

Application Number: 19/01588/FUL

Description Change of use from A1 (retail) to A3 (hot food café)

At 20 High Street Stony Stratford Milton Keynes, MK11 1AF

For Mr Yakup Zemzem

Statutory Target: 14 August 2019

Extension of Time: Yes 26 September 2019

Ward: Stony Stratford

Parish: Stony Stratford Town Council

Report Author/Case Officer: Lakeisha Peacock
Planning Officer

Contact Details: 01908 254374
Lakeisha.peacock@milton-keynes.gov.uk

Team Manager: Sarah Hine
Development Management Manager
sarah.hine@milton-keynes.gov.uk

1.0 RECOMMENDATION

1.1 It is recommended that permission is granted subject to conditions set out in this report

2.0 INTRODUCTION

The Site

- 2.1 The application site contains a single storey unit forming part of a terrace of units of a mixed use located on Stony Stratford High Street. A pedestrian door is located to the side of the unit providing access to the yard and outbuildings located to the rear.
- 2.2 The site is located within Stony Stratford Conservation Area, with the buildings directly adjoining the unit, located to the west of the site, and across the High Street, being Grade II Listed.
- 2.3 The site forms part of the Primary Shopping Area and Primary Shopping Frontage of Stony Stratford as designated in the Plan:MK Policies Map.

The Proposal

- 2.4 The application seeks retrospective planning permission for the change of use from A1 (retail) to a Café (A3 use).

Reason for referral to committee

- 2.5 The application has been referred to panel at the request of Stony Stratford Town Council.

Scope of debate/decision

- 2.10 This application proposal is a full planning application and so all matters are to be considered.

3.0 RELEVANT POLICIES

National Policy

- 3.1 Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66 Listed Buildings
Section 72 Conservation Areas

- 3.2 National Planning Policy Framework (February 2019) (NPPF)

Section 4 Decision-Making
Section 7 Ensuring the Vitality of Town Centres
Section 8 Promoting Healthy and Safe Communities
Section 12 Achieving Well-Designed Place
Section 16 Conserving and Enhancing the Historic Environment

In addition, the Planning Practice Guidance is also a material consideration

The Development Plan

- 3.3 Neighbourhood Plan

Stony Stratford Neighbourhood Plan (Made June 2018) forms part of the statutory development plan.

Policy 1 Sustaining and Enhancing the Main Shopping/ Commercial. Employment Area
Policy 5 Shopfront Improvements
Policy 11 Car Parking Provision
Policy 12 Enhancing the Parish's Heritage and Public Realm



3.4 Plan: MK (March 2019)

Plan:MK was adopted at Council on 20 March 2019 and now forms part of the statutory development plan for Milton Keynes, and includes the Policies Map that indicates land use in the Borough.

Policy DS4 Retail and Leisure Development Strategy
Policy ER11 Protection of Local Shops, Post Offices, Banks and Public Houses
Policy ER18 Non-retail uses on Ground Floors in Town Centres
Policy CT10 Parking Provision
Policy HE1 Heritage and Development
Policy D1 Designing a High Quality Place
Policy D2 Creating a Positive Character
Policy D3 Design of Buildings
Policy D5 Amenity and Street Scene

3.5 Supplementary Planning Documents/Guidance

Parking Standards SPD (January 2016)

3.6 Human Rights Act 1998

There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

4.0 **RELEVANT PLANNING HISTORY**

4.1 Application Site

18/02439/FUL

Alterations to existing shopfront; demolition of rear storage outbuilding and rear extension

PER 29.11.2018

19/00902/FUL

Change of use from retail (A1) to hot food café (A3)

WDN 30.05.2019

Application withdrawn as insufficient marketing information had been submitted to address the principle of the change of use

5.0 **CONSULTATIONS AND REPRESENTATIONS**

5.1 Stony Stratford Town Council

Initial comments received

Objected to the proposal due to the change of use which would be contrary in principle to policies ER18 and DS4 of Plan:MK and Policy 1 of the Neighbourhood Plan. There is a concern from the Town Council regarding the erosion of the retail offer within the High Street, and the longer term implications on the viability of the High Street.

Additional comments

The Planning Officer conducted a concentration calculation on the number of A3 units located within the Primary Shopping Area of the Town Centre. The Town Council responded with four additional identified units, and concerns regarding the submitted marketing report to support the application.

5.2 Cllr Cryer-Whitehead Stony Stratford Ward

No response received

5.3 Cllr Marklew Stony Stratford Ward

No response received

5.4 Cllr Wilson Stony Stratford Ward

No response received

5.5 Neighbour/ Third Party Representations

Comments have been received from two addresses/neighbours in support of the application. The material planning considerations are summarised below:

- Creating a use for a vacant unit

6.0 MAIN ISSUES

Principle of development
Impact on Heritage Assets
Highway matters and parking
Impact on character of the area
Residential amenity

7.0 CONSIDERATIONS

Principle of development

- 7.1 The Planning Department was informed on the 24th June 2019 by the Town Council that the unit was under operation as an A3 use, and therefore the development proposed is considered to be retrospective. The Planning Enforcement Team are aware of the operation at the site and will continue their investigation accordingly. It is acknowledged that there are advertisements currently on site, which do not have consent. The Enforcement Team have served a notice on the unit in regard to these. Any advertisements would require separate consent and do not form part of the considerations for the current planning application.
- 7.2 The application site forms part of Stony Stratford Town Centre, and is located within the Primary Shopping Area as defined within the Stony Stratford Neighbourhood Plan and Plan:MK. Policy ER18 of Plan:MK refers to non-retail uses on ground floors within Town Centres, and provides criteria which development proposals are required to meet, including whether the proposed use is appropriate; whether there is an existing over-concentration of non-class A1 uses; and whether the development complies with the primary frontage requirements as outlined within Table 6.3 of Plan:MK. Table 6.3 states that change of use involving the loss of A1 retail will not normally be acceptable within the primary frontage of Stony Stratford Town Centre. Policy 1 of the Stony Stratford Neighbourhood Plan seeks to ensure that ground floor uses within the identified Primary Shopping Area are predominantly of A1 use, and supported by other use classes.
- 7.3 Policy ER18 of Plan:MK makes specific reference to the loss of non-retail uses within the Town Centre boundary, with the policy creating a differentiation between the primary and secondary frontage of the designated area. Policy 1 of the Neighbourhood Plan makes reference to the Primary Shopping Area. In accordance with Paragraph 30 of the NPPF, policies within the development plan would take precedent over the neighbourhood plan, as this was made at an earlier date in 2018. The primary shopping area, however, as defined within both plans, is of the same boundary, and it is therefore considered appropriate that the assessment be made on the defined Primary Shopping Area, in accordance with Policy 1 and Table 6.3 of Plan:MK.
- 7.4 The A3 use proposed as part of this application, which is defined in the NPPF as a main town centre use, is considered to be an appropriate and acceptable use within a Town Centre location. An objection was received from the Town Council regarding the over-concentration of A3 uses within the Primary Shopping Area and the long term implications of this on the economic viability of the area. A concentration calculation was conducted by the Case Officer in regard to Non-A1 uses within the Primary Shopping Area. The study conducted found a concentration of 35.2% of non-A1 uses within the Primary Shopping Frontage area

as defined within the Stony Stratford Neighbourhood Plan, inclusive of the proposed use.

- 7.5 It is acknowledged that within Table 6.3 of Plan:MK a change of use involving the loss of an A1 unit within the Primary Frontage Area of Stony Stratford Town Centre will not normally be acceptable. However, it is considered that, in this instance, the proposed change of use would not result in an over-concentration of non-A1 uses within the identified Primary Shopping Area. The proposal is not considered to result in an adverse negative impact on the function of the Town Centre or the health and vitality of the area, in accordance with Policy 1 of the Stony Stratford Neighbourhood Plan and Policy ER18 of Plan:MK and is therefore acceptable in principle.

Impact on Heritage Assets

- 7.6 The application site is located within Stony Stratford Conservation Area, and is also within the setting of several Grade II Listed Buildings. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local authorities to pay special regard to the desirability of preserving and enhancing designated heritage assets. This is further reflected in Policy HE1 of Plan:MK and Policy 12 of the Stony Stratford Neighbourhood Plan.
- 7.7 Prior to the A3 use currently under operation at the site, and the subject of this planning application, the unit was vacant for a period of at least 18 months, and had been subject to marketing as a vacant unit, that was unsuccessful. The proposed development would not result in any external alterations, with the new shopfront approved under a previous planning application (reference: 18/02349/FUL). Therefore, the proposed development is considered not to result in harm to designated heritage assets in this regard.
- 7.8 Consideration, however, in addition to that discussed within the principle of development, is given to the vacant nature of the unit, and the impact of this on designated heritage assets. Policy HE1 of Plan:MK and the National Planning Policy Framework discuss ensuring the most viable use for designated heritage assets, in order to ensure that harm to these assets is minimal. As the unit was marketed as an A1 use, and no operator was found for the unit, it is considered that the use of the unit within another Main Town Centre use would be the most viable use in order to avoid harm to the unit as a result of it remaining vacant. There is also a public benefit to bringing a vacant unit back into a viable use that is considered to outweigh any potential harm to the unit.
- 7.9 It is therefore considered that the proposed use would bring a vacant unit back into use within the Conservation Area and setting of Listed Buildings, and would therefore preserve the character of the Conservation Area and designated heritage assets. In addition, the principle of the development is also supported by ensuring the optimum viable use for the unit and, on balance, the proposed development is considered to be acceptable and would accord with the relevant national policy and

policies forming part of the development plan in relation to heritage assets. The local authority is therefore considered to discharge its statutory duty in this regard.

Highway matters and parking

- 7.10 When considering the proposals in accordance with Policy CT10 of the adopted Plan:MK, there is a requirement for developments to meet the adopted car parking standards as presented within the adopted Parking Standards SPD (2016). This is also reflected in Policy 11 of the Stony Stratford Neighbourhood Plan.
- 7.11 The application seeks retrospective consent for the change of use from A1 (retail) to A3 (café) use. The application site is located within Zone 2 as identified within the Parking Standards SPD and, therefore, the proposed A3 use would require approximately 17 allocated parking spaces. Given the constraints of the site within the location on the High Street, no allocated parking provision is to be provided as part of the proposal. Consideration, however, is given to the location of the site within a Primary Shopping Area within Stony Stratford Town Centre. The site is served, as existing, by ample long stay and short stay public parking provision. The majority of the surrounding streets are also controlled by double yellow lines.
- 7.12 While the proposed development will not provide any allocated parking provision. Due to location of the site within the Town Centre, in combination with the value of bringing a vacant unit back into use, however, the development is considered not to, on balance, not result in an adverse level of harm to the surrounding highway network due to the sustainable location of the application site, and would therefore be acceptable in this regard.

Impact on character of the area

- 7.13 Policies D1 and D2 of Plan:MK seek to ensure that development proposals are of a high quality and create a positive character. There are no external works proposed as part of the current application and the units surrounding the site are of a mix of uses. The proposed use is therefore considered to be acceptable, and the impact of the proposal on the character and appearance of the local area is considered to be minimal.

Residential amenity

- 7.14 Policy D5 of Plan:MK seeks to ensure that development proposals do not result in an adverse impact on the amenity of surrounding residential dwellings.
- 7.15 The site is located within Stony Stratford Town Centre, which is characterised as a mixed commercial and residential area. The proposed change of use however, is not considered to result in an adverse impact in regard to noise disturbance above the previous A1 use. In addition, as no external alterations are proposed, the development would not impact on the amenity of residential units in regard to a loss of privacy, sunlight or daylight or an unacceptable visual intrusion.

- 7.16 No external alterations are proposed as part of the development, and no details of extraction flues have been provided. Should these be required, an application for the installation of this equipment would be required. There are no concerns regarding additional noise and smells as a result of the proposal due to the surrounding uses and location of the site within a Town Centre.

8.0 CONCLUSIONS

- 8.1 The proposal is found to be in accordance with relevant development plan policies and it is therefore recommended that planning permission is granted subject to conditions.

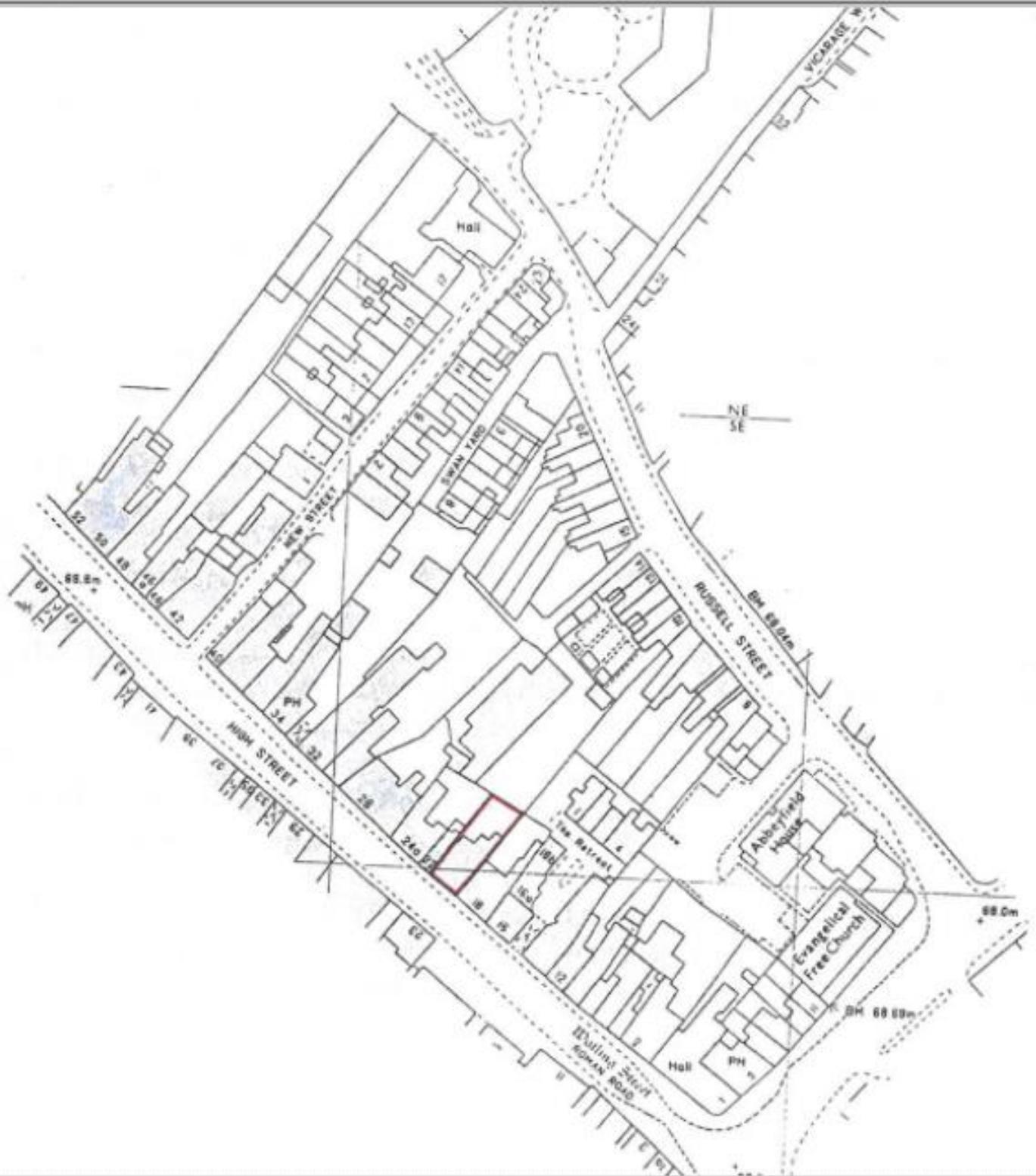
9.0 CONDITIONS

- 9.1 The use of the premises shall not be carried out outside the hours of 0800 to 2100 Monday to Friday; 0800 to 2100 Saturday and 0900 to 1600 Sunday and Bank Holidays.

Reason: To prevent harm being caused to the amenity of the area and to safeguard the residential amenity of nearby occupiers in accordance with Policy D5 of Plan:MK.



milton keynes council



A3 UNITS - PRIMARY SHOPPING AREA FRONTAGE.



Enter map title

N Scale: 1:1417

Printed on: 2019-08-28 11:21:47 by LP44411@MKC

A3 UNITS

1. MacIntyre Coffee Shop
2. Coffa Coffee
3. Out of Office
4. Cycle + Coffee Shop
5. Woodstock
6. Application etc

CONCENTRATION = 12.1
A3 UNITS

© Milton Keynes Council

© Crown copyright and database rights
2013 Ordnance Survey 100039593



milton keynes council



NON-A1 UNITS - PRIMARY SHOPPING AREA FRONTAGE

CONCENTRATION: 18.1%

= 35.2%

NON-A1

Enter map title

N Scale: 1:1417

Printed on: 2019-08-28 11:21:47 by LP44411@MKC

© Crown copyright and database rights
2019 Ordnance Survey 100025283

© Milton Keynes Council

A1.0 FULL CONSULTATIONS AND REPRESENTATIONS

A1.1 Stony Stratford Parish Council

Initial comments received

*“Stony Stratford Town Council **objects** to the above application on the following grounds:*

- 1. The proposed change of use from A1 shops to A3 cafes/restaurants is contrary to both
i) PlanMK Policies ER18 Table 6.3 - Stony Stratford & DS4 E and ii) Policy 1, Paragraph two of the adopted Stony Stratford Neighbourhood Plan.*
- 2. The Town Council is concerned about the gradual erosion of the retail offer which, if allowed to continue unchecked, will ultimately undermine the viability of the High Street. The Town already benefits from at least six A3 outlets and a number of coffee/sandwich shops which also serve hot food.*

*As such we would expect this application to be **REFUSED** and the matter dealt by Development Control Committee.”*

Additional comments

“Thank you for your email of 23rd July 2019 regarding the marketing of 20 High Street as an A1 retail outlet and the Concentration Calculation. We have the following comments:

- 1. Marketing: The letter dated 22nd January 2019 addressed to the Planning Authority from Mr Wilson (the owner), effectively confirms that the intention was always to open the premises as an A3 outlet. This calls into question the validity of the Louche Shacklock letter dated 10th June 2019.*
- 2. Concentration Calculation: The Town Council have identified a further four ‘A3’ outlets marked in blue on your original plan; A (Muffins Coffee Shop, 8 Swinfens Yard), B (The Knife and Cork, 2 Odells Yard), C (Miss Havishams Tearoom, Timor Court), D (Coffee Bean, Stratford Arcade, 75 High Street)”*

A1.2 Cllr Cryer-Whitehead Stony Stratford Ward

No response received.

A1.3 Cllr Marklew Stony Stratford Ward

No response received.



A1.4 Cllr Wilson Stony Stratford Ward

No response received.

Third Party/Neighbour Comments

A1.5 Comments were received in support from two members of the public in regard to the long term economic viability of the unit coming into use,