

**11. FULL APPLICATION - CHANGE OF USE FROM TOY SHOP (A1) TO ICE CREAM PARLOUR (A3), ICE CREAMS & DREAMS MATLOCK STREET BAKEWELL (NP/DDD/0615/0503 P.2537 421767/368408 24/8/2015/CF)**

**APPLICANT: JOEL BOND**

**Site and Surroundings**

The current application concerns Ice Creams and Dreams, which is a restaurant that operates from a Grade II listed building on Matlock Street in the centre of Bakewell. The restaurant also lies within Bakewell's Central Shopping Area and the designated Conservation Area.

**Proposal**

This application seeks retrospective planning permission for the change of use of the premises from a shop (A1 Use Class) to an ice cream parlour, which in planning terms is classed as a restaurant in an A3 Use Class. In this case, no external alterations to the shop have been shown on the submitted plans other than the proposed signage, which is not development that requires planning permission.

Therefore, this application seeks retrospective planning permission solely for the change of the use of the premises from a shop and the signage cannot be taken into account in the determination of this application. However, parallel applications for Advertisement Consent and Listed Building Consent have been submitted for the new signage that has been erected recently on the frontage of the premises.

**RECOMMENDATION:**

**That the application be APPROVED subject to the following conditions / modifications:**

- 1. The development hereby permitted shall be carried out in complete accordance with the following approved plans: Drawing No. 89215/01 Revision A.**
- 2. The development hereby permitted shall not place other than on the ground floor of the premises and sales of food and drink from the premises shall be limited to ice creams, sundaes, cookies, cakes, non-alcoholic drinks or similar light refreshments prepared on the premises.**
- 3. No deliveries, loading, unloading or other servicing activities shall take place at the premises other than between the hours of 08.00 - 18.00 hours Monday - Friday; 09-00 - 13.00 hours on Saturday; and at no times on Sundays or Bank Holidays.**

**Key Issues**

- whether the restaurant would serve the needs of the local community; and
- whether the retention of the restaurant would harm the character of Bakewell's town centre, including its vitality and viability or detract from its role as the main service centre within the National Park.

**History**

Ice Creams and Dreams has operated from the premises from August 2014 without planning permission and this application seeks to regularise the unauthorised change of use of the premises.

The new signage on the frontage of the premises was installed recently and the parallel applications for Listed Building Consent and Advertisement Consent seek to regularise the signage.

### **Consultations**

#### **External Consultees**

Highway Authority – No objections.

District Council – No response to date.

Town Council – object to the current application citing the inappropriate design of the current signage as the main reason the Town Council are recommending refusal of the application. The Town Council also notes that the premises do not appear to have toilets for visiting members of the public and express disappointment that the application is retrospective.

#### **Internal Consultees**

National Park Authority (Conservation Officer) – Recommended that the application ‘as submitted’ be refused. However, these objections were based on the signage and no other objections to the current application have been raised by the Authority’s Conservation Officer.

### **Representations**

Six letters about this application have been received by the Authority: one of which offers general support for the proposals, and one which sets out several issues the authors wish the Authority to take into account in the determination of this application albeit the issues raised are matters for the District Council or relate to the signage other than a request that Ice Creams and Dreams to be used for the sale of ice creams and similar products only.

Two of the other letters point out the lack of information in the submitted application, absence of customer toilets, and the inappropriateness of the signage. The fifth letter objects to the application because of the signage and external appearance of the premises; the author of the sixth letter simply states the proposals are “not suitable for the surrounding area and existing shops”.

### **Main Policies**

Policy HC5(A) of the Authority’s Core Strategy states that in towns or villages, shops, professional services and related activities must:

- i. be located within the Bakewell Central Shopping Area, or in or on the edge of named settlements listed in policy DS1; and
- ii. be of appropriate scale to serve the needs of the local community and the settlement’s visitor capacity.

Policy HC5(C) goes on to say that related activities such as professional services and premises for the sale and consumption of food and drink will be permitted in towns and villages provided that there is no harm to living conditions or to the role or character of the area, including its vitality and viability. HC5(B) relates to out of town shopping centres and is therefore not applicable.

Local Plan policy LS1, which also deals with new retail development in the National Park’s towns and villages, does not provide any further criteria to apply to the current application but Local

Plan policy LB9 says within the Central Shopping Area, development in Use Classes A1, A2 and A3 will be permitted.

These policies are consistent with the approach to ensuring the vitality of town centres in the National Planning Policy Framework ('the Framework'), which says local planning authorities should recognise town centres as the heart of their communities and pursue policies that are positive, promote competitive town centre environments and support their viability and vitality.

### **Wider Policy Context**

Relevant Core Strategy policies: GSP1, GSP2, GSP3 & L3

Relevant Local Plan policies: LC4, LC5 & LC6

Paragraph 115 of the Framework states that great weight should be given to conserving landscape and scenic beauty in National Parks along with the conservation of wildlife and cultural heritage, which is consistent with the aims and objectives of policies GSP1 and GSP2 the Core Strategy. The Framework otherwise states that local planning authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, including safe and suitable access provisions. These provisions are consistent with the requirements of Policy GSP3 and saved Local Plan policy LC4, which set out a range of criteria to assess the suitability of all new development within the National Park.

The Framework also states that the conservation of heritage assets in a manner appropriate to their significance forms one of 12 core planning principles whilst Paragraph 132 of the Framework states that great weight should be given to the conservation of a designated heritage asset and that the more important the asset, the greater the weight should be. These provisions are consistent with the criteria for assessing development that would affect a listed building and its setting, and the special qualities of a Conservation Area that are set out in the Authority's Development Plan in policy L3 of the Core Strategy and saved Local Plan policies LC5 and LC6.

### **Assessment**

In the first instance, the premises are located within Bakewell's Central Shopping Area where Local Plan policy LB9 says development in Use Classes A1, A2 and A3 will be permitted. Policy HC5(C) goes on to say that related activities such as professional services and premises for the sale and consumption of food and drink will be permitted in towns and villages provided that there is no harm to living conditions or to the role or character of the area, including its vitality and viability.

In this case, no external alterations to the shop have been shown on the submitted plans other than the proposed signage, which is not development that requires planning permission. Therefore, this application seeks retrospective planning permission solely for the change of the use of the premises from a shop (A1 Use Class) to a restaurant (A3 Use Class), which is deemed to be acceptable in principle under the two most relevant Development Plan policies namely HC5(A) and LB9.

There are no permitted development rights for this change of use and any subsequent external or internal alterations to the building will require Listed Building Consent because the premises are located within a Grade II listed building. The signage otherwise needs to be considered in the determination of the parallel applications for Advertisement Consent and Listed Building Consent and cannot be taken into account in the determination of the current application.

Therefore, setting aside the issue of the new signage, granting retrospective planning permission for the change of use of the premises would have a negligible impact on the significance of the Grade II listed building in which the premises are located and would have a limited impact on the

character and appearance of the setting of the listed building, which includes the surrounding Conservation Area. This is because the application does not show that any operational development that requires planning permission has been required to facilitate the proposed change of use of the premises from a shop to a restaurant.

To date, there is no evidence available to the Authority that the current use of the premises has otherwise had any significant impact on the general amenities of the area through noise and disturbance, or odour, for example. The main issues raised in representations on this application are often more focussed on the new signage, and the lack of a toilet for visiting members of the public, which are issues that fall outside of the scope of this application. There is also no requirement for dedicated parking spaces to serve the premises in this case because of the extent of public parking provision within the town centre and the Highway Authority has no objections to the proposals on highway safety grounds.

Therefore, it is considered by officers that the key planning issues in the determination of the current application are whether the restaurant would serve the needs of the local community and in particular, whether the proposals would harm the character of Bakewell's town centre, including its vitality and viability, and/or detract from its role as the main service centre within the National Park. In these respects, two of the key characteristics of the designated Bakewell Conservation Area are the wide range of retail/commercial uses, and the generally busy and vibrant nature of the town centre.

In this case, and in light of the single representation in support of the current application and the nature of the other representations received by the Authority to date, it is not clear that the premises would serve the needs of the local community if permission were to be granted for the current application. It is also acknowledged that the town centre has suffered difficult trading conditions recently and there are some wider concerns that the proposals would harm the character of Bakewell's town centre and that the mix of retail and non-retail units in the town centre is becoming increasingly unbalanced.

However, whilst there are a number of similar premises in the town and the proposal would increase the total number of non-retail units, officers consider the introduction of Ice Creams and Dreams in the former retail unit on King Street would not make the town centre less attractive as a whole and the restaurant would provide a facility to the general public (including the local community and visitors). Naturally, granting planning permission for the current application would not allay concerns about the suitability of the premises but officers are equally concerned at the number of vacant premises within the town centre and lack of obvious demand for some of these premises.

In these respects, if planning permission were to be refused for the current application, the subsequent vacant appearance of the premises in this prominent town centre location would detract from the street scene, and officers consider that this outcome would have a much more harmful impact on the vitality of the wider town centre and the character of the Conservation Area than granting retrospective planning permission for the current proposals.

### **Conclusion**

It is therefore concluded that the benefits of granting retrospective planning permission for the change of use of the premises justifies approval of the current application, which is considered to conform with the relevant policies in the Development Plan and the Framework subject to appropriate planning conditions in all other respects. Accordingly, the current application is recommended for conditional approval.

In this case, it would be necessary to restrict the mixed use to the ground floor of the premises as shown on the drawings submitted with the application and restrict the items sold from the premises to ice creams and associated products. This condition is considered to be reasonable

not least because any further intensification of the premises within an A3 use would be outside of the scope of the current application. Furthermore, any future changes to the use of the premises would also need to be considered carefully in the context of the public interest in the future of the town centre and the policy considerations set out in policy HC5(C) of the Core Strategy.

Similarly, further intensification of the premises could affect the living conditions of nearby residents, which is also policy consideration under HC5(C), but in terms of the proposed use a condition should also be imposed restricting times for deliveries and servicing. This condition is considered reasonable and necessary to protect the amenities of the occupiers of nearby residential properties and the general amenities of the town centre and is consistent with restrictions on other operators within the town centre.

Finally, it would not be necessary to impose a time limit on the commencement of the proposed development because the use of the premises as a restaurant has already commenced. However, it would be reasonable and necessary in the interests of the proper planning of the local area to specify that the development is carried out in accordance with the plans and specifications submitted with the current application.

### **Human Rights**

Any human rights issues have been considered and addressed in the preparation of this report.

### **List of Background Papers (not previously published)**

Nil