

**Application Number:** DM/2019/00426

**Proposal:** Change of use of ground floor (and small basement) from vacant Class A1 shop to Class A2 estate agency

**Address:** 22-23 Agincourt Square, Monmouth, NP25 3DY

**Applicant:** Spicerhaart Estate Agents Ltd.

**Plans:** Block Plan - ,

## **RECOMMENDATION: REFUSE**

Case Officer: Ms Jo Draper  
Date Valid: 20.03.2019

**This application is presented to Planning Committee at the request of the Local Member**

### **1.0 APPLICATION DETAILS**

1.1 The application site is a three storey end-of-terrace building which lies on the west side of Agincourt Square (B4293) at the corner of Castle Hill in Monmouth town centre. There is a bus stop directly in front of the application premises. Adjacent to the south is a hairdresser and to the north, beyond Castle Hill, is an Iceland supermarket. Monmouth Castle and Museum are situated to the west of (behind) the application property.

1.2 The building lies within the Monmouth Conservation Area. The building was Grade II listed in 1952. This is a double-fronted retail unit at ground floor which was formerly a clothes shop but has been vacant since April 2018. The application site forms part of the Primary Shopping Frontage of Monmouth Central Shopping Area.

1.3 This proposal is for change of use of a vacant Class A1 shop to a Class A2 estate agency. No external or internal alterations are proposed. The supporting information states that this property has been vacant since April 2018 with the previous clothes shop relocating to Church Street. The agent has stated that this proposal will bring the premises back into commercial use after an extended period of vacancy, promote the diversity of uses in the Primary Shopping Frontage, support neighbouring uses through linked trips and provide local employment.

1.4 Marketing information from Linnells Property Consultants in support of the proposal this states the following:

Linnells have been marketing the property since 2017 whilst vacant and whilst also trading as 'The Square' Ladies fashion store. we have been marketing as a single or two separate retail units at a quoting rent of 35k per annum.

There were two viewings from a local education centre and a book shop but nothing proceeded. National retailers and coffee shops were targeted but with no interest.

It is the opinion of the estate agents that Agincourt Square is not within the prime retail pitch which is near M&S and Waitrose and therefore this unit is unlikely to attract an A1 user.

### **2.0 RELEVANT PLANNING HISTORY (if any)**

<b>Reference Number</b>	<b>Description</b>	<b>Decision</b>	<b>Decision Date</b>
DM/2019/00418	Variation of condition no.3 of planning permission DC/2014/00619.	Pending Consideration	
DM/2019/00420	Variation of condition 2 (change of approved plans) relating to application DC/2014/00620.	Approved	07.10.2019
DC/2014/00619	Redevelopment of part of site to rear of listed building including demolition and re-buildings to similar footprints of two residential dwellings.	Approved	24.11.2014
DC/2014/00620	Redevelopment of part of site to rear of listed building including demolition and re-building to similar footprints of two residential dwellings.	Approved	19.11.2014

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

#### **Development Management Policies**

DES1 LDP General Design Considerations

Policy RET1 – Central Shopping Area – primary shopping frontage

### **4.0 NATIONAL PLANNING POLICY**

#### **Planning Policy Wales (PPW) Edition 10**

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation. A well-functioning planning system is fundamental for sustainable development and achieving sustainable places.

The planning system should create sustainable places which are attractive, sociable, accessible, active, secure, welcoming, healthy and friendly. Development proposals should create the conditions to bring people together, making them want to live, work and play in areas with a sense of place and well being, creating prosperity for all.

### **5.0 REPRESENTATIONS**

#### 5.1 Consultation Replies

**Monmouth Town Council:** Approve

**Monmouth Chamber of Trade and Commerce:** Support Proposal

The Chamber is keen to protect the primary shopping frontage and the balance of A1 use and other uses. However it is generally acknowledged that over time there will be a reduction in A2 premises as banks and building societies close their doors and focus on internet banking with Monmouth experiencing the closure of Nat West, Yorkshire and Santander. It is therefore probable that these A2 uses will therefore change back to A1 use. We are aware that the estate agents wanting to occupy the application site is Haart Estate Agent, with interest from two A1 users who are looking at occupying this property, thus offsetting the A1 with A2 uses. This property is one of four properties that is empty within a 50m length; it is important that this prominent building is occupied to give the impression of vitality to the townscape.

**Glamorgan Gwent Archaeological Trust (GGAT):** No objection.

**MCC Planning Policy Officer:** The application site is an existing retail outlet within a Primary Shopping Frontage (PSF) in the Central Shopping Area (CSA) of Monmouth. The unit has been an A1 use for a number of years and as such Policy RET1 of the Local Development Plan (LDP) would be the main planning policy consideration of this application, which is in place to protect the predominant shopping role and character of PSFs.

Under criterion (a) of policy RET1, Primary Shopping frontages, a change of use from an A1 to an A2 use will be permitted unless it creates or further extends a continuous frontage exceeding two or more non-A1 units. In this instance the premises in question is located between two A1 units and thus is in compliance with criterion (a).

Under criterion (b) of the policy such a change of use would be permitted provided that it would not result in the loss of A1 retail units in prominent locations, corner units or those with long frontages. The PSF Supplementary Planning Guidance (SPG) sets out guidance of factors that should be considered on making an assessment on whether a unit is considered within a prominent location. It sets out:

- Is it a key /anchor store?
- Is it visually prominent? e.g. has architectural quality and presence, junction location.
- Is it located in a central position within the frontage?
- Is it located immediately adjacent to transport facilities or in a key position in terms of pedestrian linkages?

It also goes onto state that specific consideration will be given to those units with a frontage of 10 metres or more although the significance of a particular frontage will depend on its context.

This particular unit 22- 23 Agincourt Court Square (despite the argument in the applicant's

planning statement para 5.5 - 5.7 that it is not prominent), is considered a large unit with a frontage of approximately 11.5 metres in length and its location, central within PSF8 and on a corner plot is considered to be a visually prominent location within the CSA. No. 22 -23 is a key and imposing building, with architectural quality and street presence and is a grade II listed building. The combination of its visual presence and setting, and large frontage length therefore results in this unit's prominence within the CSA. Its loss as an A1 use is considered in this case to cause harm to the vitality and viability of the primary shopping frontage in this section of Monmouth, contrary to criterion (b) .

Under criterion (c) of the policy such a change of use would be permitted unless the number, frontage lengths and distribution of Class A2 or A3 uses in the frontage create an over-concentration of uses detracting from its established retail character. The PSF SPG sets out guidance on the criteria based approach for assessing proposals for non-retail use classes. In the SPG the maximum threshold for non-A1 uses along this particular frontage (PSF8) is given as 35%. The current non-A1 uses account for 33% and it is calculated with this change of use the non-A1 uses would further increase to 35%, therefore taking it to the maximum threshold. It is considered therefore the proposal does not create an over-concentration of non A1 uses within Primary Shopping Frontage 8 and the proposal meets criterion (c).

Where a proposal fails to meet the criteria in the policy, the policy allows for an exception if i) it can be demonstrated that the proposed use would not harm the vitality of the street frontage, or ii) the premises have been vacant for at least 2 years and genuine attempts at marketing the existing use have been unsuccessful.

Under exception i) the unit is vacant and currently not contributing to footfall. It is considered the estate agency use will attract some footfall as it will introduce an interesting and dynamic window display and footfall for instance, for house sales. A planning condition could be potentially put in place relating specifically to an estate agency use thereby allowing a use that incorporates shop front display and retail vitality encouraging footfall as opposed to a conventional office related land-use. The applicant however has not provided any evidence demonstrating predicted vitality impact, such as footfall estimates.

Under exception ii) the unit has not been vacant for at least 2 years. Unit 22-23 has been vacant since April 2018 and it is stated that it has been marketed since October 2017. Although it is noted there have been attempts at marketing in the accompanying planning statement for the application, it needs to be considered on whether the unit has been marketed robustly enough and whether the time period has been long enough.

Overall in summary, there is a planning policy concern as the proposal to an A2 use results in the loss of a visually prominent and large A1 unit in a prime location thus failing criterion (b) of Policy RET1 . There is an argument nevertheless under exception i) of RET1 that specifically an estate agency A2 use can enhance the vitality of the PSF as it introduces an attractive and dynamic window display and will attract footfall for house sales; it therefore needs to be considered whether this exception is weighted strongly enough to be an exception against its failure to comply with criterion (b) by losing a key A1 unit with a long frontage. It is the planning policy view that in relation to this unit, further footfall evidence to demonstrate vitality and/or further marketing evidence for at least 2 years needs to be provided to justify the A1 retail use loss of such a prominent retail unit within the Primary Shopping Frontage.

## 5.2 Neighbour Notification

There have been no representations to date.

## 5.4 Local Member Representations

The Local Member requests that the application is presented to Planning Committee if the recommendation is for refusal.

## **6.1 EVALUATION**

### **6.2 Strategic & Spatial Choices**

#### 6.1.1 Principle of Development

6.1.1.1 This proposal is for a change of use only there being no physical changes to the building. The issue is therefore a point of principle and compliance with the criteria set out in LDP Policy RET 1. For the purposes of clarity the policy is set out below and the criteria are assessed individually.

Policy RET1 - Within Primary Shopping Frontages (PSFs), a change of use on ground floors from Use Class A1 to Classes A2 or A3 will be permitted unless:

a) they would create (or further extend) a continuous frontage exceeding two or more non A1 units;

Comment: In this instance the premises in question is located between two A1 units and is thus in compliance with criterion (a);

b) they would result in the loss of A1 retail units in prominent locations, corner units or those with long frontage;

Comment: This aspect of the policy permits a change of use provided that it would not result in the loss of A1 retail units in prominent locations, corner units or those with long frontages. The PSF Supplementary Planning Guidance (SPG) sets out guidance of factors that should be considered on making an assessment on whether a unit is considered within a prominent location. It sets out:

- Is it a key /anchor store?
- Is it visually prominent? e.g. the building frontage has architectural quality and presence, or a junction location.
- Is it located in a central position within the frontage?
- Is it located immediately adjacent to transport facilities or in a key position in terms of pedestrian linkages?

It also goes onto state that specific consideration will be given to those units with a frontage of 10 metres or more although the significance of a particular frontage will depend on its context.

In this case, the application site is a large unit occupying a frontage of approximately 11.5m in length, This, coupled with its location as a corner plot central within PSF8 results in this unit being in a visually prominent location within the CSA. Furthermore, due to the architectural quality of this grade II listed building together with its height, width and overall physical presence in the street scene, it forms a key and imposing building within this primary shopping frontage. The application site also fronts directly onto a main public transport route with the bus stop situated immediately outside the unit.

The agent has responded that the site does not form a corner unit as there is no return on the window. However, it is a double fronted retail unit that is a key unit visually in this part of the primary shopping frontage of Monmouth Town Centre.

This property is prominent in form, presence and location within the overall street scene of Monmouth Town Centre. The proposed change of use is not therefor considered compliant with this criterion.

c) the number, frontage lengths and distribution of Class A2 or A3 uses in the frontage create an over-concentration of uses detracting from its established retail character.

Comment: The PSF SPG sets out guidance on the criteria based approach for assessing proposals for non-retail use classes. In the SPG the maximum threshold for non-A1 uses along this particular frontage (PSF8) is given as 35%. The current non-A1 uses account for 33% and it is calculated with this change of use to a non-A1 uses would increase this to 35%, therefore taking it to the maximum threshold. It is considered therefore the proposal does not create an over-concentration of non-A1 uses within PSF8 and the proposal meets criterion (c).

6.1.1.2 Where a proposal fails to meet the above criteria, an exception may be considered provided it meets one of the following criteria:

- i) it can be demonstrated that the proposed use would not harm the vitality of the street frontage;
- or
- ii) the premises have been vacant for a least 2 years and genuine attempts at marketing the existing use have been unsuccessful.

Comment: Both of the above will be addressed in turn.

i) The agent was asked to deliver information regarding footfall to justify that the unit will not harm the vitality of the street frontage. However, the agent has responded that they were not able to provide comparable footfall data, as they were unable to find a location suitably comparable with

Monmouth within the company's portfolio on which to carry out a footfall survey. In addition, it is argued that vitality created by those entering an estate agency is supplemented by those looking at the window displays, which would be difficult to capture on a simple survey of how many people entered the premises. In any event, a comparison cannot be made with data for the previous A1 use with which to compare the estate agency.

It is not questioned that there will be people looking at window displays, particularly whilst waiting at the bus stop or as a result of passing trade. It is unlikely that the level of footfall that would result from an estate agency would in any way equal that of an A1 use which by its very use encourages people to take a deliberate trip and make a visit to the shop. However, the agent is arguing that something is better than nothing given that the property is currently vacant and is therefore attracting no footfall to this part of the town. If it can be demonstrated that there are no A1 users interested resulting in the unit remaining vacant for a prolonged period of time then there may be an argument that something is better than nothing.

However, there must be confidence that the site has been robustly marketed for the required period of time with a competitive rate that attracts an A1 user to the site. This element is considered under Part ii) of the exception.

The unit was occupied by an A1 user less than 2 years ago as it was vacated in April 2018. The agent is stating in the supporting information that the unit was marketed before then from October 2017 and hence marketed for the 2 year period required by planning policy. It is suggested that there was only interest from two A1 users during the whole of this time. There is little evidence however of this, as the marketing particulars delivered in the supporting information state that the unit is available for immediate occupation, but there is no explanation delivered as to the arrangement with the ladies clothes shop that was operating there regarding immediate vacation. There is concern that the site has not been marketed positively for a 2 year period, particularly in the last 6 months, with enquiries undertaken by the Council via another potential A1 user (who approached the Council regarding another site but expressed an interest in this unit and was told by the estate agent that it was no longer available). It is therefore questionable that the site has met the 2-year period, whilst the evidence to demonstrate positive robust marketing before April 2018 is not overwhelming. It is not certain that this period of inactivity is an accurate representation of lack of interest and may be due to the agent not willing to consider a new occupier or negotiate on price.

Finally, with regard to the rent that the site is marketed at, further enquiries were undertaken with regard to other units that are being marketed to form a comparison to establish whether this is a fair rent for the size and location.

Further information was requested from the agent and the following information was delivered to evidence that the £35,000 rent looks proportional to other premises in the town centre.

Application site :22-23 Agincourt Square	£35,000 rent per annum	1147sq ft
	£30.5 rent/ sq ft.	

Other properties on the market at present (as of June 2019):

1 Bridge House, Monnow Bridge	£8,400 rent per annum	400sq ft	£21 rent/sq ft.
7 Priory Street	£12,000 rent per annum	324sq ft	£37 rent/ sq ft.
96 Monnow Street	£24,000 rent per annum	767sq ft	£31.3 rent/ sq ft
7 Agincourt Street	£6,000 rent per annum	280sq ft	£21.4 rent/ sq ft

The agent identified two units that are a comparable price in term of price per square foot, namely 7 Priory Street and 96 Monnow Street. In both cases the marketing estate agent confirmed that the rent is negotiable. In the case of 7 Priory Street the unit is significantly smaller, whilst 96 Monnow Street is further down Monnow Street near Marks & Spencer and Waitrose so in terms of location is arguably in a more bustling part of the town with a higher concentration of A1 users in this area and despite this is still open to negotiation.

Further research into other available units (June 2019) was undertaken, and the following units were also being marketed:

15-19 Monnow Street (Old Nat West bank)	£26,844 pa (£11.72 sq ft)
43 Monnow Street	£26,000 pa (£27.66 sq ft).

It is clear to conclude that this unit is certainly at the upper end of the rental scale and significantly

more expensive than most with the only other units that are quoted as being at a higher end are, according to their agents, open to negotiation in that there are no takers at the current rental level set. It is recognised that this is a broad exercise and prices and terms of negotiation change depending upon location, availability and work required within the unit. However, in the absence of information regarding vitality of the proposed use, the exception relating to marketing does not appear to be robust enough in this case to enable this exception to be applied in accordance with planning policy.

It has been argued by the agent that the prospective new tenant for the application site is currently at 8 Beaufort Arms Court and this could revert back to an A1 use. This does not materially alter the consideration in this case as this location, although in the Central Shopping Area is not in the Primary Shopping Frontage like the application site.

The loss of an A1 use is considered in this case to cause harm to the vitality and viability of the Primary Shopping Frontage in this section of Monmouth, contrary to criterion (b). It is not considered to be compliant and the exceptions i) and ii) stated in this policy cannot be met in this case.

6.1.1.3 The agent has made reference to the 2018 permission for change of use from A1 to A3 at 5 Frogmore Road which is in Abergavenny Primary Shopping Frontage. In this case, the proposal was compliant with criterion a), failed criterion b) (being a corner unit) and marginally failed criterion c) although the margin was so slight in the case of criterion c) this was considered acceptable. The issue was criterion b) which is relevant to this case. With regard to the exceptions applied in Policy RET1 the proposal had not been vacant for the requisite two years and had not quite achieved one year of marketing either therefore not meeting exception criterion ii). However, it was decided that the proposal satisfied criterion i) which states that an exception may be considered if it can be demonstrated that the proposed use would not harm the vitality of the street frontage. The proposed A3 use was considered to add to the vitality of a centre by attracting customers and creating additional footfall. The concept for the proposed A3 use in question was "informal", resulting in a rolling customer base where customers use 'their Lounge' to fulfil different needs at different times of the day. Loungers sites are typically located in busy secondary high streets in densely populated small towns, suburban areas of large cities and within mixed-use developments. Notably whilst the applicant in this case did not have footfall data, the applicant has provided the sale per month from May 2017 to April 2018 for another Loungers establishment already up and running in Monmouth called Estero Lounge. This site does a lot more daytime trade than evening, particularly on weekends and draws people in from the surrounding areas. Coffee and food sales between 09.00-15.00 are up compared to the previous year which indicates greater daytime trading. This all results in greater footfall in the area attracting customers from surrounding areas into the town centre. It was concluded that this A3 use would maintain the vitality of the street frontage in that part of Abergavenny and planning permission was therefore granted. This is a different conclusion to that of an A2 estate agency use as proposed in this application.

6.1.1.4 Finally it is noteworthy that a planning refusal for a change of use from A1 to an A2 use (again an estate agents) was dismissed at planning appeal – this involved planning application DC/2010/00197 at 1 Agincourt Square. Whilst under a different Development Plan the principle of refusal is very similar as the application was refused for the following reason: 'The property occupies an important corner location in Agincourt Square. Notwithstanding that the applicant is willing to relinquish the use of the adjacent property for an A1 Use, the change of use of the property to A2 would be harmful to the vitality of this frontage and contrary to Policy S2 of the Monmouthshire Adopted Unitary Development Plan'.

The principle of a change of use from A1 to A2 does not comply with relevant planning policy in this case.

## **6.2 Response to the Representations of Third Parties and/or Community/Town Council**

6.2.1. These have been addressed above.

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

6.3.1 The duty to improve the economic, social, environmental and cultural well-being of Wales has been considered, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WCFG Act). In reaching this

recommendation, the ways of working set out at section 5 of the WBFG Act have been taken into account and it is considered that this recommendation is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

## **6.4 Conclusion**

6.4.1 Section 5.1.1 of PPW10 recognizes in Section 4.3.30 that, "although retailing (A1) uses should underpin retail and commercial centres, it is only one of the factors which contribute towards their vibrancy". Therefore, whilst 'Primary Areas' are typically characterised by a high proportion of A1 retail uses, national policy recognises that planning policies should encourage a diversity of uses in centres. This is affirmed in section 4.3.33 which notes "vibrant and viable centres are distinguished by a diversity of activity and uses which should contribute towards a centre's well-being and success, whilst also reducing the need to travel". Of relevance in this instance also is the principle that where economic decline is impacting on a retail and commercial centre, emphasis on retaining A1 uses in premises either in primary or secondary areas, which have been vacant for a period of time, may undermine a centre's viability and vitality. Advice in PPW10, Section 4.3.36, is that planning authorities should consider how non-A1 uses may play a greater role to increasing diversity and reducing vacancy levels.

6.4.2 The role that this proposal has in delivering diversity and helping to create a vibrant and viable town centre by reducing vacancy levels has been fully considered. However, in the absence of supporting information (namely footfall or visitor spend) the proposed A2 cannot be considered as an appropriate alternative to an A1 use in this case. The ideal is that this property is occupied by an A1 use and in such a prominent location is therefore a key magnet to shoppers that adds to the vitality and viability of the town centre. An A2 use is only a consideration when it is clear that there are no A1 users interested in this site. The marketing information provided together with investigations undertaken by the Council do not support the position as required by exception ii) of Policy RET1 that the unit has been positively marketed for the required period of time, thus conflicting with criterion b) and failing to meet either of the exception criteria. The planning application is therefore recommended for refusal accordingly.

## **7.0 RECOMMENDATION: REFUSE**

1. The application site, 22- 23 Agincourt Court Square, by reason of the width of its street frontage, its central location within the Primary Shopping Frontage on a corner plot in a visually prominent place within the Central Shopping Area, is a key and imposing building with architectural quality, street presence and is a grade II listed building. Its loss as an A1 use in this case will cause harm to the vitality and viability of the primary shopping frontage in this part of Monmouth, contrary to criterion b) of Policy RET1 of the Local Development Plan. There has been no reasonable justification given to demonstrate that an exception can be considered in this case.