

Application Number: 12/01445/FUL

Other

Change of use from shop (use class A1) to mixed use (use class A1/A3) coffee shop

AT 33 Market Place, Olney, MK46 4AJ

FOR Mr Richard Gordan

Target: 6th September 2012

Ward: Olney

Parish: Olney Town Council

Report Author/Case Officer: Alex Harrison

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1.0 INTRODUCTION

(A brief explanation of what the application is about)

1.1 The Site

The application site is a three storey building located in Olney Town Centre currently occupied by a retailer. There is a small curtilage area to the rear. The building front Market Place and access to the rear is gained off Osborns Court which links to the High Street. This application looks at the ground floor of the building as well as the rear curtilage area. The site is within the conservation area. Details of the location of the site and its relationship to surrounding properties can be seen in the plans attached to this report.

1.2 Councillor Peter Geary has requested that a Member's site inspection take place before this application is considered. Members will be informed of the date of the inspection as soon as it has been arranged.

1.3 The Proposal

Planning permission is sought to change the use of the unit from retail (A1) to a coffee shop (A1/A3). No external alterations are proposed. Clarification on the use is provided in the considerations section. The occupier is not confirmed on this application, however, the Council currently has an advert consent application for signage on the unit to advertise 'Costa Coffee'. Details of the proposal as described above can be seen in the plans appended to this report.

2.0 RELEVANT POLICIES

(The most important policy considerations relating to this application)

2.1 National Policy

National Planning Policy Framework paragraphs:

- 7. Dimensions to sustainable development.
- 17. Core Planning Principles.
- 18-22. Building a strong economy.
- 23-27. Ensuring the vitality of town centres.
- 126-141. Conserving and Enhancing the Historic Environment.

2.2 Local Policy

Core Strategy

CS20 – The historic and natural environment.

Adopted Milton Keynes Local Plan 2001-2011

- D1 – Impact of Development proposals on locality
- TC1 – Olney Town Centre
- TC2 – Olney Town Centre
- TC18 – Non-retail uses on ground floors in town centres.
- T10 – Traffic
- T15 – Parking provision.
- HE6 – Conservation areas.

Supplementary Planning Guidance

Adopted parking standards.

3.0 MAIN ISSUES

(The issues which have the greatest bearing on the decision)

3.1 Clarification of use classification

A café use is A3 but the applicant has provided a number of appeal decisions that conclude a coffee shop such as this to be a mix of A1 and A3 depending on the extent to which customers will consume the offerings whether on or off the premises. The case is made that this use would be a mixed A1/A3 use which is considered to be given significant weight in considerations. The A1 use is not fully removed from the site and an A3 is not fully established. This approach has been adopted by the Council in previous consideration of a change of use application in Newport Pagnell from retail to a coffee shop by the same intended occupier.

3.2 Principle of development

The site lies within the primary shopping area for the Town and policy TC18 presumes against a change of use away from A1. The clarification of the proposed use blurs this policy to an extent. The policy is only relevant to the

extent that it complies with the National Planning Policy Framework and the applicant has submitted an appeal decision that concluded an inflexible policy restricting change of use in town centres (such as TC18) is out of date. The NPPF presumes in favour of sustainable development with a goal to ensure the vitality of town centres which includes allowing for a mix of uses. As the later document the NPPF is afforded more weight and the change of use is considered to add to the diversity of the centre without harming its vitality and viability.

3.3 Highway Issues

The Engineer considers the location appropriate for the type of use due to potential for linked trips and a local catchment. There is one parking space for the use provided to the rear and this is considered acceptable in a town centre location. Controlled parking applies on the street in front of the unit and no harm is considered to occur to the highway.

4.0 RECOMMENDATION

(The decision that officers recommend to the Committee)

- 4.1 It is recommended that planning permission be granted subject to the conditions set out at the end of this report.

5.0 CONSIDERATIONS

(An explanation of the main issues that have led to the officer Recommendation)

5.1 Clarification of use

The current lawful use of the building is A1 and at the time of drafting the report the unit and upper floors are vacant. A restaurant and café use is clearly defined as A3 but there have been issues in recent years over the use of a coffee shop. Consideration falls on the extent to which food and drink purchased is consumed either off or on the premises. Effectively, if patrons sit in with their purchases it falls within A3 but if they take away it is A1 and a balance has to be formed. The nature of sales in these units tends to conclude that it is difficult to confirm one use outweighs the other and it is apparent that an A1/A3 mixed use is concluded. There is an appeal decision at Winchester that determined that even if 80% of sales result in consumption on the site, it can still be regarded as a mixed use.

- 5.2 The Council has previously considered similar applications for such a change of use for the same occupier, in the retail centres of Newport Pagnell (08/00470/FUL) and Stony Stratford (08/01256/FUL) and concluded that the uses are an A1/A3 mix. The former application was a committee decision and making a similar conclusion with this case would be consistent with these other decisions. Taking account the nature of the use, the previous decision of the Council and the dearth of appeal decisions submitted by the applicant it is considered that the use class of this coffee shop should be a mix of A1 and A3 rather than wholly one or the other.

5.3 Principle of development.

In terms of saved Local Plan policy TC18 deal with on retail use in the primary shopping area of town centres. At Olney the policy stance is that a change of use away from A1 is not normally permitted. Where acceptable it should not create a frontage of 3 or more units in non-retail use and should not harm neighbouring amenity. Although an element of A1 use is retained in this proposal there is a change of use which is contrary to TC18.

- 5.4 The NPPF presumes in favour of sustainable development with a goal to creating a prosperous economy and ensuring the vitality of town centres. Paragraph 23 states, among other things, that Councils should define primary shopping areas which make it clear which uses will be permitted and that sites should be allocated to accommodate the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. The NPPF therefore, on the one hand, seeks to prioritise areas of retail but, on the other hand, promotes all uses within town centres.
- 5.5 The applicant has provided a number of appeal decisions relating to similar proposals to that currently under consideration. The decisions conclude that an A1/A3 use would not harm the vitality and viability of town centres and, in some instances, this is concluded while acknowledging that the change of use is within and contrary to the primary shopping area allocation. The most recent appeal decision submitted was made after the introduction of the NPPF. The Local Plan policy stated it would resist a change of use of ground floor retail units in their core area but the Inspector considered that this policy is contrary to the NPPF which promotes sustainable development and such a restriction on uses would not be sustainable. It also commented that such a coffee shop attracted large footfalls that compared to A1 uses and that other coffee shops are not found to harm town centres.
- 5.6 The policy principle is a balanced consideration. The saved Local Plan policy is restrictive but can only be considered applicable to the extent that it complies with the NPPF, which presumes in favour of sustainable development. It is not considered that TC18 is directly contrary to the NPPF as it states changes of use will not 'normally' be permitted this indicates that in some instance it will be permitted. It is considered that on balance, this is one such instance. The coffee shop is not considered to be a use that would harm the vitality of the primary shopping area and would likely act as a complement to it. The use is considered to be sustainable and would be compliant with the NPPF, which is the up to date policy document. The provision of the coffee shop will not create a frontage of 3 or more non-retail uses and it will not harm amenity. Therefore it is considered that, on balance, the change of use would be acceptable in principle.

5.7 Highways issues

The proposal provides one parking space to the rear of the site which would allow parking for one member of staff. In a town centre location there is

publically available parking in the vicinity and there is no concern with the parking provision as proposed. The Highways Engineer has recognised that the proposed use is likely to be subject to linked trips from customer that use other services in the town which would perceive a reduced number of specific customer trips. The Engineer raised an issue regarding the fact that the parking space proposed was not included in the submitted plans and this has been provided.

6.0 CONDITIONS

(The conditions that need to be imposed on any planning permission for this development to ensure that the development is satisfactory. To meet legal requirements all conditions must be Necessary, Relevant, Enforceable, Precise and Reasonable)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To prevent the accumulation of planning permissions; to enable the Local Planning Authority to review the suitability of the development in the light of altered circumstances; and to comply with section 51 of the Planning and Compulsory Purchase Act 2004. (D11)

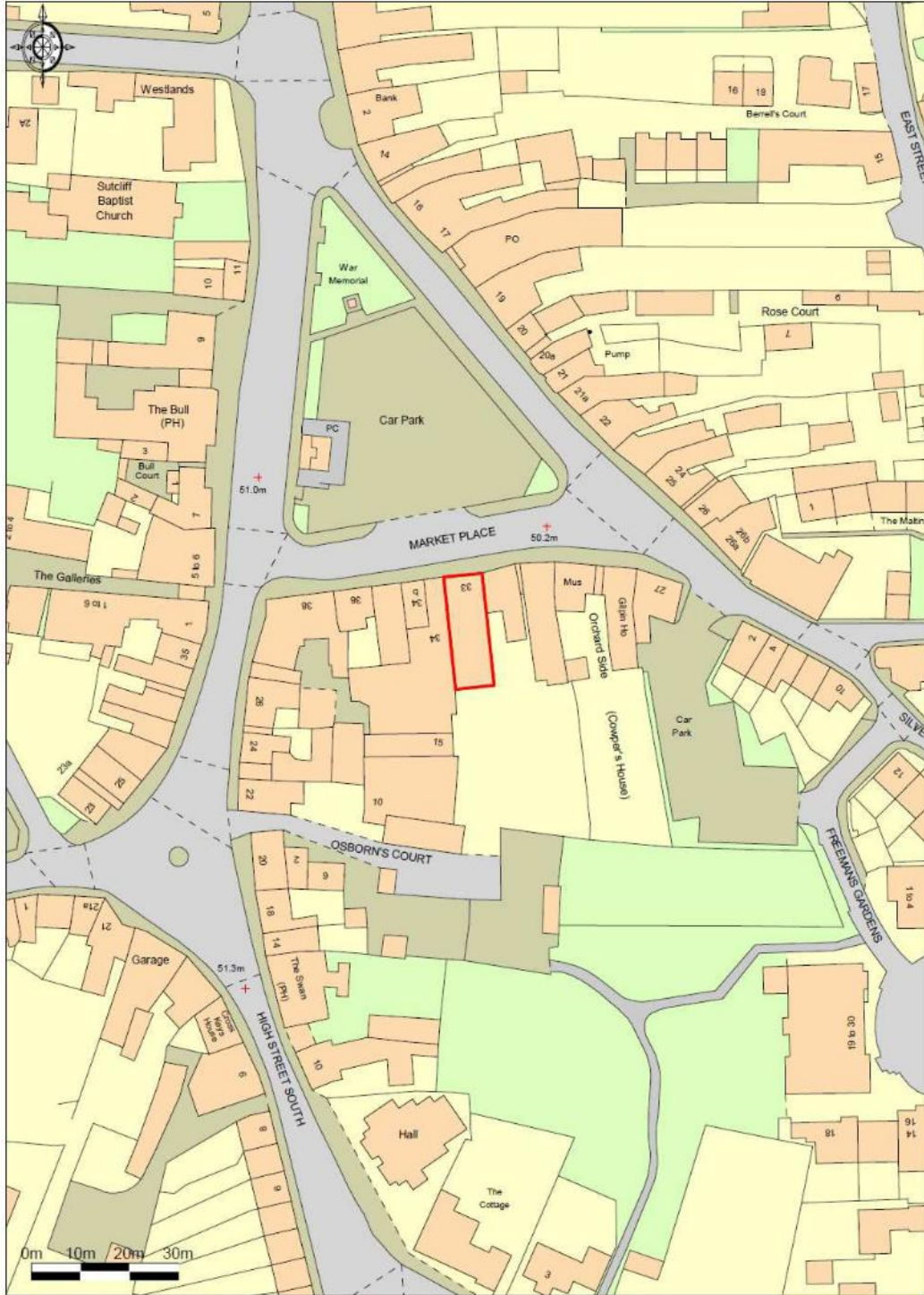
2. The premises shall be used solely as a mixed A1/A3 use and at no time shall become an A3 use only, without the prior written approval of the Local Planning Authority.

Reason: To protect the retailing function of the primary shopping area of Olney in the interests of the advice on the National Planning Policy Framework and policy TC18 of the Milton Keynes Local Plan 2001 - 2011

3. No primary cooking of unprepared food shall be carried out within the premises. Only re-heated or cold food that has been prepared elsewhere shall be served on the premises.

Reason: To reflect the essential character of a coffee shop as a mixed A1/A3 use in the interests of the advice on the National Planning Policy Framework and policy TC18 of the Milton Keynes Local Plan 2001 - 2011

Site Location Plan - 33 Market Place, Olney



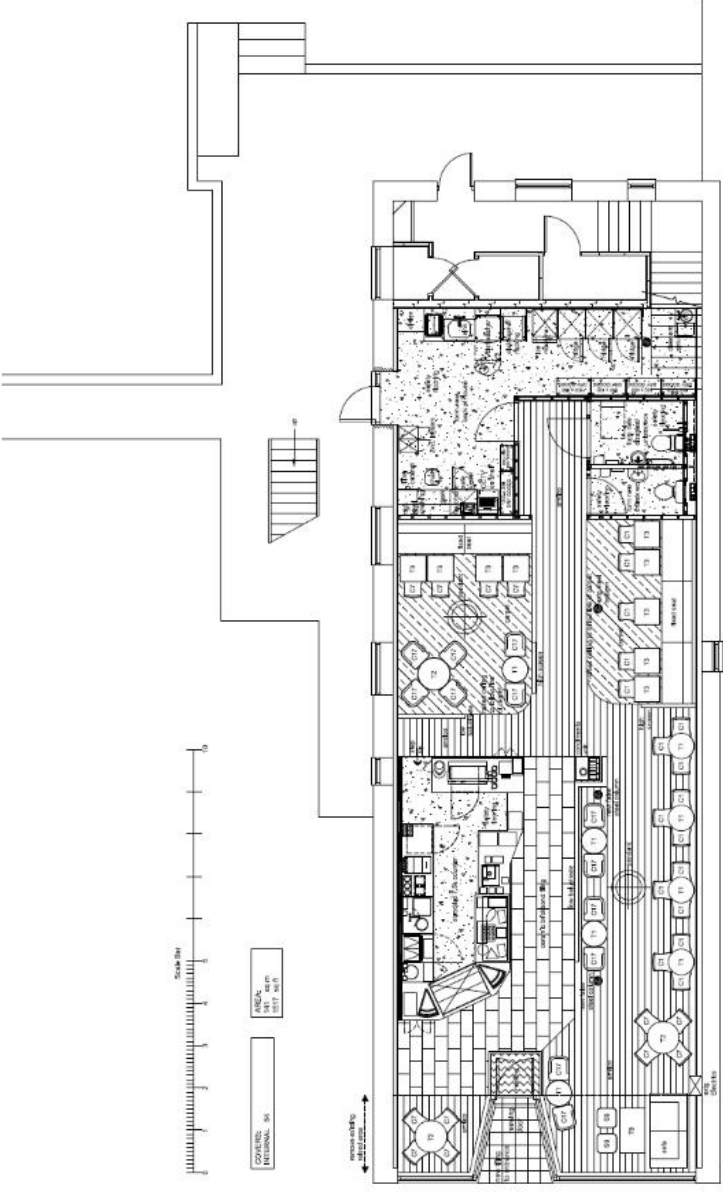
Ordnance Survey © Crown Copyright 2012. All rights reserved.
 Licence number: 100020449. Planned Scale - 1:1250



This map was created with Promap



1. The architect shall be responsible for obtaining the necessary permits for the project. The architect shall be responsible for obtaining the necessary permits for the project. The architect shall be responsible for obtaining the necessary permits for the project.



SIEA DESIGN GROUP

Richard John Gordon & Marissa Gordon
 Project: 33 Market Place
 Location: Olney, Maryland, MD 20845
 Date: 2/10/12

**Schematic layout
 (Change of Use)**

Scale: 1/8" = 1'-0"
 Date: 2/10/12

Client: SA
 Designer: AW

Project No: 2109ACDU
 Rev: A

Sheet No: 10/27

1. The architect shall be responsible for obtaining the necessary permits for the project. The architect shall be responsible for obtaining the necessary permits for the project. The architect shall be responsible for obtaining the necessary permits for the project.

A1.0 RELEVANT PLANNING HISTORY

(A brief outline of previous planning decisions affecting the site – this may not include every planning application relating to this site, only those that have a bearing on this particular case)

A1.1 12/01473/FUL

Change of use of first and second floors to 4 two bedroom apartments
Also on this agenda

12/01829/ADV

Advertisement consent for x1 new timber fascia board painted Costa red with x1 set of externally illuminated individual Costa letters fixed to face, x1 new internally illuminated built up Costa logo roundel, hung internally from drop rods and lit externally by trough light and x1 externally illuminated doubled sided Costa logo projecting sign, lit externally by trough light.
Pending consideration.

A2.0 ADDITIONAL MATTERS

(Matters which were also considered in producing the Recommendation)

A2.1 Heritage impact

The site lies within the conservation area but it is not a listed building. The Conservation Officer advised he would not be providing comment on this application. No external alterations are proposed to the unit and the use is comparable in footfall to a retail unit and there is therefore considered to be no harm to the character and appearance of the conservation area.

A2.2 Town Council comments

The Town Council have responded in objection, raising a number of points. These points are addressed either in the considerations section or in the appendix depending on their relevance to the case.

A3.0 CONSULTATIONS AND REPRESENTATIONS

(Who has been consulted on the application and the responses received. The following are a brief description of the comments made. The full comments can be read via the Council's web site)

Comments

Officer Response

A3.1 Parish – Olney

Noted. Use class clarification paras 5.1 and 5.2

The town council wishes to object to this application on the following grounds

- That this application is in reality a change of use change of use from A1 to A3, and not a change of use from A1 to mixed use A1/A3. It is therefore contrary to policy TC18 which restricts the loss of A1 use in the primary retail area of Market Place.
- Whilst the sale of some sandwiches for consumption off the premises is part of the application the town council feels that the primary use of the building will be the consumption of hot and cold food and beverages on the premises. The primary purpose is therefore A3 use.
- The submitted planning statement says that the proposed coffee shop would sell hot and cold drinks for consumption on and off the premises, and that they will not include any hot food production for either eat in or takeaway. This despite their website showing that they sell porridge, soups, paninis and pasta in their cafes.

Noted. Use class clarification paras 5.1 and 5.2

There is no hot food production as the statement confirms. Reference to the foods by the Town Council relates to the heating up of pre-prepared foods which does not constitute hot food production.

- Paragraphs 4.3, 4.8 and 5.4 of the planning statement are therefore not correct. Noted
- In paragraph 4.7 they note some planning appeals that they have won but make no mention of appeals they have lost. Planning appeal decisions are not a binding interpretation of planning law. Noted. Appeal decisions are a material consideration and a reflection of the interpretation of national planning policy.
- As circular 03/2005 states, it is the main purpose of use that is to be considered which the town council considers to be a cafe. Noted. Use class clarification paras 5.1 and 5.2
- The planning statement also makes reference to the effect that a quality coffee shop can have on a town. Olney is currently well served already by a number of high quality cafes and the additional of a national chain would not add value to the local economy. Competition is not a planning consideration.
- The property is situated in the conservation area and the frontage needs to be protected especially the mosaic tile work at the front entrance which the applicant wishes to remove. This forms part of the heritage of Olney. Noted. Conservation have not raised any concerns with this aspect and therefore no objection is raised. The tiling is not a designated heritage asset. The removal of the tiling does not require planning permission.

No other external alterations proposed. An informative will be added advising the external alterations will likely require planning permission.
- The tile work dates back to the early part of the last century when J.W. & E. Sowman traded from the building who acquired the building in or around 1900. They demolished the original building and built an Noted. Conservation have not raised any concerns with this aspect and therefore no objection is raised. The tiling is not a designated heritage asset. The removal of the tiling does not require planning permission.

extensive three storey property on the site which is the building that exists today. The new shop opened for trade on 27th June, 1904.

- The tile work makes a positive contribution to the character and appearance of the building and the removal of this feature does not preserve or enhance the character and appearance of the area. This aspect is therefore contrary to policy HE18 of the local plan.

Highways Development Control

In highway terms, this is an appropriate location for this type of use with the likelihood of linked trips with other functions within the town. Being a town centre visitors will likely walk to the site from employment areas, shops and homes.

Although I have no objections in principle I note that planning application 12/01473/FUL (conversion of upper floors to apartments) includes a parking space which is marked for retail use. This parking space is not included in the plans for this change of use. I therefore recommend that the plans are altered to show the parking space within (an enlarged) red line application boundary.

Conservation And Archaeology

The Conservation and Archaeology Team will not be providing conservation comments on this particular application.

No other external alterations proposed. An informative will be added advising the external alterations will likely require planning permission.

No external alterations proposed. There is no policy HE18. It is presumed that HE6 is meant as this related to conservation areas.

Noted. Para 5.7 advises. MKLP policies T10 and T15

Noted, plan provided.

Noted.

Local Residents

The occupiers of the following properties were notified of the application:

- Addresses at 15 - 17 Osborns Court Olney
- Flat Above 32 Market Place Olney
- 31, 32, 34, 34A and 34B Market Place Olney MK46 4AJ

8 letters have been received, 7 letters of support and 1 objection.

The letters of support cite the following reasons:

- Currently an inadequate offering.
- Will provide a place for meetings and invigorate Market Place
- It would be better than having an empty unit which is damaging to the town

Issues of competition are not a planning consideration

Noted.

Noted. This is not as such a material planning consideration.

The letter of objection raises the following issues:

- Another coffee shop would not benefit the town.
- One franchise coffee shop may attract others which would harm the character of the town.
- The ground floor could be split from the first and second to make it more lettable.

Issues of competition are not planning considerations.

The nature or brand of an occupier is not a planning consideration.

There is no policy requirement, both locally or nationally, for marketing to be carried out for a change of use away from retail to a coffee shop. This therefore is a view that should be afforded little weight.