

**Appellants Response to Comments Raised in Respect of the Appeal
by Mrs. Vanessa Damiani**

At

Former Post Office, 3 Station Road, Dinas Powys, CF64 4DE

Appeal ref: APP/Z6950/A/18/3205169

Vale of Glamorgan Ref: 2017/01310/FUL

Introduction

1. This statement is the appellant's response to the following submitted written comments with regard to the appeal:
 - a) The LPA written statement
 - b) The comments by Mark Daniell dated 19/07/2018
 - c) The LPA letter dated 8 August 2018.
2. In summary it is considered that the LPA have failed to consider their own test for protecting the viability, attractiveness and vitality of the local centre, i.e. appropriate marketing efforts, as a significant material consideration that outweighs the strict application of policy MG15 in favour of the appeal proposal.
3. As regards the objections by Mr Daniell and the application for a change of use from A1 to D1, these are considered by the appellant nothing more than cynical attempts to prejudice the appeal in order to purchase the property on the cheap. If the Council are prepared to allow the proposed change of use to D1, then they should have allowed the change of use to residential. Otherwise, they are not being even handed in strictly applying the policy criteria as they have done with the appeal proposal. This cannot be right or fair.

LPA statement

4. In paragraph 5.4 the Council claims in relation to Policy MG15, the Development Plan Inspector considers the that the background evidence and approach is appropriate

and consistent with national policy. However on closer examination of what the Inspector wrote, it is clear that he was commenting directly in response to the approach being taken with regard to Neighbourhood Centres and not Local Centres. However it is agreed, that in the main, he supported suggested changes to the policy designed to make the policy responsive to changing marketing conditions with regard to Local Centres.

5. One of the changes made to make the policy more responsive was to allow for an appropriate period of marketing. Paragraph 6.84 clarifies that to protect the vitality, attractiveness and viability of local retail centres, changes of use to non-A1 uses will only be permitted where appropriate marketing efforts have been undertaken for at least 6 months. The council agrees that the marketing efforts undertaken for a period of 3 years were satisfactory. Therefore it is bizarre for the Council to claim that the appeal proposal would be detrimental to the vitality, viability and attractiveness of the local centre when the very condition introduced to the policy, to test this situation i.e. appropriate marketing, proves it does not.
6. The Council claims in paragraph 5.5 that it is perverse for the appellant to suggest that because the number of non-retail units is below the threshold, a further hollowing out of non-retail uses is acceptable. Firstly, the unit has been vacant for over 3 years. Secondly, the 50% threshold for non-retail uses is a general threshold that applies to all local centres, not just Dinas Powys village centre. Thirdly, it is contended that the 50% threshold was an irrational figure to begin, and to subsequently cling to when it is clear that over time, A1 uses were clearly diminishing in this particular village centre.
7. Appendix 2D to the Local and Neighbourhood Retail Centres Review April 2015 that was submitted as a background paper at Appendix 6 to the LPA statement, clearly shows that in relation to the old local centre boundary, A1 uses were already shrinking, from 35% in the 1997 survey to 24% in the 2013 survey. Even with the proposed redrawn tighter boundary the A1 uses were already below the 50% notional figure at 40%. The 2018 survey continues to demonstrate this steady decline with only 31.8% in A1 use within the redrawn boundary.
8. In the wake of this evidence, it was clearly not pragmatic to hold onto a 50% threshold as a determining factor when deciding planning applications and appeals for changes of use to non-A1 uses in Dinas Powys Village Centre.
9. It is not considered that core A1 uses that continue to exist in the village such as the shop with its sub-post office and newsagents, would be harmed by the loss of another retail unit, that has been vacant for 3 years already, as claimed by the LPA, particularly as the Council allowed changes of use to residential in the centre of the local centre in the past, as acknowledged in paragraph 4.15 of the Local and Neighbourhood Retail Centres Topic Paper 2015 attached as appendix 6 to the LPA statement. These changes of use to residential were not considered not to have had a detrimental impact on the viability of the centre.

10. At paragraph 5.6 of the LPA statement, it claimed that the proposal would result in a dead frontage in the centre of a concentrated local centre, with the break in the rhythm of active frontages harming the vibrancy and attractiveness of the area, as well as the wider character of the conservation area.
11. Dead frontage in retail terms is where footfall is unlikely to be attracted to or to go past the unit. However in this case, the unit is actually at the end of the parade where normally non-A1 uses would be found in town and village locations. Secondly, there are two public houses to the north that are well patronised. Therefore, footfall would continue to be attracted to and to pass by the appeal property. Thirdly the distances between the various uses within this very contained local centre are easily walkable with other retail uses located past the appeal property to the north, which again would encourage footfall into and past the unit.
12. Fourth, it is clear from the plan to Appendix 2D of the Local and Neighbourhood Retail Centres Topic Paper 2015 that changes of use to residential were allowed in the past to units in the centre of the local centre. Presumably these were not deemed to be causing dead frontage.
13. Fifth, it is clear from the Conservation Area Appraisal and Management Plan that dead frontages, was not an issue that has been identified by the summary of issues that the conservation area faces or that requires controls on new development. Moreover the delegated report into the application made clear that as no external changes were proposed, there would be no harm to the character of the Conservation Area. Therefore it is considered that the Council are exaggerating by making the claim that the change of use to residential would result in dead frontage that would harm the vibrancy of the centre or be detrimental to the conservation area. Finally in relation to this point, it is contended a vacant unit, that has been so for over 3 years, would cause more harm to the vibrancy of the local centre and the conservation area than a residential use that would not only make use of a unit, but would also bring people into the local centre that would make use of the existing shops and facilities.
14. As for the claim that future occupiers would require the frontage to be deadened to address reasonable protection of privacy and amenity, it is not clear what is meant by this assertion. Surely this could also be levelled at other non-A1 use such as a dentist/doctors/solicitors etc which also “deadened” their frontages for reasons of privacy. Therefore it is contended that this is an improbable claim.
15. In paragraph 5.7, the LPA make reference to TAN 12 and make the claim that the erosion of mixed uses that contribute to the local centre would be bad design; and that the proposal would be contrary to criterion 1 and 2 of Policy MD2 because of the loss of an active frontage and replacement with dead frontage and secondly because the introduction of a residential use at the ground floor would fail to respond to localised land uses within an established character zone of the local centre.

16. Again, it is not clear what the LPA means by this claim. Firstly, it should be noted that TAN 12 was not mentioned in the reason for refusal. That said it is clearly stated that a mix of uses adds to the diversity of the townscape and activity that generates vitality. Residential uses are not excluded from this mix of uses. Secondly, Policy MD2 deals with the design of new development and whilst it is mentioned in the reason for refusal, no explicit reference is made to it in the delegated report. Therefore this is the first time it is explained how the proposal conflicts with the policy.
17. With regard to dead frontage, this has already been dealt with above. With regard to a residential use being incompatible with good design in an established character zone of a local centre, changes of use to residential have been granted in the past which were not deemed so. Therefore this claim that the appeal proposal equates to bad design is strongly disputed.
18. At paragraph 5.8, the LPA request that significant weight be attached to the strict application of Policy MG15 in respect of this appeal. However as already indicated above, a significant and material consideration is that the unit has been vacant for over 3 years and active marketing efforts, accepted by the Council, has demonstrated that there is little realistic interest in the property. This marketing effort exceeds the Council's own test for protecting vitality, attractiveness and viability of local retail centres for changes of use to non-A1 uses. Consequently it is considered that this is a material consideration that is substantial enough not to accord too much weight to policy MG15 and to favour the appeal proposal.
19. At paragraph 5.9, it is asserted that a change of use to residential is unlikely to be reversed. Whilst not impossible, it is agreed that this is unlikely. However it should be noted that changes of use to residential are not excluded from the list of acceptable uses in the village centre, as evidenced by previously allowed changes of use to residential, provided appropriate marketing has been undertaken to demonstrate that an A1 use is no longer viable, which is the case with this appeal proposal.

The comments by Mark Daniell dated 19/07/2018

20. Mr Daniell claims that he made an offer of £275,000 and this was a realistic and fair offer in the light of upgrading costs. Attached is a letter from the appellant dated 19/08/2018 in which she disputes the claim by Mr Daniell as regards the offer made as well as the costs of upgrading.
21. Claims with regard to footfall loss and the impact on the village have already been considered above and in previous submitted documents. As regards parking, this was not considered to be an issue by the Council nor proffered as a reason for refusal.
22. Consequently it is considered that the objections by Mr Daniell are not credible and the Inspector is invited to disregard them.

The LPA letter dated 8 August 2018

23. The LPA letter details the submission of an application for a change of use from A1 to Chiropractic Clinic (D1) in an attempt to demonstrate that there is commercial interest in the site despite claims by the appellant. However, it should be noted that firstly, this application has not been determined as yet. Secondly, as specified in the letter from the appellant, she has not been informed or served the requisite notice by the applicant. Thirdly, she has not received a reasonable offer by the applicant to purchase the property. She views it (and the objection letter by Mr Daniell) as a cynical attempt to prejudice the appeal in the hope of purchasing the property on the cheap.
24. However if it is the case that the Council are willing to favourably consider the proposed change of use from A1 to D1, then they must apply the same criteria as that to the appeal proposal. A change of use to D1 would arguably have the same impact on the local centre as claimed by paragraph 5.2 of the LPA statement. If they do allow a D1 use which is still a non-A1 use, then they are not being even-handed or consistent in their application of the criteria which should also mean that the appeal proposal should also have been allowed. Otherwise this cannot be considered fair or right on the appellant.

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Mr R Rigby
The Planning Inspectorate
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19/08/2018

Dear Mr Rigby

Appeal reference: APP/Z6950/A/18/3205169

Former Post Office, 3 Station Road, Dinas Powys

Mr J. Peter , my agent and planning consultant for this appeal, forwarded me a copy of your letter dated 13.08.18 attached to which was a copy of a letter from V. Robinson – Operations Manager, Development Management - , stating that a new planning application had been received proposing to change the former post office into a chiropractor clinic. It was submitted by Mrs Tarryn Maynard.

I would inform you that prior to this forwarded communication we didn't know that an application was going to be submitted or had been submitted to the Vale of Glamorgan planning dept. We had not been informed by the applicant and have not had any notices served on me or my husband as owners, as required, as we understand, by planning legislation. We have been informed that application cannot be determined until the requisite notices has been served on us.

The property has been valued at £325,000 and extensively marketed over the last three+ years, as stated in the report submitted with our original application.

Two offers have been received one from Mrs Maynard , the other from Mr. M. Daniell both of which were substantially below the asking price (less than stated by the latter in his letter of objection). Because of the very low nature of the offers, neither were accepted.

So although it may appear that there is a demand for the property, there is no demand at the realistic valuation determined by the professional in this field appointed by us to sell the property. I consider this application and the so-called offer by Mr Daniell in his letter of objection nothing more than blatantly cynical attempts to get the property at well below an acceptable market rate.

In Mr Daniell's objection letter of the 19/07/2018, he states that substantial upgrading of the property is required that would cost in excess of £80,000. However we consider the property to be structurally sound and the suggested upgrading cost as absurd. More importantly he does not provide any independent corroboration for this high number.

Finally I would like to point out that I am retired former post mistress who provided years of service to the villagers of Dinas Powys. All we are attempting to do is to make sure we have proper financial provision for our old age. It cannot be right and extremely unfair that we should be forced to accept a lower figure than market value because of cynical attempts to distort the market by playing the planning system.

If you need any more information please do not hesitate to contact either Mr. Peter or me.

Yours sincerely

Vanessa Damiani