

Item No. 10

APPLICATION NUMBER	CB/11/04051/FULL
LOCATION	The Firs 85 High Street, Ridgmont, Bedford, MK43 0TY
PROPOSAL	Change of use from shop to mixed A1 and cafe (A3) with hot and cold food to takeaway. Creation of outside dining area for cafe to west of private garden area and cafe dining area to front forecourt.
PARISH	Ridgmont
WARD	Cranfield & Marston Moretaine
WARD COUNCILLORS	Cllrs Bastable, Matthews & Clark
CASE OFFICER	Sarah Fortune
DATE REGISTERED	16 November 2011
EXPIRY DATE	11 January 2012
APPLICANT	Mrs Woolard
AGENT	Mr S Everitt
REASON FOR COMMITTEE TO DETERMINE	Called in by Councillor A Bastable and referred to Committee by Head of Development Management due to complex issues.
RECOMMENDED DECISION	Full Application - Granted

Site Location:

The site is located on the northern side of the High Street in Ridgmont. The site lies in the infill boundary of the village and in the Conservation Area and Green Belt. Immediately to the west of No. 85 is The Old Chapel. This former chapel building has been converted into a dwelling.

The Application:

This application seeks full and partly retrospective consent for a change of use of the shop to mixed A1 (retail) and (A3) - hot and cold food cafe and takeaway. It includes the proposed provision of an outside cafe dining area - on the grass area to the west of the two private lawned garden areas - and also a cafe dining area to the immediate front of the building. The car parking area is to the rear of the site.

RELEVANT POLICIES:

National Policies (PPM & PPS)

National Planning Policy Framework 2012

Previous guidance was given in:

PPS1 Delivering Sustainable Development
PPS3 Housing

- PPS4 Planning for Sustainable Economic Growth
PPS5 Planning for the Historic Environment

**Regional Spatial Strategy
East of England Plan (May 2008)**

ENV7

Core Strategy and Development Management Planning policies November.

- CS14 High Quality Development
DM3 High Quality Development
DM4 Development within and Beyond Settlement Envelopes
DM6 Green Belt infill only boundaries.
DM8 Village Shops and Pubs

Supplementary Planning Guidance

Design Guide for Central Bedfordshire Adopted Jan 2010

Planning History of application site.

- MB/02/0198/LDC Certificate of Lawful Use: Use of part of ground floor for A1 (Retail) and part ground floor/first floor for bed and breakfast accommodation.
Granted: 11/10/2002.
- CB/11/02913/FULL Change of use from shop to cafe with hot and cold food takeaway. Cafe dining area to front forecourt and garden area on western side.
Withdrawn: 21/10/2011

**Planning history of
The Old Chapel.**

- 84/00512/EUC Commercial temporary storage ancillary to removals.
Granted: 3/10/1986
- 89/01803 Conversion of former chapel to use as residential dwelling.
Granted: 13/03/1990

**Representations:
(Parish & Neighbours)**

Ridgmont Parish
Council

Comments on original application before revisions:
The adjoining neighbour has suffered loss of amenity and distress as a result of the use of the garden area in front of her house by clients of the cafe and shop, the loss of the shop is contrary to Central Beds own planning policy, the

owner of the cafe advises that the business survives as a result of the opening of the cafe, if granted consent could lead to the loss of the village shop, some concern in the area that there is substantial on-street parking which may cause a hazard, it was agreed at the PC meeting that the application could be amended so that the area for tables is on the lower area of garden away from the neighbours front aspect (occupiers of The Old Chapel), recommend that the application is restricted to change of use to cafe and shop and that a condition be attached so that the shop element is maintained - and that the outdoor seating area be limited to the lower garden and front forecourt but not in the small grassed area to the front of The Old Chapel, 83 High Street and also that the fencing not be allowed as shown in this application.

Comments on Revised application: Support the revised application for shop and cafe, a condition must be attached that is strongly worded to ensure that the shop element is retained and the outdoor seating area for the cafe must also be limited to the lower garden area and the front forecourt and not in the small grassed area in front of 83 High Street and to the west of The Firs. Comments raised in respect of the original submission are also relevant.

Neighbours

5. e. mails in support: on grounds that lovely food, good meeting place especially for the elderly and infirmed to get hot food, sit and chat over tea and coffee without having to go to the pub. It is a main part of the village and would sorely miss it if it closes. It provides a valuable service to the community. The outdoor seating area is a vital ingredient as it is a wonderful relaxing area. It has been used as a seating area for more than 15 years, it was used with tables and chairs when the current resident purchased the adjacent property. It is only lightly used by cafe users during the hours the cafe is open and cafe users are generally quiet and well behaved. It would be different if it was for use as a licensed business with extended opening hours.

2. Letters in support: This has been part of the community for many years and recently it has had to adapt to the building of the new by pass. It should be allowed to continue to serve the village and other nearby villages. Have engaged the Firs on a number of occasions in role with the Marston Vale Community Rail partnership for the supply of refreshments for special themed trains and had afternoon tea at the Firs with groups from the Marston Vale line. Also used by Beds RCC.

Petition with over 250 signatures in support: on grounds

that the cafe has been serving the community since the shop closed due to it being not financially viable.

1. Letter of objection from The Old Chapel: The use started in 2008. The scale of the plans is inadequate - needs to be larger so that any consent could be readily conditioned. The parking will cause further concern due to its activity and impact on the openness of the Green Belt. No reference is made to the right of access by the owners of The Old Chapel. Parking should be identified in the description. It is not possible to attach a condition that requires people at the cafe to be considerate. The 1.8m high fence will detract from the view of The Old Chapel in the Conservation Area. It would spoil the public view of this historic/architectural gem in the Conservation Area. Car parking provision is excessive contrary to Green Belt policy and harmful to amenity. The small scale sale of bread and milk etc.. is ancillary to the cafe and can not be seen as being equivalent to a village shop. No details of Fire Escape. No details on access for disabled. Lack of extraction details. The existing system is not acceptable. Details of odour control should be submitted with the application. Loss of last shop in village is contrary to planning policy. Meals and coffee are already provided by the village pub. The imminent opening of the Ridgmont Railway tourist venue will have a cafe and other amenities etc.. No evidence has been submitted that there is no prospect of the shop use continuing. No accounts have been submitted of the business. Loss of amenity to the neighbours by way of customers eating, drinking and smoking in the garden area to the side of 85 and to the front of The Old Chapel - which has windows and doors adjacent to this activity area. Need to assess as to whether this proposal preserves or enhances the Conservation Area and consider that it fails to do either of these. Need to question that if this is used by locals why does it give rise to such an intensive car use - ie it is used by a wider car borne user. The operator of the cafe has offered to enter into a legal agreement to remove the tables from the two little lawns if objections raised by number 83 are removed. Any legal agreement would have to include the Duke of Bedford Estates as owners of The Firs but they have not responded to this matter. Any grant of planning permission which refers to the term guests is ambiguous as this would cover family friends and guests from far afield and also paying guests of the First Bed and Breakfast. It would be impossible to monitor. Number 83, The Old Chapel, has right of access for pedestrians and vehicles across The Firs and this may constitute a legal barrier to the development of the car park. If extraction details are required for the cafe then this could be a problem to provide as the neighbour has a Deed of Grant which encompasses any development of services within

the 'Coffin Passage' to her house.

Comments on revised proposal:

3. e. mails in support: The previous comments are still relevant and also do not consider that the use of the outside facility will cause any noise problems to nearby neighbours. The cafe was there long before the most recent purchase of the property. The hours of use are not incompatible with the residential use of the adjoining property.

1. Letter objecting from The old Chapel: The plan is of inadequate scale to enable any consent to be enforced. Increase in activity on site and in use of car park. The patronage is very different to a shop - many customers are from far field. Increase in traffic generation. Activity and operation of the car park in the Green Belt is not acceptable. What right of access is there for pedestrians and/vehicles by owners of The old Chapel? There should be a new application fee as the description has changed and site has changed. Cannot control by way of planning conditions that customers are considerate in the use of the garden area. The A1 use is a secondary and small scale activity and can not be seen as equivalent to the village shop. The details on the plans are inadequate to justify the application being approved. A few shelves is not adequate to claim that the use is part A1 - need detailed information before a decision can be made. There is limited financial information which is not corroborated and lacks detail. No details of Fire Escape or Assembly point or details of access for disabled. Lack of details of extraction facility. Need EHO comments on this lack of adequate justification for the application. Loss of village shop should be resisted and is contrary to Policy EC13 of the Core Strategy. Local Plan policy states that The loss of shops in villages will be resisted. The applicants supporting figures relating to the shop are not supported by any credible evidence. The proposal is therefore contrary to policy DM8 of the Core Strategy and Development Management Planning Document dated November 2009. The plans do address in part the impact on the amenity of occupiers of The Old Chapel. Adverse impact on the character of the Conservation Area by way of parking on street. The creation of the car parking area and increased use of it will affect the openness of the Green Belt. The use at the site is designed not for the local community but for a wide car borne user. The material considerations do not justify a grant or outweigh the development plan. If refused it must be served with a stop notice. Suggested conditions if consent is granted are to be submitted.

Considers that since the application is retrospective there is a need for a condition to be attached to any consent which requires that details of the existing extraction details be submitted for approval within a certain time scale and that these details be implemented on the site.

1: Letter of objection: Noise and invasion of privacy as garden area looks directly into one of neighbours bedrooms and lounge. Extending the business into the garden will increase the noise and invasion of privacy already experienced. Highway concerns when people park on the road and sometimes block the entrance to Lydds Hill. This results in loss of visibility. By including the larger area of garden then this will promote access for the cafe to this garden via the highways path or across the private chapel path. The public footpath to the front of the site is very narrow and the pedestrian access and the serving of hot food and drinks is a potential health and safety issue. Hope that the cafe garden area will be limited to the smaller section and that there are clear limits on times of opening as stated in the application, no camping, max number of people to be set, no music, no alcohol, clear fence boundaries and sympathetic fencing and seating such that there is no overlooking into neighbouring properties and not restriction on access on to the public highways pathway.

App Adv

Consultations/Publicity responses

Highways Officer Comments regarding the marking out of the rear parking area as well as provision of turning area and suitable lighting of the car park.

Revised plan: Comments are as previously forwarded.

Conservation Officer No objections to the change of use but seek minor amendments to the proposed boundary treatments.

Revised Plan: the revised plan has removed the intrusive fencing - and the cafe garden area has moved to the open grassed area to the west of the Old Chapel. Of the view that the proposal will not impact negatively on the locally important chapel and 85 High Street or the character and appearance of the Conservation Area.

E.H.O. Public Protection No objections as long as conditions are attached to any consent which control hours of opening and that no extract system be installed at the premises without the prior written consent of the Local Planning Authority. Further comments have been provided in relation to the

concerns raised by the occupier of the Old Chapel in relation to the existing extraction system at the site. Their advice is that since there have been no complaints regarding the existing system or complaints of odour from the site that a condition requiring details of the existing system would be unnecessary in this instance.

Building Control Officer No comments

Legal Officer No obs received.

Determining Issues

Consideration of the application was deferred at the meeting of the Development Management Committee on 28th March, 2012 in order that further Committee notification letters could be issued.

The main considerations of the application are;

1. Background and Policy/Principle of Development
2. Visual Impact
3. Residential Amenity
4. Other Issues.

Considerations

1. Background and Principle of development

The site lies within the Green Belt 'Infill only' boundary for Ridgmont where there are no objections to the principle of new development that meets infill criteria.

The Firs - number 85 High Street - was originally the village shop but in 2002 was granted a Lawful Use Certificate for Bed and Breakfast with ground floor breakfast room and first floor bedrooms -under planning ref: MB/02/01498/LDC.

In easter 2006 the shop was re arranged and a door made into the guest house dining room so that people could sit and eat. In 2008, when the Ridgmont bypass was opened, the applicant advises that the shop became unviable and daily takings fell to about one fifth of what they had been previously.

The cafe element opened in 2008 and the applicant advises that it is an extension to the B and B business operating at the site. It is open between 8.00am and 3.30pm Monday to Friday and 9.00am to Noon on Saturdays, Sundays and Bank Holidays. It serves both local residents and passing traffic and provides for a lunch service for pensioners in the village with home delivery being available. A local pheasant shoot have used the premises for breakfast and the local school have used it for a field trip. There are two part time employees. The pedestrian access for the bed and breakfast accommodation is via the garden to the west side leading to the main door.

A recent application (CB11/02613/FULL) for the change of use of the shop to cafe and the use of the area to the front of 83 High Street as an outside dining area was withdrawn following a number of concerns raised.

The applicant then submitted a similar application to the one that was withdrawn and following a number concerns raised this has been revised. It is now in respect of regularisation of the change of use of the shop (A1) to a mixed use of shop (A1) and cafe (A3) - hot and cold food served in the premises and takeaway. This revised application includes the use of an outside area - for use by cafe patrons and customers of the bed and breakfast - in the westernmost lower garden area of the property and not in the garden area to the front of The Old Chapel. There is to be a gated entrance into this cafe garden area and the signage to the gate is to state that it is the 'Firs cafe/garden' with 'pedestrian access to car park'.

The small grassed area to the front of the former Chapel (83 High Street) would only be used for private garden use by the owners and family of 85 High Street. Signs are to be placed in this garden area indicating 'Private garden Only'.

The application is accompanied by a petition with over 250 signatures supporting the application.

When determining planning applications which affect shops and services the National Planning Policy Framework states that authorities should promote the retention and development of local services and community facilities in villages, such as local shops, meeting places and cultural buildings etc...

Policy DM8 of the Core Strategy and Development Management Planning Document applies to this proposal and this recognises the importance of local shops especially in rural villages where there are no alternative facilities within walking distance. This policy seeks to prevent the loss of village shops in order to retain these important services. The loss of something as important as the last village shop can not be supported in policy terms unless there are very exceptional circumstances. It is the most vulnerable in the village, such as the elderly and those without a car, that mostly feel such a loss.

In this case, the application as revised makes it clear, both in writing and on the revised layout plan of the cafe/shop, that the premises does sell a limited number of A1 goods - such as milk, bread and biscuits, drinks and cards etc.. Whilst the A1 use is the minor part of the business it is felt that it will still provide the village with the basic goods which one would expect to be for sale in a village shop. Any planning consent will be subject to a condition which ensures that this A1 element is retained, unless planning permission is granted for another use.

There have also been some letters of support for the proposal on grounds that it is a meeting place with friendly people running it where people of all ages can get hot food and sit and chat over a tea or coffee and it is a life line of the old and infirmed. In this sense the facility would provide a service to the local community.

It is felt that the revised proposal is now in conformity with the National Planning

Policy Framework and accords with planning policy DM4 of the Core Strategy and development Management planning Document dated 2009 in that the village shop element is to be retained as part of the development and that the facility would provide a local service.

2. Visual Impact

The application site is a substantial sized building which is attached to an Old Chapel building which has been converted to residential use. There is a good sized garden area lying to the west which is split into two parts by the path access from the High Street to the Old Chapel building. There is also a small hardstanding area directly in front of the cafe which is used for outside seating by users of the cafe. No changes are proposed to the outside of the building and no works are required to be done to the premises in terms of internal alterations.

The main changes to the external appearance of the site is the proposed use of the westernmost grassed area as an outside cafe area (as well as by customers of the bed and breakfast accommodation) where there will be tables and chairs - mostly during the summer months. This area is to be denoted on the site by a 1m high picket fence. It is not felt that the siting of such temporary features will have an adverse impact on the locality and would preserve the character and appearance of the Conservation Area.

3. Residential Amenity

The site is surrounded by residential uses on each side and on the opposite side of the road. The pedestrian access for the B and B is to continue to be via the path which runs between the two small grassed areas on the western side of the property leading to the main door in the west elevation of the building. These two small areas of grass which lie to the front of The Old Chapel and to the west of the 85 High Street have recently been used as an outside seating and smoking area for users of the cafe and the Bed and Breakfast. However, the cafe use of these two grassed areas for such purposes is to cease and does not form part of this revised proposal. They are to continue to be used by the owners of 85 High Street and their family - but not by any of the commercial clients to the site. The applicant has requested that any restrictive condition allows them to place one table in this private area of grass for their own personal and family use and therefore the condition is to be worded accordingly to allow this.

The Old Chapel (83 High Street) - faces directly onto these grassed areas. The occupiers of 83 High Street have objected to the revised scheme on a number of grounds - a letter having been received from their planning agent. (Their comments are summarised above). It is now for part cafe (A3) use and part A1 (shop) which it is felt would not unduly harm the amenities of this neighbour in terms of noise and disturbance, privacy etc., now that the grassed areas to the front of The Old Chapel are not to be used as sitting out areas for the cafe users and the B and B users clients. There will be some noise from cars coming to and from the site parking on the road and within the rear car park but the additional use of these areas will not have a sufficiently adverse impact on the neighbours as to withhold planning permission on amenity grounds. A condition is recommended restricting the opening hours for the cafe.

It is recommended that a number of planning conditions be attached to any planning permission to ensure that the garden area immediately to the front of the old Chapel is not used by clients of the businesses at the site but are for private purposes only.

In assessing the proposal It needs to be noted that the change of use of the Old Chapel to residential was granted in 1989 prior to the LDC being granted for the use of the application site in part for B and B use. Also, The B and B has a Certificate of Lawful Development approval and there are no planning conditions attached to that use. The LDC description and application forms specified the use of the building although the majority of the garden areas were both included in the red line plan attached to the LDC. Whilst the land and gardens are not specifically referred to in the LDC it can be considered that they are included as they are within the certificated land. As such, the planning unit would be a mixed use of C1, (B and B), C3 (residential) and A1 for both the building and gardens

With regard to the larger grassed area to the west of the site, which is to be used as the cafe / B and B outside garden area, the nearest properties to this area are No. 83 (The Old Chapel) and No 81 High Street. Number 81 is separated from this area of garden by a track and is approximately 8m away. The west garden area would be approximately 11m deep, from back of pavement and would not extend along the side elevation of No. 83. Also, this garden is partly included in the LDC and therefore that part has mixed use. It is not felt that the use of the area by the users of the cafe and B and B will result in undue loss of amenity by way of noise, loss of outlook etc.. as to withhold planning permission. This area of land is hatched in green on the latest plan - plan no SE/2698/D.

No.87 has a blank side elevation facing onto the existing vehicular access. Due to the distances and relationships involved it is not felt that the continued use of the access to serve the car park will result in undue loss of amenity to occupiers of number 87 High Street. Also, it is not considered that the proposed retrospective use of the small area of front forecourt as an outside seating area for the cafe will have a harmful impact on the residential amenities of this property. The environmental health officer is not raising any objections.

With regard to the impact on the amenities of the occupiers of number 81 High Street their concerns regarding the use of the proposed lower garden area by the cafe and the potential for noise and loss of privacy that this use is likely to lead to have been carefully taken into consideration. However, whilst the occupiers of number 81 will be able to see this garden area being used as an outside seating area by the cafe this garden area is at a distance of about 14 metres at its closest from the nearest part of this property itself albeit closer than this to the front and side garden areas of this house. There is also an access road known as Lydds Hill that runs between the proposed cafe garden area and the garden to number 81. Loss of amenity by way of noise and disturbance is therefore likely to be minimal and not sufficient as to support a reason for refusal.

4. Other issues

The access officer is not raising any objections to disabled access to the site.

The revised layout plan shows the parking area laid out and marked up with a

turning area shown

The environmental health officer has advised that there are no objections to the proposal. The food preparation for the cafe takes place in the same kitchen as that used by the B and B business. No complaints have been received in respect of this. However, in order that future problems are avoided a condition is to be attached which states that no extract system be installed at the premises without the prior written consent of the Local Planning Authority in order to safeguard the amenities of neighbouring properties. Discussions have taken place with the environmental health officer regarding the attachment of a condition which requires details to be submitted of the existing extraction details and a clause added to any such condition that these details are retained at all times. However, the environmental health officer has advised that in view of the lack of any complaints having been received about odour from this retrospective use they can not condition / or control the existing extract equipment on the site.

Recommendation

That Planning Permission be granted subject to the following:

- 1 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plan number SE 2698/D

Reason: For the avoidance of doubt.

- 2 No extract system shall be installed at the premises without the prior written consent of the Local Planning Authority.

Reason

To safeguard the amenities of occupiers of neighbouring properties.

- 3 The area cross hatched - on drawing No. SE 2698/D - shall only be used as a private domestic garden area for the personal enjoyment of Mr and Mrs Woolard, Mrs Woolard senior and family and shall not be used for any commercial purposes except access to the Bed and Breakfast Accommodation. No tables or commercial paraphernalia shall be placed on the private garden area other than one table for personal use by persons named above and their family.

Reason

To define the permission hereby granted, for the avoidance of doubt and to safeguard the amenities of occupiers of the nearby residential properties.

- 4 No outside area other than the area hatched in green on Plan No. SE 2698/D shall be used as a cafe garden area for the customers of the cafe and the bed and breakfast accommodation. Before the outside cafe garden area hereby permitted is first brought into use, a detailed scheme for the provision of signage to each garden area and a picket fence to the side and rear of the cafe garden area, as indicated on drawing No SE 2698/D, shall be submitted to the Local Planning Authority for its approval in writing. The

approved signage and fence shall be erected before the cafe garden area is first brought into use and thereafter retained.

Reason

To ensure that the various areas of the site are clearly indicated with signage so that the amenities of occupiers of the nearby residential properties is safeguarded at all times.

- 5 The proposed signs shall be finished in non reflective materials and located outside of the public highways.

Reason

To avoid undue distraction to motorists and to avoid possible resemblance to and confusion with bone-fide road signs.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995, (or any Order revoking or re-enacting that Order with or without modification) no fence, wall, gate or other means of enclosure shall be erected in the private garden area to the front of The Old Chapel unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of adjacent occupiers and the character and appearance of the area.

- 7 The uses hereby permitted are for part A1 (retail) use and Part A3 use (cafe/takeaway). The floor areas for A1 use defined on Plan number SE2698/D which accompanies this planning permission shall be retained for retail sales purposes.

Reason

To define this permission and to ensure that A1 use is retained as part of this permission.

- 8 The cafe shall only be open to the public between the hours of 08.00 - 15.30 Monday to Friday and 09.00 -12.00 Saturday and Sunday and at no time on Bank or Public Holidays.

Reason: To protect the amenities of the area.

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- 9 A triangular vision spay shall be provided on the west side of the access and shall measure 1.8m along the fence, wall, hedge or other means of definition of the front boundary of the site, and 1.8m measured into the site at right angles to the same line along the side of the access drive. The vision splays so described and on land under the applicant's control shall be maintained free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.

Reason

To provided adequate visibility between the existing highway and the access, and to make the access safe and convenient for the traffic which is likely to use it.

- 10 Within a month of the dated of this permission being issued a scheme for short stay cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented within three months of the date of approval and thereafter retained for this purpose.

Reason

To ensure the provision of adequate cycle parking to meet the needs of the users of the proposed development in the interests of encouraging the use of sustainable modes of transport.

Reasons for Granting

The retrospective change of use of this shop (A1) to mixed use for cafe (A3) and shop (A1) and the use of an outside area of land for dining is felt to be acceptable in relation to the character of the area, will not have an unduly adverse impact on the amenities of neighbours and there are no other concerns. The application is in conformity with the Nationa Planning Policy Frameworkand 2012 and complies with policies DM3, DM4, DM6, DM8 and CS14 in the Core Strategy and Development Management Panning Document dated 2009.

Notes to Applicant

1. The applicant is advised that all cycle parking to be provided within the site shall be designed in accordance with the Central Bedfordshire Council's "Cycle parking Annexes - July 2010".

DECISION

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