

APPENDIX 3: MARKETING REQUIREMENTS FOR CHANGE OF USE APPLICATIONS

1. INTRODUCTION

1.1. The purpose of this appendix is to clarify the marketing and economic viability evidence required from applicants proposing schemes that result in the loss of visitor accommodation and facilities, employment land, local retail facilities, or community facilities.

1.2. Section 1 of this appendix sets out the policy context for marketing and viability requirements. Section 2 explains the minimum action required when actively marketing premises and/or sites, and outlines the marketing evidence which must be provided to the Authority when submitting an application for change of use. Section 3 provides information on the financial viability evidence required to demonstrate that the premises and/or site is no longer suitable for its current type of use. Section 4 specifically applies to applications for the loss of community facilities and sets out requirements for demonstrating a lack of need for the facility.

1.3. The types of use for which marketing, viability testing and/or need testing are required, before an application for their change of use can be permitted, are set out in Figure 1, along with the minimum marketing period expected.

FIGURE 1: TYPES OF USE AND MINIMUM MARKETING PERIODS

Local Plan policy	Land use	Minimum marketing period
SD23: Sustainable Tourism	Visitor accommodation, visitor attractions and recreation facilities	12 months
SD35(4)(a): Employment Land	Land and premises in, or most recently in, B Class employment use ¹³¹ within safeguarded principal employment sites listed in the policy	18 months
SD35(4)(b): Employment Land	Land and premises in, or most recently in, commercial uses ¹³² on safeguarded local employment sites, listed in the policy or in NDPs	18 months
SD35(3): Employment Land	Land and premises in, or most recently in, B Class employment use outside specific safeguarded sites	12 months
SD35(3): Employment Land	Land within sites allocated for B Class employment use	12 months

131 Offices other than for financial/professional services; research and development of products or processes; use for industrial process (excluding incineration purposes, chemical treatment or landfill or hazardous waste); storage and distribution centres

132 Economic development that provides jobs, generates wealth or produces an economic output

Local Plan policy	Land use	Minimum marketing period
SD37: Development in Town and Village Centres	A class uses ¹³³ in designated smaller village centres	24 months
SD38: Shops Outside Centres	Shops outside centres	18 months
SD43: New and Existing Community Facilities	Community facilities ¹³⁴ (Policy SD43 also applies to development proposals that would have an unacceptable adverse impact upon, an existing community facility)	24 months

2. MARKETING INFORMATION REQUIRED FROM APPLICANTS

2.1 A marketing report should be submitted with the planning application. This should set out the details of the marketing that has been undertaken and demonstrate that there is no market demand for the premises in their current use or any use within the same category set out in Figure 1. This exercise should take account of the following points.

2.2 Vacant or under-used premises or sites should be continuously marketed under their existing use, or a use in the same category shown in Figure 1, for a minimum period as set out in the table. The marketing period must have ended on a date no more than nine months before the date the planning application was submitted. In some cases a longer period of marketing may be required in order to provide sufficient evidence that demand is lacking. The advice of the Authority should be sought prior to the commencement of any marketing campaign to ascertain the period and extent of marketing required.

2.3 Where premises are in poor condition or have been partially demolished, the exercise should be limited to marketing of the site as a

¹³³ Shops, financial and professional services, restaurants, cafes, drinking establishments and hot food takeaways

¹³⁴ Community facilities are defined in the supporting text for Policy SD43. Local shops are a type of community facility but addressed under Policy SD38

potential site for redevelopment to reflect the existing use, or for equivalent uses within the relevant category (see Figure 1).

2.4 The marketing should use a variety of media and outlets to attract potential occupiers. Dated copies of all sales literature, and in the case of marketing boards, dated photographs, will be required in the marketing report in order to demonstrate a sustained marketing effort. As a minimum, the following measures should be used:

- a) Property details made available through a minimum of one local, professionally accredited commercial agent with a specialism in the relevant type of use. The property details (particulars) should as a minimum detail:
 - i. The type and size of the property/site;
 - ii. Address and location information; and
 - iii. Leasehold rent and/or freehold sale.
- b) A copy of the dated letter of instruction to the commercial agent and dated copies of the agent's property details should be included in the marketing report
- c) On-site/premises marketing boards, of an appropriate quality, size, scale, location and number, in place throughout the period in which the property is being marketed
- d) A targeted mail shot or email to a list of potential purchasers agreed with the Authority
- e) Web-based marketing through a prominent location on the appointed commercial agent's website and other relevant search engines, such as Estates Gazette Interactive at www.egi.co.uk. Depending on the type of premises being marketed, marketing through the website of a national estate agent may also be required
- f) Advertising covering at least the minimum required period as shown in Figure 1, within relevant publications, such as the Estates Gazette,

local press, appropriate trade magazines/journals and trade websites, and any publications produced by local business networks and support agencies

2.5 The premises and/or site should be marketed at a price and associated terms that are commensurate with market values for the existing use, based on evidence from recent and comparable transactions and deals. To demonstrate that the price and terms are appropriate, at least three examples should be provided of completed transactions involving a similar site or premises and similar terms within the local area, dated within the last twelve months, and written evidence from an independent qualified valuer on the market values in the local area. All information about price and terms should be provided in an accessible format. Where the price changed during the period of the marketing campaign, the reasons for this should be recorded and included in the marketing report.

2.6 Failure to comply with the requirements above may indicate that the relevant Local Plan policy has not been complied with. In such circumstances the Authority may invite the applicant to revise their asking price in line with an independent valuation, funded by the developer, by a professional RICS valuer or similarly accredited professional. The revised price will provide a basis to repeat the marketing for the minimum period set out in Figure 1.

2.7 Where premises are marketed for lease, the length of lease offered should not be unduly restrictive and should include the potential for a short-term lease in appropriate cases. Details of the lease terms offered should be included in the marketing report, along with any changes made to the terms offered during the period of the marketing campaign and the reasons for this.

2.8 The marketing exercise should reflect the existing use of the premises or business in its entirety, and not to parts of it. For example, the buildings should not be marketed separate to the accompanying car park.

2.9 The marketing agent should keep a log of enquiries throughout the period of the marketing campaign. This should record the date and nature of the enquiry for example the type of business enquiring, how the enquirer found out about the premises, whether the enquiry resulted in a site visit, and the

reasons given for not progressing an offer on the premises. This log should be submitted as part of the marketing report.

2.10 Where the flow of enquiries has been limited or is decreasing during the period of marketing, the marketing report should explain any measures taken to refresh the marketing campaign. It is reasonable that other equivalent uses within the same category (see Figure 1) may also be explored. The advice of the Authority should be sought prior to the commencement of any marketing campaign to discuss the extent of alternative uses that may be appropriate.

2.11 In summary the marketing statement should include all details and evidence of the steps taken to market the building/site as detailed above. If the Authority is not satisfied that these requirements have been met then it may require additional marketing before the proposal can be considered acceptable.

2.12 Following receipt of the marketing report the Authority will review the content and compare this to evidence, potentially including but not limited to:

- *ELR*
- *Visitor Accommodation Study*
- *AMR*
- Vacancy/occupancy surveys in the area (if available)
- Accessing a third party commercial property database (if available)

3. FINANCIAL VIABILITY INFORMATION REQUIRED FROM APPLICANTS

3.1 This appendix relates only to the loss of the uses listed in Figure 1, which are commercially run, where the applicant needs to demonstrate that it would be unviable to continue with the site in its current use or one that is equivalent. It does not relate to demonstrating the viability or otherwise of new types of uses, when taking into account planning obligations such as, for example, affordable housing. The viability of new uses should, where necessary, be considered separately. However evidence of existing or equivalent alternative uses being unviable will inform the existing land value, and may therefore be material in considering the viability of any new use.

3.2 The Authority requires a financial viability appraisal which demonstrates that the retention of the site in full or in part for its current use, or one that is equivalent, is not financially viable. The Authority will appoint a third party, at the cost of the applicant, to assess the evidence submitted as necessary.

3.3 The required scope of the financial viability appraisal should be agreed in advance with the Authority but may include the following information:

- a) A valuation of the site in its existing use and not the 'hope value' of alternative uses;
- b) For commercial community facilities, at least the last three years of audited accounts for the business;
- c) The total cost of development or redevelopment of the site for equivalent uses within the relevant category set out in Figure 1;
- d) Information/evidence to support rents, sales values, capital values and rental yields adopted for the appraisal;
- e) Sensitivity testing to support the robustness of the report conclusions against changing market conditions; and
- f) Evidence to illustrate that it would not be economically viable to retain the building or site for its existing or any other equivalent use falling within the same category as set out in Figure 1 above.

3.4 Wherever feasible, the viability appraisal should be carried out while the site is still in operation.

3.5 The Authority will require evidence that demonstrates that the business or facility has been operated positively. Proposals for loss must not be based solely on the needs of the current owner/tenant or their chosen business model. Applicants will need to look at the full range of potential uses or ways of operating a business or facility within its existing use category or other use categories that would be suitable in policy terms, in order to demonstrate that it is not workable in the long term. This includes the potential of the site for additional complementary developments that could make the business more

viable, for example, the conversion of public house outbuildings to visitor accommodation.

3.6 The viability appraisal should, where relevant, include consideration of the potential for grant funding from public or charitable bodies to support uses on the site that are appropriate in policy terms.

4. EVIDENCE OF NEED

4.1. Developers are required to carry out an assessment of the needs of the local community for community facilities to show that the existing premises is no longer needed for the community use, and whether adequate alternative provision is available in the area to meet the needs of local residents, workers and visitors.

4.2. Any alternative facilities proposed as meeting the need must be accessible, inclusive and available without causing unreasonable reduction or shortfall in the local service provision. The presence of another facility within the same category in the vicinity will not in itself be enough to meet this requirement; it must be demonstrated that the alternative facility caters, or can be reasonably expected to cater, for the same community need as that served by the facility whose loss is proposed.

4.3. If alternative facilities as described above are not proposed, the Authority will also require clear evidence that the facility is under-used, in terms of the number of people using it relative to its size and facilities, and also in terms of the frequency and intensity of its use. Furthermore, evidence will be required that it has seen a significant decline in its use over a sustained period. This will however be considered against any removal or diminution of facilities or services during this same period which may itself have caused the fall in its use.