

6. APPEALS

A. LODGED

4/02616/15/FUL CARDTRONICS UK LTD - MS L WOLSTENCROFT
PROPOSED INSTALLATION OF AN ATM AS A THROUGH
GLASS INSTALLATION. GREEN ACRYLIC SIGN NON
ILLUMINATED TO TOP OF ATM FASCIA WITH WHITE
LETTERING 'CASHZONE FREE CASH WITHDRAWALS'
99 HIGH STREET, MARKYATE, ST ALBANS, AL3 8JG
[View online application](#)

B. WITHDRAWN

None

C. FORTHCOMING INQUIRIES

4/02263/15/ENA HAMBERLINS FARM - MR G EAMES
APPEAL AGAINST ENFORCEMENT NOTICE
LAND AT HAMBERLINS FARM, HAMBERLINS LANE,
NORTHCHURCH, BERKHAMSTED, HP4 3TD
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D. FORTHCOMING HEARINGS

None

E. DISMISSED

None

F. ALLOWED

4/03763/14/MFA Spectrum (Hemel Hempstead) Ltd
CHANGE OF USE OF FOUR LONG TERM VACANT RETAIL
UNITS AT PODIUM LEVEL OF BLOCKS C AND D TO A

TOTAL OF 15 ONE AND TWO BEDROOM CLASS C3
APARTMENTS
IMAGE DEVELOPMENT, LEIGHTON BUZZARD ROAD,
HEMEL HEMPSTEAD
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The Inspector noted that a change of use from Class A to residential use is not explicitly prohibited by Policies CS16 or CS33, and Policy CS4 encourages a mix of uses in the town centre, including residential.

Given vacant capacity in the town centre, the Inspector considered that the loss of units from the appeal site could be absorbed without significant threat to the health of the town centre in quantitative terms.

She considered that the marketing evidence pointed to the appellants having approached a wide variety of retailer, including local companies, and there is evidence of marketing for more than five years. Furthermore she noted that there is no objective criteria within policy by which to assess the adequacy of marketing. She considered that the rental level at which the units had been marketed to be considerably less than the £25-30 per sq ft achieved within the town centre and the £40 per sq ft offered at the Riverside shopping centre. She also considered that speculative sub-division of the units, as suggested by the Council, could be costly and abortive should the units remain unlet. She also had regard to the practicality of the servicing arrangements by lift and the length of time the units had been marketed including the concerns raised in regards to the information on the website and the 'Petal' and 'Serenity' hoardings in place. Nevertheless, she was satisfied that the appellant had provided sufficient justification for the change of use.

With regards to quality and placemaking, she was satisfied that with the other commercial uses, including retention of Unit 3 which is vacant, at the northern end of the podium, together with sensitive landscaping, an active frontage could be maintained.

The Inspector considered that the Apsley Lock site was not comparable to the appeal location given its distance from the town centre and distinct catchment. She also considered that there was no compelling evidence to conclude that investment in the town centre would lead to greater footfall through the Image development.

On balance, the Inspector considered that the proposal would not cause harm to the vitality and viability of the town centre, and would accord with Policies CS4, CS16 and CS33, and the NPPF.

The Inspector did not consider a condition requiring directional signage to the remaining retail units necessary to make the development acceptable in planning terms.

Costs

Cost were awarded against the Council on grounds that its acted unreasonably in failing to substantiate the sole reason for refusal, therefore resulting in additional

costs for the appellant associated with submitting the appeal.

The Inspector noted that none of the policies referred to by the Council on the decision notice include criteria on its requirements for marketing, and as such there is no guidance as to how the full commitment to marketing that was required by the Council might be demonstrated. Consequently the conclusion reached by the Council that the marketing evidence was insufficient to grant planning permission was unsupported by any objective analysis.