, it is the Council's submission that significant weight should be attached to the strict application of Development Plan Policy MG15 in respect of this appeal.

- 5.9 It is the Council's submission that if this premise is lost to a residential use, there is no real prospective of it coming back out of residential use. Local and national market conditions are such that it is not feasible to suggest that there would be a shift back to non-residential. Indeed, national planning guidance at paragraph 10.3.7 clearly indicates that; "when considering change of use to residential from for example A1, A2 or A3, a return to those uses in future is unlikely".

## **6. CONCLUSION**

- 6.1 In the opinion of the Council, the development would result in a quantitative reduction in the number of non-A1 uses within the local centre, contrary to (1) of Policy MG15. In addition, the development would result in qualitative harm to the vibrancy and attractiveness of the local centre, contrary to criterion (3) of Policy MG15. The harm caused by the dead frontage created by the introduction of a residential use at ground floor within the area would be poor design, contrary to criterion (1) of Policy MD2 failing to respond to local context as required by criterion (2).
- 6.2 Accordingly, the Inspector is respectfully invited to dismiss this appeal.

## **7. SCHEDULE OF SUGGESTED CONDITIONS**

- 7.1 Should the appointed Inspector be minded to allow this appeal, the Vale of Glamorgan Council considers that the only conditions necessary be the statutory time limit and plan reference condition.