

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

6 July 2011

AUTHOR/S: Executive Director / Corporate Manager - Planning and Sustainable Communities

S/1023/10/F - MELBOURN

Replacement of existing outbuilding additions and change of use from residential (C3 use) to A1 Use (Part Retrospective Application) at 49 High Street, for Mr Dipak Solanki

Recommendation: Delegated Approval

Date for Determination: 1st August 2011

Notes:

This Application has been reported to the Planning Committee, as the officer recommendation to approve is contrary to that of the Parish Council.

The site lies within the conservation area.

Site and Proposal

1. The application site is approximately 0.08 hectares and is within the village framework. The public highway defines the northern boundary. There are residential properties located to the northeast and southwest. Melbourn Primary School is located to the southeast. There is an existing shop (A1 Use Class) on site.
2. The site is within the Melbourn Conversation Area. The properties to the northeast are Grade II Listed Buildings. Approximately 20m to the southwest and 55m to the north there are two more Grade II Listed Buildings.
3. The proposal was submitted to the Local Planning Authority on the 23rd June 2010 but following the amended ownership certificate B (required due to the lean-to overhanging the adjacent property), the application was considered to be valid on the 7th June 2011. Since the submission of the amended Certificate the proposed lean-to was removed from this application and will be submitted under a separate planning application before the end of June 2011; this was done by the applicant in order for Officers to support the current planning application.
4. The application seeks to remove the unauthorised and previously refused additions to the outbuildings at the rear of the property. Then following the removal of the unauthorised works the applicant wants to erect new walls to a suitable standard. The proposed change of use part of this application is from residential (C3 Use) to an A1 Use. With the additional information the applicant has provided since submission the A1 Use will be used as a mix between sandwich shop, bakery shop and internet café. This does not prevent it being used subsequently as an alternative A1 Use.

Relevant Planning History

5. **S/1675/10** – This application is for proposed signs that was submitted at the same time as planning application S/1023/10/F. This application is still being determined.

6. **S/2023/05/F** – The proposal was for the change of use of part ground floor from residential to Post Office. Extension, conversion and change of use of outbuildings to hot food preparation for proposed home delivery business and in connection with a change of use of the shop to a mixed use as shop and hot food take away. Erection of lean-to to side of shop and erection of shed in connection with the commercial uses (Part Retrospective Application).
7. This application was refused due to the harm to the residential amenity of 51 High Street, the failure to demonstrate that the proposed use of the premises for hot food preparation and take-away would not result in an unacceptable level of odour to adjacent residential properties, the extension and conversion of two small outbuildings into one large flat roofed building and the erection of the lean-to, represent structures that neither preserve nor enhance the character and appearance of the Melbourn Conservation Area or respect the setting of the adjacent Grade II Listed Buildings (43-47 High Street) and notwithstanding the above the submitted plans are inadequate in that the precise impact on the character and appearance of the Melbourn Conservation Area and the setting of adjacent Listed Buildings of the proposed Post Office conversion cannot be assessed.
8. **S/2206/06/F** – The proposal was for the change of use of ground floor from residential (Class C3) to Coffee Shop (Class A3). This application was refused on the grounds that it did not demonstrate that it would not result in the unacceptable level of odour to the occupiers of adjacent residential properties and the application fails to demonstrate how necessary odour extraction systems will further impact on the Conservation Area and the setting of the Listed Buildings at 43-47 High Street. In addition to this it was also refused, due to the harm of the new shop front would cause upon the streetscene and Conservation Area.
9. **Enforcement** - Unauthorised works to the outbuildings at the rear and the lean-to are under current enforcement action (Reference PLAENF.3009). The enforcement notice was issued on the 30th June 2008 requiring the unauthorised works to be removed by 4th November 2008. Despite court action the unauthorised building remains. This application seeks to remedy the situation by replacing the additions to the outbuildings.

Planning Policy

10. **South Cambridgeshire Local Development Framework, Core Strategy, Adopted January 2007:**

ST/5 – Minor Rural Centre
11. **South Cambridgeshire Local Development Framework Development Control Policies DPD 2007:**

DP/1 – Sustainable Development
DP/2 - Design of New Development
DP/3 - Development Criteria
ET/4 – New Employment Development in Villages
NE/14 – Lighting Proposals
NE/15 – Noise Pollution
NE/16 - Emissions
CH/4 – Development Within the Curtilage or Setting of a Listed Building
CH/5 – Conservation Areas

CH/9 – Shop Fronts
TR/1 – Planning for More Sustainable Travel
TR/2 – Car and Cycle Parking Standards

Consultations

12. **Melbourn Parish Council** – The Parish recommends refusal that there are still environment orders in existence on this site. There may be problems with internal design of kitchen/toilet areas. Opening times need to be clearly specified.
13. (The applicant's comment in the Design and Access Statement regarding if the Parish Council has a conflict of interest has not been considered to be material in determining this application. This application has been assessed, as any other application would have been.)
14. **Environmental Health** – (10/03/2011) The Environmental Health Officer states that from the details received, accompanying this application, it is unclear as to what the exact intentions are with regard to a change to an A1 use.
15. The design and access statement states that there is provision for 20 people. The proposals include a bakery on site and the provision of hot food including hot food such as pies, sausage rolls, chicken, chips, wedges etc.
16. While it is appreciated that Planning Officers will be forming a view on the primary use in planning terms, but provision of hot food will require a suitable and sufficient ventilation system that has potential odour and noise impacts, depending on the nature and degree.
17. The Environmental Health Officer concludes that unless further details are submitted outlining the specifications of the kitchen exhaust system and how cooking odour will be mitigated effectively so as not to adversely effect the amenity of nearby residential properties, and in particular those on the first floor above, then the recommendation would be to refuse this planning application.
18. (9/06/2011) The Environmental Health Officer acknowledges the points raised in Mr Solanki's letter of 1st June 2011. Whilst there is no further comments to add at this time, it is assumed that the reheating of food will take place without cause for a kitchen extract system. Only if this is the case can Environmental Health support this application, otherwise the previous comments dated 10th March 2011 should still apply.
19. (17/06/2011) The Environmental Health Officer suggested some conditions regarding delivery times and opening times to add to the decision notice if approved.
20. **Conservation** – (4/2/2011) The Conservation Manager states that the building is in a conservation area with listed buildings either side at numbers 43-47 and 53-55 and opposite at number 38, the former vicarage in verdant surroundings. There are many listed buildings in the vicinity, including the parish church and war memorial. The building itself has considerable architectural interest, despite the modern shop front and other alterations.
21. The application seeks retrospective permission to add a lean-to structure on the west side of the existing rear wing, and to enlarge the store at the south end of the site. Both the existing outbuildings are negative features and their enlargement would only exacerbate their ill effect. The lean-to in particular would be visible from the street.

22. (10/06/2011) The Conservation Manager states that the additional information does not change the previous comments.
23. **Local Highways Authority** – No concerns over the proposed A1 use class.

Representations

24. **51 High Street** – (22/02/2011) The occupant objects to the proposed development on the following grounds:
- Lack of parking space (including existing illegal parking of customers) and unwillingness for customers to use nearby public car park.
 - Highway Safety
 - Concerns over noise pollution caused by early opening time and existing delivery times.
 - Want to ensure opening times are controlled.
 - Lack of action regarding the lean-to.
25. (14/06/2011) The occupant states the letter posted by hand on the 1st June 2011 refer to the wrong address and then provide detailed history over the lean-to.
26. **Glebe House, High Street** – The occupant states that the applicant submitted an earlier planning application (reference S/2206/06/F), which was refused and is now the subject of an enforcement notice. Despite this decision, the occupant states that it is their belief that the buildings that had already been constructed without planning permission are still in existence, as no enforcement procedure has been carried out. There is, therefore, a significant risk that should the latest application be granted, the buildings that have been constructed without planning permission will be used as part of the proposed Coffee Shop business. This would result in the realisation of all the problems for the local residents, which were of concern in relation to the earlier application including additional noise and disturbance.

The occupants object on the following grounds:

- Lack of parking nearby and the problems caused by illegal parking.
 - Highway Safety
 - Noise pollution
 - Residential Amenity
27. **Grove House, 43 High Street** – The occupants state that further to their objection to the previous application S/2206/06/F on this site and again they feel that they must object to the new application on the following grounds:-
- Lack of detail/information to overcome previous refusal
 - Concerns over odours and mentions previous problems of odour from the application site.
 - Extract fans would be both harmful to the character of the local area and cause odour problems.
 - Noise pollution
 - Additional shop frontage not in keeping with Conservation Area and nearby Listed Buildings.
 - Over development of the site
 - Concern that the proposed description does not meet with intended use
 - Creation of additional litter and attracting rats into the area
 - Lack of car parking and illegal parking of vehicles.

To conclude, the development would have a large detrimental impact on the quiet enjoyment of the surrounding properties and gardens by causing unwanted noise, smell, litter and parking problems. In addition, the development is not sympathetic to the conservation area in terms of its design, siting and materials and in no way would enhance Melbourne.

Should the café get permission they request that the opening hours be restricted to start no earlier than 8am.

28. **44 High Street** – The occupant objects to the proposal to convert the premises into an internet café on the following grounds:
- Lack of parking
 - Possible risk to users of the public highway
 - Highway Safety

Planning Comments

29. The key issues to consider in the determination of this application are; is the proposal acceptable in principle, does it pose a risk to highway safety, is the design and appearance of the proposal acceptable and is there any harm to residential amenity
30. Principle of Development – The proposed additional shop (without the loss of a residential property) within the village framework of a Minor Rural Centre is likely to lead to an increase in sustainability for this village, as there will be additional services within walking distance of most dwellings.
31. There has been much discussion over what Use Class this application is applying for. The original use of Internet Coffee Shop and the description in the Design and Access Statement has caused people to consider the development as an A3 Use Class (Restaurants and Cafes) rather than an A1 Use Class. It is noted that the difference between an A1 Use Class and A3 Use Class can be a grey area. However, the statement in the Design and Access Statement of providing enough space for 20 people would require space for several computer terminals in order to consider this as an A1 Use Class. The proposed floorspace is not considered to have sufficient space in order to provide this. To provide clarity to the applicant an informative should be added to state that provision of more than four spaces/seats to eat would be considered as being an A3 Use Class on this site.
32. The proposal to cook hot food mentioned in the Design and Access Statement has been changed through additional communications with the applicant so that only the reheating of food is being proposed. A condition can be added to ensure that no food requiring a kitchen extract system can be cooked or sold on the premises, though this condition is to protect residential amenity point of view rather than a use class restriction it should ensure that the food prepared on site is with an A1 Use Class.
33. The proposal to sell cakes, sandwiches and fresh bread baked on site is considered to fall within the description of a Bakery Shop or Sandwich Shop, which are both A1 Use Class. The selling of teas and coffees is unlikely to change the use class, if these sales are ancillary to the bakery/sandwich shop/internet café proposed use.
34. It is considered that the change of use to A1 (retail) is being applied for and is appropriate in principle.
35. Highway Safety – It is noted that the Local Highway Authority has raised no objection on highway safety grounds to this application.

36. Approximately 45 metres to the northeast of the site is a communal parking area. The proposed A1 use class is considered to require approximately 5 parking spaces. Having visited the site twice and looking at photographic records over the past 10 years it does not appear that this car park is ever used close to capacity.
37. It is noted that a common theme from the objection letters is that the users of the existing shop at 49 High Street park on the double yellow lines and the "Keep Clear" markings. While it is understood that this must cause great frustration to the local residents, it is not something that decision making process can add weight to. A different public body covers the enforcement of road regulations. The car park is considered to have sufficient space to cater for the additional parking required by this A1 use class.
38. The proposed works on the outbuilding at the rear has no impact on parking provision.
39. With no new access being proposed there is not considered to be any other impact upon highway safety.
40. Visual Impact – It should be noted that the signs shown on the proposed elevations are being considered under planning application S/1675/10. The current front elevation seeks to insert a door where currently there is a window, this is not considered to have any detrimental impact on the external appearance of the building. However, the proposed front elevation shows the loss of the voussoirs (vertical bricks) and this is detrimental to the streetscene and Melbourn Conservation Area. In order to avoid this loss of Victorian detailing a condition will be added to ensure that an acceptable front appearance is achieved.
41. The proposed A1 Use is not considered to have any detrimental impact upon the appearance of the local area, if appropriately conditioned.
42. The applicant has agreed to remove the unauthorised works at the rear of the site on the outbuilding. It is considered that one month would be a reasonable time to expect the removal of the authorised works, this will not be conditioned but a separate letter sent to the applicant following the determination of this application. In addition to this before the replacement works are carried out the Local Planning Authority would need to agree the materials and Builders Schedule. This is in order to ensure that the replacement development is of an acceptable standard within the Melbourn Conservation Area and in the proximity of several listed buildings.
43. Residential Amenity – The proposed development on the existing outbuildings is unlikely to have any detrimental impact upon residential amenity.
44. The local residents concerns are noted concerning the current proposed noise problem being caused at the existing shop. It must be remembered that the application is for the proposed shop and not to fix any existing problems in determining this application. However, having taken into consideration the comments from Environmental Health it is considered appropriate to place conditions that protect local residents from any detrimental impact from the proposed use. It is considered reasonable to ensure that delivery times are not too early in the day and do not cause undue disturbance during days of expected rest. In addition to this the opening times of the A1 Use shall be restricted to ensure that they reflect normal working hours, this is not uncommon as many shops shut around 6pm. Finally power operated machinery times shall be restricted and that no food shall be cooked on site

that would require an extract system to be installed. The Local Planning Authority recently refused the proposal for an extract system in planning application S/2206/06/F on residential amenity and conservation/listed building grounds. It is considered that the placing of these conditions will prevent there from being any detrimental harm to residential amenity.

45. The residential property of 49 High Street could also suffer from undue harm to its residential amenity if sold separately from the shop. In order to prevent this a condition will be added linking the shop to the residential property of 49 High Street.

Conclusion

46. The proposal is considered to be acceptable in regards to its principle, impact upon highway safety, impact upon the historic character of the local area and the residential amenity of nearby properties if the development is appropriately conditioned.

Recommendation

47. **Approve**

Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
(Reason - To ensure that consideration of any future application for development in the area will not be prejudiced by permissions for development, which have not been acted upon.)
2. The development hereby permitted shall be carried out in accordance with the following approved plans: DD 616B (excluding front elevation), SC-01, SC-02, SC-03 and SC-04.
(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)
3. No external work or alterations shall commence on the front elevation of 49 High Street until a revised front (north) elevation is submitted to and agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
(Reason - To ensure the appearance of the development is satisfactory in accordance with Policies DP/2, CH/4 and CH/5 of the adopted Local Development Framework 2007.)
4. The replacement additions to the outbuilding at the rear of the site shall not commence until full material details and a schedule of works is submitted and agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
(Reason - To ensure the appearance of the development is satisfactory in accordance with Policies DP/2, CH/4 and CH/5 of the adopted Local Development Framework 2007.)
5. The A1 use, hereby permitted, shall be carried on only so long as the residential property 49 High Street is occupied by the present or any future owner of the application premises or by an employee of such an owner working at the application premises.

(Reason - To protect the residential amenities enjoyed by the occupiers of 49 High Street due to the proximity of that property to the application premises and to ensure there is space for the provision of refuse bins off the public highway in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

6. No deliveries shall be taken at or despatched from the site outside the hours of 0730 - 1800 Mondays to Saturdays, nor at any time on Sundays, Bank or Public holidays.

(Reason - To limit the impact of vehicle movements on residential amenities in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

7. The class A1 Use Class (retail), hereby approved, shall only be open between the hours of 0800 – 1800 on any day.

(Reason - To limit the impact of vehicle movements on residential amenities in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

8. No food shall be cooked, prepared or sold on the premises hereby approved that would require a kitchen extract system.

(Reason - Without the kitchen system there would be the potential to cause unacceptable odour problems problem for local residents. The previous planning application on this site that the installation will inevitably will harm the character and appearance of the conservation area and the setting of listed buildings (43 – 47 High Street). Contrary to Policies NE/16, DP/3, CH4 and CH/5 of the adopted Local Development Framework 2007.)

9. No power operated machinery (or other specified machinery) shall be operated on the premises before 0730 am on weekdays and 0800 am on Saturdays nor after 1800 pm on weekdays and Saturdays (nor at any time on Sundays or Bank Holidays), unless otherwise previously agreed in writing by the Local Planning Authority in accordance with any agreed noise restrictions.

(Reason - To minimise noise disturbance to adjoining residents in accordance with Policy NE/15 of the adopted Local Development Framework 2007.)

Informatives

1. It is likely that the provision of more than 4 spaces/seats to eat would constitute a change of use to A3 Use Class, unless space is made for more than 4 computer terminals.
2. Notwithstanding the approved plans no signs are hereby approved under this application.
3. Please read the covering letter that covers when the unauthorised works on the rear outbuildings shall be removed.

Background Papers: the following background papers were used in the preparation of this report:

- South Cambridgeshire Local Development Framework 2007

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