

OVERVIEW OF CASE HISTORY

For the purposes of establishing context, a synopsis of the case history is set out below.

The property was initially valued by Watts & Morgan with an open-market value of £600,000. Marketing commenced in March 2011 at a discounted price of £495,000. This was subsequently reduced to £465,000 in November 2011, and then to £450,000 in February 2012. Watts & Morgan have marketed the property continuously to this day, both locally and nationwide via the Internet: they are arguably the most prominent estate agents for rural properties and agricultural land in the area. They have reported much interest in the house, but the occupancy restriction has disqualified almost all of it. Two marketing reports produced by Watts & Morgan have previously been submitted to your office.

Two prior applications have been made -- both refused, neither appealed.

First application 2012/01193/FUL (submitted 07/11/2012)

In February 2013, United Welsh Housing Association (UWHA) suddenly expressed interest in the property -- despite having twice previously neglected to reply to letters soliciting interest from them. They would not state who their client was.

The property was viewed, but no concrete offer was made.

The application was refused at committee in April 2013 -- the applicant's family attended and witnessed Marcus Goldsworthy stand up at the meeting holding aloft a piece of paper and declare to the committee that an offer had been made by UWHA. This was not true: no firm offer had yet been made. The final report recommended refusal on the following grounds:

"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"

Eventually, in September, UWHA did make an offer for £420,000 -- but this was subsequently *withdrawn* by UWHA in November, whilst still under consideration by the applicant. It emerged in a meeting with UWHA that their client was in fact the Vale Council.

Second application 2013/01207/FUL (submitted 05/12/2013)

A further round of letters to housing associations had attracted no interest. Then, shortly before Christmas, UWHA returned and requested another viewing: the applicant asked that viewing be deferred until after Christmas -- however UWHA showed no further interest until the very week in which committee met, and no viewing took place until after the committee meeting.

The second application was refused at committee on 13th February 2014.
The refusal report stated 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."

This is highly misleading: as mentioned, UWHA had simply withdrawn their offer.

The vote was much closer than it had been in the previous committee. The applicant's family were again in attendance and reported that just before it was taken, Rob Thomas searched the property website Rightmove on his laptop, announcing that there were a number of five-bedroom properties in Dinas Powys on the market for under £500,000 (implying that the price should have been cut to gain further interest). He failed to give balance to this comment by disclosing how many five-bedroom properties were on the market for *over* £500,000 and neglected to mention the fact that the cheaper properties he was citing were invariably semi-detached houses lacking the land and location which Letton's House has. To date no fewer than *three* different valuations (one funded jointly by UWHA) have affirmed that the open-market value of the property is around £600,000 (possibly more -- the most recent valuation, conducted by Burnett Davies Easton, put the current open-market value at approximately £650,000).

UWHA viewed the house in April 2014. They confirmed that they had been asked specifically to look at the property by Pam Toms (and had not been asked to look at any other site).

In June 2014, UWHA finally declared they had no further interest in the property.

Third (current) application 2014/01033/FUL (submitted on 29/8/2014)

In an attempt to get to the bottom of the officer's issues with the application, the applicant's representatives arranged a meeting with Marcus Goldsworthy. The meeting took place on 16th October 2014 at the Council's Dock Offices.

Mr. Goldsworthy quickly suggested that the occupancy restriction could be removed were the applicant to make a large payment to the Council (the figure later confirmed in an e-mail was £145,655). This was said to be the Council's financial compensation for the perceived loss of an affordable house. Mr. Goldsworthy stated that he would never be minded to approve the application to lift the clause by any other means, making it clear that the only other alternative was to reduce the price ever lower until eventually a housing association showed interest and purchased the property. Taken aback by this stance, the applicant took time to consult with his legal and planning advisers.

After careful consideration and having taken legal advice, the applicant arranged a further meeting with Mr. Goldsworthy and Steven Rennie. This was held on 18th September 2015. The applicant's legal representative, Alex Madden, was present.

Mr. Goldsworthy stated that he was not interested in engaging with Mr. Madden on any of the legal issues regarding the proposed financial contribution. The applicant expressed dismay at the Council's reluctance to remove the restriction without payment of so large a sum, and asked what more was expected of him in order to demonstrate that there is no interest in the property. Mr. Goldsworthy advised the applicant to obtain an updated position from his estate agent and also to approach Pam Toms in the housing department, requesting confirmation that there was no interest in this particular property at present. He was clear that the housing department would never state there is no demand for affordable housing in Dinas Powys -- but were they to confirm that there is no need for this particular property, then that would be of material importance to the application.

Accordingly, a letter was sent to Pam Toms on 28th September 2015.

She replied on 1st October, confirming that there was no need for a five-bedroom house.

However, it emerged that Newydd housing association were suddenly "*interested in entering into discussion...to purchase the property*" -- baffling, since they had never so much as responded to even one of the letters sent to them in the course of four-and-a-half years, nor had even viewed the property.

The applicant contacted Newydd and received a reply from one of their representatives, Elise Coalter, who arranged to view the house on 13th October. During the viewing she confirmed that Pam Toms had contacted her via e-mail (shortly after the applicant's meeting with the Council) and had specifically asked her to consider Letton's House, and she further confirmed that she had not been asked to look at any other property. However, she made it perfectly clear that Letton's House was completely unsuitable for any of Newydd's projects and she would be happy to e-mail all parties to confirm that view, adding she would be speaking to Pam Toms later that afternoon prior to sending the e-mail.

The following day Elise Coalter visited the house again with her colleague Simon Morris. She stated that her view had not changed but she wanted to get a second opinion.

On 22nd October Mr. Morris e-mailed the applicant outlining the scope for using the property as affordable housing. This e-mail confirmed that Newydd had no use for the property in its current state and would have to split the property into four separate flats (much like the option previously mooted and rejected by UWHA). The e-mail gave an idea of the (very low) price Newydd might be prepared to pay but indicated that even this was subject to alteration.

After discussion with his estate agent and legal advisor, the applicant responded to Mr. Morris on 19th November requesting clarification of his proposal. The applicant further chased Mr. Morris on 1st December. No response was received.

At the time of writing (29th December), neither Simon Morris, nor Elise Coalter, nor any other representative from Newydd has responded to the applicant, and in the continued absence of interest from any other housing association, there would seem to be little chance of selling this property. The applicant has gone to significant lengths to attract, welcome and patiently wait for such interest to materialise or be finalised and despite the best efforts of the Council to create interest in the property, this has all come to nothing.

In accordance with Mr. Goldsworthy's other advice, a further marketing report has been obtained from Watts & Morgan, and a valuation of the property has been conducted -- by an independent local estate agent (Burnett Davies Easton). The latest valuation shows an open-market value of £650,000, which means that the current price represents an even greater percentage discount than before.

SUMMARY

The applicant considers it unreasonable to pay a large sum of money to the Council for the removal of the occupancy restriction on the grounds that there exists neither in planning policy nor in law any concrete basis for so doing. Details are set out in his counsel's report (attached).

The occupancy restriction is effectively preventing the sale of the property, as there has been no genuine interest from any party able to comply with its terms: the interest of the two housing associations is clearly at best lukewarm, and understandably so, given the patent unsuitability of the property for affordable housing and the practical difficulties and high costs involved in converting it for such use. Moreover it would appear that even this doubtful interest has been stimulated entirely by the Council itself, in response to applications to have the restriction removed. It is thus evident that the restriction is otiose and ought to be lifted.

We commend this report and relevant attachments for your consideration and look forward to receiving your conclusions in due course.