

DECISION NOTICE

THE LOCALISM ACT 2011 Section 91

Decision to remove an entry of an asset of community value.

East Boldre Post Office and Stores, Main Road, East Boldre, Brockenhurst SO42 7WD.

I, Alan Bethune, Strategic Director Corporate Resources & Transformation, and Section 151 Officer of the District Council of New Forest, pursuant to delegated powers, have considered an application made by East Boldre Community Stores Ltd and Ian Evans to remove East Boldre Post and Stores from the Council's list of assets of community value. Having considered the application I have decided that the application should be accepted for the following reasons:

In the opinion of the local authority, the actual current use of the building or other land that is not an ancillary use which has furthered the social wellbeing or social interests of the local community, will cease on 16 January 2024. At that point, it will not meet the criteria set out in the Localism Act 2011 and the local authority will no longer consider the land to be of community value.

Therefore, as of **16 January 2024**, the land will not meet the criteria set out in the Localism Act 2011 to be eligible for listing and will be removed.

Signed:



Alan Bethune
Strategic Director Corporate Resources & Transformation,
and Section 151 Officer

Dated: 13 December 2023

REPORT TO ALAN BETHUNE

Application to remove East Boldre Post Office and Stores from the List of Assets of Community Value

1. INTRODUCTION

- 1.1 This report relates to a request to remove East Boldre Post Office and stores, Main Road, East Boldre, Brockenhurst SO42 7WD (“the Property”) from New Forest District Council’s list of assets of community value. The request has been received from both the owner of the Property, Mr Ian Evans (“the Owner”) who still resides at the Property, and also the party which originally nominated the Property for ACV status, namely East Boldre Community Stores Ltd (“EBCS”) which operated the post office and stores at the Property following the granting of the ACV status. The report reviews the request to remove, the criteria against which a decision has to be made and makes recommendations.

A copy of the respective items of correspondence intrinsic to the request are annexed to this report.

2. BACKGROUND

- 2.1 The Property was listed as an ACV on 1 November 2021 and, following a request for a review by the Owner, that decision to list the Property as an ACV was upheld on 15 February 2022. The aim of the ACV listing was for EBCS to keep open and run the post office and stores from the Property which they felt was a community hub and meeting place for the village.

3. THE REQUEST

- 3.1 In a telephone call from the Owner to the Council on 9 October 2023, he explained that the post office and stores were going to be moved by EBCS to a larger nearby location within the village to continue operating. He intended to retire from the role of Postmaster and also to apply for planning permission to return the Property solely to residential premises. He therefore hoped that the Property could be removed from the Council’s ACV list and further explained that EBCS supported that removal, since EBCS and the reason for the ACV listing in the first place would be moving elsewhere.
- 3.2 The Council received a letter by email of 10 October 2023 (annexed), from Rebecca Gabzdyl, Company Secretary of EBCS. The title on the letter, Chapel Stores, was confirmed by later email, referred to below, as EBCS’s trading name which will be used at the new premises. The letter reiterated the Owner’s comments, highlighting the imminent change of location by EBCS and the operation of the post office and stores at the new premises, which is a former Baptist Chapel and which had been purchased after EBCS raised £690,000 for the purchase. The letter went on to describe how EBCS and the Owner were working together to provide a “seamless transition” of services for the community and that, after EBCS (ie the business, the post office and stores) move locations, the Owner would retire and live at the Property. They acknowledged and thanked him for his support in keeping the business running for longer than he had intended.

- 3.3 Subsequently, in further correspondence, the Owner stated in his email to the Council dated 3 November 2023 (annexed) that EBCS, the post office and shop will be transferred to the new business location on 18 January 2024. He also stated that he intended to sell the Property next year. If it remained on the ACV list, sale of the Property would have to follow the moratorium rules described in section 3.5 below.
- 3.4 In the email of Rebecca Gabzdyl dated 7 November 2023 on behalf of EBCS (annexed), she confirmed that the Owner would run the post office and stores until 16 January 2024 while EBCS prepared the new premises for opening, and then the Post Office Ltd moves the equipment and EBCS will open 'Chapel Stores' at the new Baptist Chapel premises on 19 January 2024 (which is a one day discrepancy with the date provided by the Owner but which, for the purposes of this report, is not relevant).
- 3.5 Currently, while the Property is listed as an ACV, the Owner must notify the Council if he wished to dispose of the Property. The Council would notify community interest groups of the proposal and if such a group expresses an interest in the Property, a moratorium period of 6 months on the sale is imposed to allow the community interest group to prepare a bid and raise finance. However, if there is a sale of the land on which a business is carried on, together with a sale of that business as a going concern ie still operating as a post office, then that disposal is exempt and is not affected by the moratorium requirements (section 95(5)(f) of the Act). In those circumstances, the Owner would not have to advise the Council of the sale.
- 3.6 However, if the ACV listing is removed, the Owner would of course be free to sell the Property without constraint.

4. THE OWNER'S COMMENTS

- 4.1 As above

5. LEGAL POWER AND DELEGATIONS

- 5.1 The Council has put in place delegated powers for Strategic Directors or Chief Planning Officer to make the decision.
- 5.3 The legal criteria to make the decision are laid down in the Act and supporting regulations. The Council must decide whether the Property will continue to be of community value after the point that EBCS, the post office and stores relocate to the new business premises on 19 January 2024.
- 5.4 Under regulation 2(c) of the Asset of Community Value Regulations 2012, it states that:
- 2. A local authority must as soon as practicable after receiving information that enables it to do so make the following amendments to an entry on the list—*
- ...
- (c) remove the entry if—*
- ...
- (ii) the authority for any reason no longer considers the land to be land of community value.*
- 5.5 Both parties have made it clear that it is their cooperative and joint intention that trading by the post office and stores at the Property is to cease on 16 January 2024.

- 5.6 The original nomination of the Property was predicated on the basis that “...it is clear that there is a current community use of the Property as Post Office and shop and that there is some benefit to the community...[and that]... there is also some evidence that its existence became essential for the community due to lack of, or distance to, alternative sources (eg Post office services, cash withdrawals, shopping essentials).” (para 7.3, report approved by Manjit Sandhu, dated 1 November 2021).

6. CONSULTATIONS

- 6.1 N/A

7. CONCLUSION

- 7.1 The whole point of the original nomination was that EBCS intended the Property to be the hub for a community owned shop and that complied with the criteria for an ACV. Now that element is about to be removed by the post office and stores ceasing trading, the Property will no longer fulfil the criteria for ACV status and so, in accordance with the legislation, it is recommended that the Property should be removed from the ACV list on 16 January 2024.
- 7.3 If the Council accepts that recommendation and removes the Property from the list, then at the time of removal, the appropriate parties will be notified in accordance with legislation (namely, section 91 of The Localism Act 2011 and regulation 2 of The Assets of Community Value Regulations 2012). In this case, those parties would be the Owner, any occupier (if not the owner), EBCS and the Parish Council. These notices must also state the reason for removal.

8. RECOMMENDATION

- 8.1 It is recommended that you as a Strategic Director of the Council decide that, pursuant to delegated powers, as follows:
- (1) In the opinion of the local authority, the actual current use of the building or other land that is not an ancillary use which has furthered the social wellbeing or social interests of the local community, will cease on **16 January 2024**. At that point, it will not meet the criteria set out in the Localism Act 2011 and the local authority will no longer consider the land to be of community value and consequently will not be eligible for listing.

For further information contact:

Richard Davies
Solicitor
Tel: 023 80285298
E-mail: richard.davies@nfdc.gov.uk

Background Papers:

Letter from Chapel Stores EBCS Ltd dated 10 October 2023
Email from Owner dated 3 November 2023
Email from Rebecca Gabzdyl on behalf of EBCS Ltd dated 7 November 2023

CHAPEL STORES

— EST. 2023 —

Dane End, Heath Lane, East Boldre, Brockenhurst, SO42 7WF

www.eastboldrecommunitystores.com

10th October 2023

Re: Move of East Boldre's Shop from Barton Villa, Main Road, SO42 7WD to The Baptist Church, Chapel Lane, SO42 7WP

East Boldre Community Stores was founded to safeguard the long-term future of our village's last remaining Shop and Post Office in October 2020.

We have since raised £690,000 and purchased the former Baptist Chapel as premises for our community owned and run business. An extensive programme of works has been underway since May 2023. We will be trading by early January 2024.


We have been working closely with the owner of the existing store and Post Office to ensure a seamless transition to provide continuity of these services to our community.

We understand that as we open for business at Chapel Stores East Boldre's existing shop will close so that the owner, Ian Evans, can retire and keep the existing shop property as his home.

Once we are trading there is no need for a second shop in the village (indeed the competition would be unwelcome) so we would endorse his planning application to convert Barton Villa to solely residential use and for the ACV on the property to be removed.

We appreciate the support Ian has provided to us by keeping the existing business running for longer than he had intended and his plans have our full support.

Yours sincerely,



Rebecca Gabzdyl

Secretary – East Boldre Community Stores Limited



From: [REDACTED]
To: [Richard Davies](#); [REDACTED]
Subject: ACV Barton Villa SO42 [REDACTED]
Date: 03 November 2023 12:02:54

Attn Richard Davies NFDC

Following the recent email from Rebecca at East Boldre Community Stores confirming that the shop and post office will be transferred to the new location and opening on 18th January 2024.

I would formally request that this order be removed as it will no longer apply.

[REDACTED] I would appreciate if this matter could be dealt with in a timely manner.

Regards

Ian Evans

[REDACTED]
So42 [REDACTED]
[REDACTED]

Sent using the mail.com mail app

From: [REDACTED]
To: [Richard Davies](#); [REDACTED]
Subject: RE: ACV Barton Villa SO42 [REDACTED] / East Boldre Post Office
Date: 07 November 2023 14:08:10

Dear Richard,

Please see my comments below.

Many thanks,
Rebecca

-----Original Message-----

From: Richard Davies <Richard.Davies@NFDC.GOV.UK>
Sent: 07 November 2023 11:53
To: [REDACTED]
Subject: FW: ACV Barton Villa SO42 [REDACTED] / East Boldre Post Office

Dear Ian and Rebecca

Thank you for your respective correspondence (Ian's email below and Rebecca's letter attached).

I note in Rebecca's letter of 10 October that:

- Since taking over and running East Boldre Post Office ('the Property') as an asset of community value (ACV) following it being added to ACV list in November 2021, East Boldre Community Stores Ltd ('the Nominator') has raised £690,000 to purchase the former Baptist Chapel situated in the village.

[Just to clarify - Ian is currently operating his shop at Barton Villa, East Boldre Community Stores is not trading yet.](#)

- This was purchased so that it could become the new location from which the Nominator can run the community owned business ('the Business').

- The Nominator and Ian Evans ('the Owner') have cooperated in order to affect the transition of the Business from the Property to the Chapel.

- Once the Chapel opens so as to effect that transition for the Business, the Property will no longer house the Business and so it will close as a post office/shop.

- The Property will then become, solely, a residential property for the Owner. It will no longer be run as a post office or shop and he will seek planning permission to convert back to residential use.

In accordance with that, Ian's email confirms that:

- The Chapel will open for the Business to transfer from the Property and will recommence trading from 18 January 2024.

[Ian will continue to run the shop from his property until the 16th Jan 2024. The Post Office then move their equipment to us and East Boldre Community Stores will open Chapel Stores at the village's former Baptist Chapel on 19th Jan 2024. Neither business can trade during the Post Office move.](#)

- He plans to sell the Property in the new year.

Please correct me if any of these points are incorrect.

Under regulation 2(c) of the Asset of Community Value Regulations 2012, it states that:
2. A local authority must as soon as practicable after receiving information that enables it to do so make the following amendments to an entry on the list— ...

(c)remove the entry if—

...

(ii)the authority for any reason no longer considers the land to be land of community value.

It would appear that, once the Business is no longer being run from the Property, then the purpose upon which the Council deemed the Property to be an ACV comes to an end. Under the Regulations, that would justify the removal of the Property from the ACV list.

[That's good to hear](#)

On that basis, please could you confirm the intended date for ending trading from the Property as that is likely to be the effective cut-off date of its ACV status?

[16th Jan 2024](#)

Rebecca, I note that, at the time of the original nomination and investigation for ACV status, you were the Nominator's company secretary, but your attached letter is headed "Chapel Stores" and that you are the secretary. Please could you confirm whether this is a trading name of 'East Boldre Community Stores Ltd' as I obviously need to have written confirmation that this request comes from the Nominator itself?

[Chapel Stores is the shop name which is owned and run by East Boldre Community Stores Limited, so I can confirm the request comes from the nominator.](#)

Once I have your respective responses, I shall make my report to my instructing officer and, if the decision is to remove the Property from the ACV List then I will need to communicate that decision to all appropriate parties as required under the Localism Act 2011 and the ACV Regulations 2012.

Kind regards

Richard Davies
Solicitor
New Forest District Council
Tel: 02380 285298

richard.davies@nfdc.gov.uk
www.newforest.gov.uk

-----Original Message-----

From [REDACTED]
Sent: 03 November 2023 12:03
To: Richard Davies <Richard.Davies@NFDC.GOV.UK>; [REDACTED]
Subject: ACV Barton Villa SO42 [REDACTED]

Attn Richard Davies NFDC

Following the recent email from Rebecca at East Boldre Community Stores confirming that the shop and post office will be transferred to the new location and opening on 18th January 2024.

I would formally request that this order be removed as it will no longer apply.

[REDACTED] I would appreciate if this matter could be dealt with in a timely manner.

Regards

Ian Evans

[REDACTED]

So42 [REDACTED]

[REDACTED]

Sent using the mail.com mail app

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