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## **APPEAL STATEMENT**

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In respect of

**CHANGE OF USE OF  
GROUND FLOOR PREMISES  
FROM A1 TO  
2 BEDROOM FLAT**

On behalf of

**VANESSA DAMIANI**

Date: June 2018

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## **EXECUTIVE SUMMARY**

This statement has been prepared in support of an appeal on behalf of Vanessa Damiani (the appellants) by Jeremy Peter Associates (the agent) against the refusal by Vale of Glamorgan (VOGC) (2017/01310) for Change of use of ground floor from A1 (Post Office) to C3 (2 bedroom flat) at Post Office, 3, Station Road, Dinas Powys.

This statement analyses the site, the proposals and the policy context within which these proposals are made. Thereafter, it provides justification for approval of these proposals in response to concerns expressed by the Council as detailed in the officer's delegated report.

The appeal is made having regard to the adopted development plan (the Vale of Glamorgan Development Plan) and Planning Policy Wales (PPW).

The appeal is made on the following grounds: -

- Extensive marketing has been undertaken to identify whether there is an economic need for A1 use (or other commercial use) on the proposed site. It is contended that this is a significant material consideration that outweighs development plan policy in this case.
- The proposal seeks to support the principle of improving the vitality and viability of the village centre.
- This proposal is small in scale so that there is no actual harmful impact upon the conservation area.
- The proposal responds to the current need to support sustainable development, within the settlement boundary of Dinas Powys. The proposals are deliverable and acceptable in policy terms when considered as a whole. It is therefore respectfully requested that the inspector allows this appeal and grants permission.

## **1.0 INTRODUCTION**

1.1 Jeremy Peter Associates have been instructed by Vanessa Damiani to submit an appeal against a refusal of planning permission issued on 11<sup>th</sup> April 2018 by Vale of Glamorgan council VOGC (ref: 2017/01310) for a change of use of ground floor from A1 (Post Office) to C3 (2 bedroom flat) at Post Office, 3, Station Road, Dinas Powys. There was only one reason for refusal which states:

*'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).'*

1.2 This statement sets out to contest this reason for refusal. It is set out as follows:

- Site Description
- Planning History
- Appeal proposal
- Development Plan and Other Material Considerations
- Planning Balance
- Summary and Conclusions



## **2.0 SITE DESCRIPTION**

- 2.1 The application site comprises an end of terrace ground floor property located on the south side of Station Road, opposite the village square and close to the centre of the village, with easy access to local pubs, eateries and the village store. The ground floor was previously used as the local post office which has been shut for 3 years.
- 2.2 The Post Office was closed in 2015 due to a retrenchment strategy by Her Majesty's Post Office. There is an existing active post office at The Murch, 14 Camms Corner, Dinas Powys CF64 4QY which is part of a convenience super market. There is also a sub-post office in the Village Store, just up the road. The site has been extensively advertised for let or sale as A1 or other commercial use (subject to the necessary consents) but with little serious interest.
- 2.3 The first floor has a lawful use as a separate 2 bedroom flat and has been occupied as such for a considerable number of years. There is a garage and driveway on the southern elevation. At the rear is access to a garden with timber decking and steps leading to a summerhouse adjacent to the rear garden boundary. Under the ground floor is a basement that is used for storage with access from the side. The application site is located within the Dinas Powys Conservation Area.
- 2.4 The appeal site is situated inside the settlement boundary of Dinas Powys a primary settlement and identified in the LDP settlement hierarchy considered to have an important role in meeting housing need and in providing some key local services and facilities.

### 3.0 PLANNING HISTORY

3.1 A full planning history is provided in the table below -

<b>Reference:</b>	Post Office, 3, Station Road, Dinas Powys
2009/00336/FUL	<b>Proposal:</b> Installation of an external ATM cash machine through glazing on the right hand side of shop front, Decision: Approved <b>Decision:</b> Approved <b>Decision date:</b> 2009

#### **4.0 APPEAL PROPOSAL**

- 4.1 The proposal is a change of use of the ground floor from A1 (Post Office) to 2 bedroom flat (C3 Use) with access from the front. The existing frontage and recessed porch would be maintained, providing access into a shared kitchen and living area with bedrooms and a toilet/bathroom located towards the rear.
- 4.2 The flat would have access to the rear garden and the basement which could be used for storage. It should be noted that the existing and proposed elevation show the post box that is situated in front of the premises. It is not a depiction of the ATM machine which has been removed following the closure of the post office.
- 4.3 Please see the plans attached with the application for further details.

#### Access

- 4.4 Access will be provided from Station Road and there is sufficient parking for 3 vehicles, one car space available in the garage and two car spaces on the drive (which was the previous arrangement when the ground floor was in use as a post office). Further storage space is available in the garage for cycle storage.



## **5.0 DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS**

5.1 Section 78 of the Planning and Country Planning Act 1990 (as amended) states that the determination of a planning appeal must be made in accordance with the development plan unless material considerations indicate otherwise.

### **Planning Policy Wales (2016)**

5.2 National planning policy in the form of Planning Policy Wales (Edition 9, 2016) (PPW) is of relevance to the determination of this application.

5.3 In chapter 9 on Housing at paragraph 9.2.6. LPAs are advised to address the scope of conversion (amongst other matters) when considering sites for housing development. Paragraph 9.3.3 advises that cumulative effects of conversion (again amongst other matters) should not be allowed to damage an area's character or amenity, including neighbours' amenity.

5.4 At chapter 10 on Retail and Commercial development at paragraph 10.3.2 and 10.3.6 it identifies the need for local plans to identify change and the need to redefine boundaries of town centres to reinvigorate centres and find alternative uses as the village and town centres expand.

5.5 Furthermore, paragraph 10.3.6 states that local plans should monitor retail performance, recognise signs of decline and emphasise further non-A1 uses to reduce vacancy rate - *'Local planning authorities should use the strategy in their development plan to manage decline in a retail and commercial centre or to take action to regenerate it. In some situations over emphasis on A1 uses in either primary or secondary areas may undermine a centre's prospects, potentially leading to high vacancy rates. In such circumstances local planning authorities should consider how non-A1 uses may play a greater role in retail and commercial centres to increase diversity and reduce vacancy levels'*.

5.6 The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

TAN 4	Retailing and Town Centres (1996)
TAN 6	Planning for sustainable rural communities (2010)
TAN 12	Design (2016)
TAN 24	The historic Environment

5.7 The supplementary PPW policies relevant to the determination of this application are as follows:

- Amenity Standards
- Parking Standards (Interactive Parking Standards Zones Map)
- Dinas Powys Conservation Area Appraisal and Management Plan
- Local and Neighbourhood Retail Centre Review updated background paper (2015)

5.8 TAN 6 recognises that new development supports living and working rural communities in order that they are economically, socially and environmentally sustainable.

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

5.9 The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives.

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### Local Development Plan:

- 5.10 The Development Plan for the area comprises the Vale of Glamorgan Adopted Local Development Plan 2011-2026, which was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

Policy SP1	Delivering the Strategy
Policy SP3	Residential requirement
Policy SP6	Retail
Policy SP10	Built and Natural Environment
Policy MG1	Housing supply in the Vale of Glamorgan
Policy MG12	Retail hierarchy
Policy MG15	Non A1 retail uses within local and neighbourhood retail centres
Policy MD2	Design of new development
Policy MD5	Development within settlement boundaries
Policy MD7	Environmental protection
Policy MD8	Historic environment
Policy MD16	Protection of existing employment sites and premises

- 5.11 The relevant development plan is Vale of Glamorgan Local Development Plan (VOGDP) 2011-2026, adopted in June 2017.
- 5.12 Policy SP 6 at paragraph 5.68 states that '*Town and district centres play a vital role in meeting the needs of residents and the LDP will seek to favour proposals that contribute to the regeneration of such centres, through the refurbishment and reuse of vacant properties. The LDP will also seek to improve the retail offer in town and district centres, with a focus on regeneration activity centred on the effective reuse of vacant floorspace at street level and on upper floors as well as improvements to public realm, circulation and access.*'
- 5.13 Policy MG1, regarding meeting the housing provision target of 10,408 dwellings during the plan period, states that this will be achieved by various means, including the conversion of suitable buildings with 861 dwellings are expected to come from small sites of this type as a contribution to the overall housing target over the plan period.

- 5.14 Policy MD5 of VOGDP provides for development within settlement boundaries, such as Dinas Powys, subject to several criteria.
- 5.15 VOGDP Policy MG12 identifies Dinas Powys Village Centre as a Local Centre and diagram at Appendix 6 shows that the appeal site is within the designated centre.
- 5.16 Policy MG15 relates to non-a1 retail uses within local & neighbourhood retail centres. This policy permits non-a1 retail uses in Local Centres where:
1. They would not result in excess of 50% non-a1 retail uses;
  2. It is demonstrated through active and appropriate marketing that the existing use is no longer economically viable; and
  3. 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.

## **6.0 PLANNING BALANCE AND JUSTIFICATION**

6.1 The Council consider that there are no technical constraints to the proposed delivery of development on this site, which is clearly sustainable, being located within a sustainable settlement.

6.2 This proposal aligns with chapter 10 of PPW which asks local plans to have a degree of flexibility and allowance for non-A1 within town and village centres to support vibrancy with alternative uses where it can be shown that there is no longer an economic use for A1 use class.

6.3 To make it clear, there has been very limited interest for the unit as an A1 use or other commercial use, and this has been demonstrated by the extensive marketing exercise undertaken for nearly 3 years now. This shows that local plan policy is out of step with economic reality.

6.4 The current market situation on the high street in Wales and the UK has seen a high degree of vacant shops due to unfavourable economic circumstances and the rise of online shopping and in this case, the retrenchment strategy by her Majesty's post office as well. The recently adopted plan by VOG and specifically local policy MG15 has already become outdated with the inflexibility applied for alternative uses within of Dinas Powys village centres. The strict application of this policy will increase and produce more vacant shops in the future. When considering the proposal against policy MG15 of the VOGDP:

- In regard to criterion 1, it is considered the proposal would not cause an excess of 50% non-retail use as the existing A1 use. Dinas Powys Village local centre is already below the required 50% at 31.8% as detailed by the delegated report (Appendix 1). Therefore it must be seriously questioned whether the village would ever be able to accommodate 50% of A1 retail-use when currently it is already below that level.
- This proposal would only result in a 4.6% in real terms reduction;

- The proposal would not make the change to residential in perpetuity and there is still the opportunity for the ground floor to apply for A1 use again once there is sufficient demand in the future.
- It has also been shown that in Dinas Powys retail centre (June 2017) (Appendix 2) A1 use has been accommodated more extensively in other parts of Dinas Powys where demand has been more in evidence.
- In terms of Criterion 2 which requires 6 months of active marketing to show the use is no longer economically viable, the A1 use has been marketed for nearly 36 months now which shows that it more than meets the criterion. It continues to be marketed with no tangible interest.

(It is noted that the delegated report questions the appropriateness of the marketing strategy and whether it has been undertaken as stated. Reference is made to the inclusion on Right Move website being undertaken on 22/05/2017. However this is explained by the fact that when a there is a price change or an amendment, the Right Move site updates from that date. Which is why it appears that it was only included from that date. However, the agent is categorical that they added it in 2015 (see email from agent dated 9/05/2018 – attached as Appendix 3). It also should be noted that the site was not internet marketed with Right Move only but also with Zoopla, OnTheMarket.com and the agent's own website. Nevertheless, it should be noted the Council accept that appropriate marketing has been carried out).

- In terms of criteria 3, it is considered the proposal would not result an over concentration of non-A1 use as there are existing A1 uses in the area to meet demand. This proposal would support the local economy vitality, attractiveness and viability with more patrons supporting local business and shops (please see sustainability profile section for further details).
- Dinas Powys Village centre already shows a high level of vacancy with 3 vacant shops being identified (Appendix 2). Changed shopping habits by

consumers clearly indicate the need for flexibility in planning policy to allow changes of use from A1 to other uses to reflect economic reality.

- The proposal would look retain existing external frontage to maintain the attractiveness and protect the conservation area. This was agreed with the case officer. Consequently the claim it would result in dead frontage that would harm the village centre is strongly refuted given that the unit is at the end of the commercial strip in any event and adjacent a public house.

6.5 To that end, it falls to the inspector to determine whether the development proposals constitute sustainable development and should be judged on the merits of proposal and also as to whether a breach of aspects of policy MG15, outweighs the benefits brought by the development.

6.6 It is contended that the fact that extensive and sustained marketing has been undertaken at a realistic price over a long period well in excess of 6 months, that is not contradicted by the Council, must be regarded as being a significant material consideration that outweighs criterion 1 and 3 of Policy MG15. It is the continued vacancy of the unit that causes more harm to the vitality, attractiveness and viability of the local centre. Interestingly, the accompanying text to the policy states at para.6.84 that "*... changes of use to non-A1 uses will only be permitted where appropriate marketing efforts have been undertaken for at least 6 months to demonstrate that there is no demand for A uses*". With this application, marketing has taken place for nearly 36 months with no interest!

6.7 Para. 6.85 goes onto say that "*Given the diversity of the identified retail centres, proposals for non-A1 uses will be assessed on a case by case basis against the individual characteristics of each local centre*". It is considered that this assessment has not been carried out by the LPA. They have instead, strictly applied policy without pragmatically assessing other material considerations, that in this case, point to aspects of the policy being set aside.

- 6.8 The following matters summarise the planning balance in support of the proposals together with a non-technical summary of the supporting reports submitted with the application.

### **Non-Technical Summary**

#### **Highways**

- 6.9 There has been no objection from the council highway engineer and the proposal will be served by three off road parking spaces.

#### **Amenity Space**

- 6.10 The proposal would provide good sized quality accommodation for a smaller household. There is also a good sized rear garden area that would provide sufficient private amenity space that would exceed the 40 sqm that is required by SPG.

#### **Impact upon amenity of neighbouring residential properties**

- 6.11 The proposal would maintain the existing frontage and external fabric of the building that would not harm the amenities or privacy of neighbouring properties.

#### **Sustainability Profile**

- 6.12 PPW sets out three dimensions of what makes sustainable development and are not to be considered in isolation. Under the three pillars of economic, social and environmental, the following is considered to support the proposal:



- 6.13 The proposals will perform an **economic** role generating direct employment opportunities during the construction phase of the development as well as indirectly through the supply chain.
- 6.14 The mean household income in the Vale of Glamorgan was £31,964.40 per year (NOMIS 2017), as such it would be estimated that the uplift in gross annual income from new residents from this scheme would be £63,928.8 which would in part be spent locally within the authority. Also by bringing a vacant unit back into use this will improve the vitality and vibrancy of the village centre.
- 6.15 If we assume the houses will be covered by council tax band D which attracts a charge of £1,447.78 per annum in Dinas Powys, then the development would provide the council with an additional tax per year.
- 6.16 The proposal would not leave the village without a post office as there is an existing active post office in the Village store, Station Road and at The Murch, 14 Camms Corner, Dinas Powys CF64 4QY.
- 6.17 The proposal will perform a **social** role through the creation of a modest and proportionate development next to a village, where the new residents will contribute to community life. The new dwellings will also offer opportunities for those in crowded homes locally to continue to live in the area.
- 6.18 Finally, the proposals will perform an **environmental** role as the site is sustainably located on the centre of a Primary settlement that has several services and facilities as well as public transport and cycle links to wider Dinas Powys. The SPG identifies the site as being within Zone 4 where it is noted that there is at least an hourly bus service to the town centre and a railway station. Local facilities are within 400m walking distance which will reduce vehicular trips.

## **7.0 SUMMARY AND CONCLUSIONS**

- 7.1 This appeal statement has been prepared in response to refusal, of planning permission to change use of A1 use to a two-bedroom apartment (C3 use).
- 7.2 The supporting document submitted with this planning application demonstrated that the proposed development is sustainable, appropriate and deliverable.
- 7.3 Despite extensive marketing over a prolonged period, there has been little interest expressed in the continued commercial use of the ground floor premises. This lack of interest is a significant material consideration that, it is contended, outweighs aspects of policy MG15. The change of use to residential would make productive use of a unit that has been vacant for a considerable period and would provide good quality accommodation for an additional household.
- 7.4 The development will incorporate a range of sustainable measures, including efficient housing and building design, designed to help minimise energy and water use.
- 7.5 The application provides much needed housing to serve local requirements and will incorporate a proportionate balance of housing for different needs. The size of the scheme is entirely appropriate to Dinas Powys as a primary settlement.
- 7.6 It would not harm neighbouring occupiers nor cause traffic congestion.
- 7.7 The proposals represent a modest and proportionate addition to the town and provide small scale residential, where it has been shown there is unmet need for retail or other commercial uses in this location. Therefore the proposed change of use from A1 to C3 would not contradict PPW or VOG policy as applied in this appeal.
- 7.8 Based on the above, it is respectfully requested that this appeal is allowed.
-