

West Malling	568053 157784	7 December 2007	(A) TM/07/04017/FL
West Malling And		2 November 2007	(B) TM/07/03971/LB
Leybourne		15 September 2007	(C) TM/07/03424/LB
		24 September 2007	(D) TM/07/03423/AT

Proposal: (A) Change of use from A1 to a mixed A1 and A3 use
(B) Listed Building Application: Replacement of existing suspended ceiling, and new stud walls to toilet area
(C) Listed Building Application: Removal of internal stud partitions, replacement of floor coverings, new toilet, new external signage and erection of new wall in store area.
(D) Advertisement Consent Application: New sign lettering to be fixed to existing display board, and new hung signage to replace existing.

Location: 67 High Street West Malling Kent ME19 6NA
Applicant: Mr Diljit Brar

1. Description:

- 1.1 This proposal is made up of four applications for the establishment of a takeaway coffee outlet and cafe to be operated by Costa Coffee. The various applications relate to **(A)** the change of use of the premises, **(B and C)** physical works that are the subject of listed building consent, and **(D)** the erection of signage.
- 1.2 **(A)** Planning permission is sought to change the use of the ground floor of a premises from a retail shop (A1) to a mixed retail/café (A1/A3). The area involved is 92m², with a frontage to the High Street of about 6m. Class A1 covers the sale of cold food, beverages and other products to be taken-away for consumption off the premises. Class A3 covers the sale and consumption of food and light refreshment on the premises.
- 1.3 The outlet would sell coffee and other hot and cold drinks, sandwiches, pastries, cakes and a range of coffee related retail products (beans, cafetieres, percolators, mugs, cups, biscuits etc.). The takeaway trade is estimated to represent about 40% of the business. Typical sales (for both eat-in and takeaway) are said to be as follows:
- | | |
|------------------------------------|-----|
| § Hot Drinks | 40% |
| § Cold Drinks | 20% |
| § Cakes, pastries, sandwiches etc. | 30% |
| § Retail products | 10% |
- 1.4 There is to be no primary cooking on the site with no use of microwaves or toasters. An odourless and smokeless sandwich press is occasionally used and is

normally positioned on the main service counter. All sandwiches and cakes are prepared off-site and are delivered to the premises each day.

- 1.5 The interior of the outlet would feature retail display units, a counter/servery and 18 tables with seating for 43. The rear of the premises would accommodate a customer toilet and a utility/storage area for dishwashers and ice machines.
- 1.6 The proposed opening hours of the coffee shop would be Monday to Friday 07:00 to 18:30; Saturdays 08:00 to 18:30, and Sundays 10:00 to 17:00. Employees would be at the premises one hour before and after the opening hours. The coffee shop would employ four full-time staff and six part-time staff. There is no provision for off-street parking. Deliveries to the premises would be on average twice daily and waste would be collected twice a week.
- 1.7 **(B and C)** Various physical alterations to the building are proposed to accommodate the coffee shop use and these are the subject of Listed Building Consent applications. The alterations relate to the removal of modern internal stud partitions, insertion of new bathroom equipment, insertion of new stud walls to the rear, installation of a replacement suspended ceiling to the front and the installation of new external signage. Most of the works are retrospective as they were undertaken prior to authorisation. Council Officers instructed that all works at the premises cease until the determination of these applications. The applicant has cooperated and to date no further works have been carried out.
- 1.8 **(D)** Advertisement Consent is sought for the display of various signage on the front elevation of the premises. Raised timber lettering forming the word 'COSTA' is proposed on the fascia board and would be externally illuminated by existing light fittings. A round double-sided projecting sign would hang from an existing bracket and feature the words 'COSTA COFFEE' and the slanting bean logo. Inside the front windows it is proposed to display a small round internally illuminated sign, a promotional poster board and the opening hours of the proposed outlet.

2. The Site:

- 2.1 67 High Street is a Grade I listed building located in the town centre of West Malling. The relevant Proposal Map designates the site as being within a Rural Local Centre and the West Malling Conservation Area. The building has been unoccupied since Threshers off-licence vacated several months ago. The building lies within a terrace of commercial properties and is flanked by 'McKenzie's Café' and 'Nationwide Building Society'. The rear of the building faces toward Mill Yard. The upper floors at the front of the building are occupied as residential accommodation. In the wider High Street area there is a mixture of retail, financial/professional services, restaurants and hot food take-way uses.
- 2.2 The site, as a whole, is believed to contain one of the oldest buildings in West Malling and to be of medieval origin; this is the rear portion of the building. This part of the building is archaeologically and historically sensitive with the rear

Ancient House believed to date back to 1080. The first floor of the Ancient House is of exceptional interest and this is reflected by the Grade I listing. Current data suggests that the building has had a varied and complex history with several phases of alterations and extensions being undertaken over the last few hundred years. The building is believed to have been previously used as an inn and a gaol while some records suggest it may have been directly linked with the development of St Mary's Abbey which lies just to the east.

3. Relevant Planning History:

TM/58/10588/OLD (MK/4/58/585B) External staircase to flat.	Grant with conditions	23 October 1958
TM/69/10548/OLD (MK/4/69/486) Erection of building for storage purposes.	Refuse	26 November 1969
TM/69/10605/OLD (MK/4/69/485) Demolition of part of building known as Priests House.	Refuse	26 November 1969
TM/71/10742/OLD (MK/4/72/640) The installation of a new shop front.	Grant with conditions	13 December 1971
TM/73/11223/OLD (MK/4/73/358) Removal of two disused chimney stacks from outbuilding.	Grant with conditions	13 July 1973
TM/81/10042/FUL (TM/80/1489) Use of first and second floors of building for bedsit accommodation.	Grant with conditions	26 August 1981
TM/92/00903/LB (TM/92/1133LB) Internal and external repairs and improvements in connection with formation of 2 self-contained flats and 2 bed-sitting rooms at 1 st and 2 nd floor levels.	Grant with conditions	2 February 1993
TM/92/00904/FL (TM/92/1363) Internal and external alterations and change of use from four bed-sitting rooms with shared accommodation to two self-contained flats and two bed-sitting rooms at first and second floor levels.	Grant with conditions	24 March 1993
TM/93/01580/RM (TM/93/00416/RM) Scheme of noise insulation submitted pursuant to condition 02 of permission TM/92/1363FL re change of use from four bed-sitting rooms with shared	Grant with conditions	23 August 1993

accommodation to two flats and two bed-sitting rooms at 1st and 2nd floor.

TM/93/01581/LB Grant with conditions 7 October 1993
(TM93/00887/LB)

Listed Building Application: structural repair/strengthening to shopfront
bressummer and adjacent timber frame.

TM/94/01597/LB Grant with conditions 26 June 1994
(TM/94/00341/LB)

Listed Building Application: improvements, repairs and alterations (revised
scheme to consent TM/92/1133LB).

TM/95/00546/LB Grant with conditions 27 April 1995
(TM/00132/LB)

Listed Building Application: Repairs to damaged sections of ground floor.

TM/95/00547/FL Withdrawn 18 April 1995
(TM/95/00209/FL)

Part replacement shop front and interior refit.

TM/95/00548/AT Withdrawn 18 April 1995
(TM/95/00210/AT)

Illuminated fascia and projecting shop signs.

TM/95/00549/LB Withdrawn 18 April 1995
(TM/95/00211/LB)

Listed Building Application: part replace shopfront, interior refit and new shop
Signage.

TM/95/50974/FL Grant With Conditions 31 October 1995

New shop front.

TM/95/50975/LB Grant With Conditions 13 November 1995

Listed Building Consent: New shopfront and internal works.

Externally illuminated shop sign.

TM/96/00073/LB Grant With Conditions 3 April 1996

Listed Building Application: internal alterations to rear of property (known as the
Ancient House) including removal of ceiling to the first floor.

4. Consultees:

4.1 PC: Objects:

- Proposals are not appropriately sensitive to a building which is extremely (probably uniquely) important.
- The PC wants to encourage a balance of uses and resist the incursion of national chains into West Malling which is a small market town characterised by small independent outlets (with the exception of Tesco and the banks and building societies).
- The PC considers the proposal would harm the vitality and viability of the centre. The centre currently has 6 pubs/clubs all of which serve food, 6 cafes (two licensed) in some cases combined with take away food outlets, and 3 take away food outlets open almost exclusively in the evening. As a result there are a disproportionately high number of catering outlets in relation to the total number of retail outlets. This application would introduce yet another café/takeaway sales outlet.
- The PC considers the loss of another retail premises would erode the role of West Malling as a Market Town and it is important that it continues to provide a broad base of the day to day requirements of local residents other than catering.
- The PC considers the presence of a nationally branded chain would undermine the amenity of the shopping centre by introducing an internationally standardised shop premises. If this trend were to be continued a uniformity of business would result, and the different shopping experience offered in a local market town characterised by small independent traders would be lost.

4.2 EH: No comment other than recommendation that the application should be determined in accordance with national and local policy guidance and on the basis of specialist conservation advice.

4.3 KCC (Highways): The proposed use is similar to a number of other properties situated in the town centre. No details of staff or customer parking have been shown, but the premises would likely be used by existing visitors already shopping in the town and who have already parked or arrived by other means. Proposed staff numbers may be more than original use, but parking could be similar to existing arrangements. The proposed signs are new replacement signs that will be unlit.

4.4 KCC (Heritage):

- Any redevelopment within or close to this building needs to address key heritage issues. Continued, active use of the building is preferable but needs to

be sympathetic to the historic character and fabric. I assume there is no drainage/service works required. The change of use does not suggest there would be substantial alterations required and I recommend any alterations needed to facilitate this change should be done with specialist advice and ensure there is no detrimental impact on the historic fabric of the building or its historic integrity.

- I understand any alterations are superficial and involve no disturbance of historic remains. To ensure concerns for the historic building are fully addressed I recommend any further works are monitored by a historic buildings specialist. This requirement can be covered by condition.

4.5 SPAB:

- Although the proposed alterations seem relatively minor we suggest that, in view of the Grade I listing, an architectural and/or historic survey of the ground floor should be carried out while it is empty.
- Great care should be required in any area where historic fabric is to be repaired or altered.
- The use of the standard Costa colour of red for the fascia and timberwork of the shop front could be inappropriate and potentially damaging to the character of front elevation and wider street scene.

4.6 The Malling Society: Objection:

- Very ignoble to use the Ancient House as a toilet and storage area.
- Concerned about additional toilet facilities and accompanying pipe work. Floor could be modern or of Norman origin. There may be a flooded undercroft below ground floor level.
- Concern about damage to existing walls, floors and ceilings with alterations and addition of new stud walls.
- Works should be supervised by a Conservation Officer.
- All medieval features above ground are of deep concern and should not be touched without further consultation.

4.7 DHH: No objection subject to informative that the Air-Conditioning Unit does not form part of any approval.

4.8 Private Reps (combined) (49/0X/1R/0S). The following points of objection are raised:

- Works are retrospective
- The change of use reduces the retail diversity of West Malling and would result in the loss of a shop to another restaurant/bar.
- West Malling has a significant number of café/bars, one of which is located next to No. 67.
- Established locally owned businesses would face potentially unfair competition by a large national chain
- The individual character of West Malling would be diminished by the presence of the corporate branding of a national chain, as Tesco has already done.

5. Determining Issues:

5.1 The principal considerations material to the change of use application (**A**) are the impacts on the character, function, vitality and viability of the West Malling Local Rural Centre, the impact on the amenity of neighbours, and the impact on the local highway network.

5.2 Saved policy P6/20 of the TMBLP restricts changes of use at ground floor level within a Rural Local Centre where it would fail to provide an appropriate service for the day to day needs of the local community. Policy CP22 of the Tonbridge and Malling Borough Core Strategy 2007 restricts proposals which might harm the vitality or viability of an existing centre by undermining the balance of uses.

5.3 The business to be conducted is a mixed use comprising significant elements of both A1 (retail) and A3 (café) activities. The café element is characterised by the consumption of food and beverages on the premises, while the retail element is characterised by the sale of food, beverages and other products to be taken-away and/or consumed off-site. Based on other similar Costa operations, the applicant has estimated that the balance of A1 to A3 is likely to be 40%/60%.

5.4 West Malling is a vital and vibrant Rural Local Centre and this is demonstrated through the apparent lack of vacant units. I am of the opinion that the proposed A1/A3 use would improve the quality and range of services in West Malling and would in turn enhance vitality and choice for shoppers/visitors. Shops and service uses in centres such as West Malling tend to feed off each other, and coffee shops have an important role in attracting shoppers and encouraging longer stays in town.

5.5 An A1/A3 use in this location would maintain pedestrian flows, is a use which demands a ground floor location, would complement the existing retail function

and would draw people into the centre. The daytime hours kept by the proposed coffee shop would complement those of other retail shops and services in West Malling. Furthermore, the anticipated 40% take-away element of the proposed use is significant in its own right because in numerical terms it would represent a high number of customer visits each day. I am mindful that there are many exclusive retail uses that would in fact attract far fewer customers than a coffee shop (e.g. travel agency, funeral director, dry cleaners etc.). In recent appeal decisions relating to the establishment of Café Nero outlets in Sevenoaks and Winchester it was found that these coffee shops had a role in enhancing the vitality and viability of their centres. In the Sevenoaks case the Inspector commented on the large number of customers who visited the premises and the significance of the takeaway component of the use.

- 5.6 The mix of uses within any centre tends to be a finely balanced matter and the gradual and piecemeal loss of retail units could eventually lead to an adverse impact. A survey of the West Malling High Street has found that there are some 53 units. Of these, some 12 units (23%) were occupied by cafes, restaurants, drinking establishments or hot-food take-away uses (A3, A4 or A5). The remaining 77% is mostly made up of retail shops and financial/professional services (A1 or A2). If this proposal were to be approved, (A1/A3) the proportion of A3, A4, A5 uses on the High Street would increase to 25% - but of course the unit would be only A3 in part.
- 5.7 The land use characteristics shown in the brief High Street survey suggest that the retail character of West Malling is reasonably robust. However I do not believe there is any evidence to suggest that the loss of a relatively small narrow fronted retail unit would either individually or cumulatively result in the displacement of the continuing retail function of the centre as a whole, particularly when the 40% of sales are expected to be of a retail (A1) nature.
- 5.8 I note the Parish Council's concern that Costa Coffee is a national chain and that its presence would introduce a level of brand uniformity to the High Street. However, the planning system does not seek to make a distinction between national chains and local independent operators – in any event while the chain is nationally branded, it is considered to be a Kent based franchise. The key consideration is the end use as a mixed A1/A3 unit and this is regardless of who the operator is. I also note that the previous tenant of this unit was in fact 'Threshers', a national off-licence chain. Similarly there is no scope to give consideration to issues of high rents and the knock-on effect to local independent traders specifically.
- 5.9 The very nature and opening hours of a coffee shop means that they generally do not give rise to amenity problems such as noise, smell, odour and antisocial behaviour. All of the food Costa sells is prepared and pre-packaged off-site and is delivered to the premises each day. There is no primary cooking or heating of

food other than the occasional use of an odourless and smokeless panini press. There is no need for fume extraction. Alcohol would not be displayed or sold.

- 5.10 The application site does not benefit from off-street parking and it is not proposed to provide any. As with previous uses of the site, customers would need to use the nearby public car park areas or use any available on-street spaces. It is reasonable to assume that customers of this A1/A3 use would be visiting other shops and services in West Malling. Deliveries would involve one or two truck movements a day whilst waste is collected twice a week. The KCC Highways Manager has reviewed the application and has not raised any objections.
- 5.11 The physical alterations to the building are subject to Listed Building Consent (**B and C**). As these works relate to a building with a Grade I listing any decision to approve them must be endorsed by the Secretary of State. Planning Guidance Note 15 and policy QL8 of the KMSP state that no development to a Listed Building should be permitted where it would impact upon its historic character, fabric and setting.
- 5.12 The partitions and fixtures which have been removed at ground floor level relate to modern fabric, mostly relating to the Threshers' occupation, with no historic value or interest. The removal of the existing modern suspended ceiling and replacement with similar, but with a fully plastered finish, has had no effect on the historic character of this part of the building. Hangers have been used to suspend the new ceiling and these have been fixed in places where the previous ceiling had been fixed.
- 5.13 The heavy historic stone wall within the rear toilet area was showing signs of dampness, and rather than leaving it exposed and attempting to seal it, the historic wall is to be boxed-in and concealed behind a modern stud wall – thus maintaining its long term integrity unaltered. The new stud wall maintains a small gap to the original wall behind and is fixed to the floor and ceiling only. This is considered to be a good solution and has protected the historic fabric of the building behind. The new stud wall, however, is visible through the window in the northern elevation of the building. It would be appropriate by way of condition to require glass within this window to be obscured to hide the new stud wall.
- 5.14 New toilets and basins have been installed into the existing bathroom. Piping from the new basin runs within the gap between the modern stud wall and the historic stone wall and connects to existing pipework to the toilet. No new holes have been made or are proposed to be made in the historic fabric. Mechanical extracts have been installed into existing ventilation ducts and run within the void behind the toilet. Again, no new holes have been made in the historic fabric.
- 5.15 My specialist officers and my archaeological consultants from the County Council have inspected the works. In light of their advice I am satisfied that the works do not represent changes that are detrimental to the historic and architectural character of the building despite some of them being undertaken ahead of the

necessary approvals. English Heritage has raised no objection to the works. The Society for the Protection of Ancient Buildings acknowledged that the works appear to be relatively minor but suggested a historic survey of the building. An historic survey was not considered to be justified in light of the minor works which in any event replace earlier but modern works.

- 5.16 The shop-front has been repaired and repainted in the corporate maroon red and black colours of Costa. The proposed signage (**D**) is relatively discrete and understated and would not harm the character or appearance of either the Listed Building or the wider Conservation Area.
- 5.17 Air-conditioning plant consisting of internal and external units has been fitted to the premises. These **do not** form any part of the applications before Members and the applicant has indicated that they intend seeking authorisation for these units in the near future and will include details on how the external unit is to be situated and can be screened. For the avoidance of doubt, informatives should be added to the decision notices clearly stating that the current approvals DO NOT give consent for the unauthorised air-conditioning units.
- 5.18 In light of all of the above considerations, I am satisfied that the change of use and associated alterations to the building are acceptable. I am of the opinion that the proposed coffee shop would enhance the character, function and vitality of the West Malling Rural Local Centre. I do not consider there to be any grounds for refusal in terms of amenity and highway impacts. It is regrettable that some of the physical works were undertaken without authorisation; however they have not harmed the historic or architectural character or fabric of the listed building. I therefore recommend approval, bearing in mind that the decisions for the Listed Building applications would need to be endorsed by the Secretary of State.

6. Recommendations:

(A) TM/07/04017/FL:

- 6.1 **Grant Planning Permission** in accordance with the following submitted details: Certificate B dated 07.11.2007, Location Plan dated 07.11.2007, Planting Plan 0703/WEST MALLING/03 dated 07.11.2007 subject to compliance with the following conditions:
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.
 2. The premises shall not be used other than as a coffee bar serving coffee, other hot and cold drinks, sandwiches and similar light refreshments for consumption on and off the premises.

Reason: To prevent the emergence of an unrestricted A3 use that might be detrimental to the amenities of any nearby residents and have an adverse impact on the vitality and viability of the shopping centre.

3. The premises shall only be open for business between the hours of 07:00 to 18:30 Monday to Saturday and between the hours of 10:00 to 17:00 on Sundays and Public and Bank Holidays.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

4. No alcoholic drinks shall be displayed or served on the premises.

Reason: To prevent the emergence of an unrestricted A3 use that might be detrimental to the amenities of any nearby residents and have an adverse impact on the vitality and viability of the shopping centre.

5. No development shall take place until details of a scheme for the handling, storage and disposal of all waste materials and refuse have been submitted to and approved in writing by the Local Planning Authority. The approved scheme, which shall show provision for the covered storage of such materials, shall be fully implemented before the use of the premises is commenced, and shall be retained and utilised at all times thereafter.

Reason: In the interests of pollution control in general and residential amenities in particular.

6. No primary cooking of unprepared food shall be carried on within the premises. Only reheated or cold food that has been prepared elsewhere shall be served within the premises.

Reason: To prevent the emergence of an unrestricted A3 use that might be detrimental to the amenities of any nearby residents and have an adverse impact on the vitality and viability of the shopping centre.

Informative

1. This planning permission does not purport to grant permission to the unauthorised air-conditioning units which have been installed at this premises.

(B) TM/07/03971/LB

- 6.2 **Grant Listed Building Consent subject to GOSE endorsement** in accordance with the following submitted details: Site Plan received 02.11.2007, Design Statement received 02.11.2007, Floor Plan 0709/WEST MALLING/01B received 02.11.2007, Floor Plan 0709/WEST MALLING/02A received 02.11.2007, Email received 17.12.2007 subject to compliance with the following conditions:

1. The development and works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In pursuance of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The standard of workmanship achieved in carrying out the development shall conform to the best building practice in accordance with the appropriate British Standard Code of Practice (or EU equivalent).

Reason: To ensure the development does not harm the character and appearance of the existing building or visual amenity of the area.

3. The four western-most panes within the window serving the rear toilet room shall be replaced with obscure glass.

Reason: To hide the end of the new stud wall and to ensure that the historic character and appearance of the Listed Building is maintained.

Informative

1. This Listed Building Consent does not purport to grant consent to the unauthorised air-conditioning units which have been installed at this premises.

C) TM/07/03424/LB:

- 6.3 **Grant Listed Building Consent subject to GOSE endorsement** in accordance with the following submitted details: Location Plan dated 15.09.2007, Design and Access Statement dated 15.09.2007, Floor Plan 0709/WEST MALLING/01 dated 15.09.2007, Floor Plan 0709/WEST MALLING/02 dated 15.09.2007, Elevations 0709/WEST MALLING/03 dated 15.09.2007 subject to compliance with the following conditions:

1. The development and works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In pursuance of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The standard of workmanship achieved in carrying out the development shall conform to the best building practice in accordance with the appropriate British Standard Code of Practice (or EU equivalent).

Reason: To ensure the development does not harm the character and appearance of the existing building or visual amenity of the area.

Informative

1. This listed building consent does not purport to grant consent to the unauthorised

air-conditioning units which have been installed at this premises.

D) TM/07/03423/AT:

6.4 **Grant Advertisement Consent** in accordance with the following submitted details: Location Plan dated 15.09.2007, Elevations 0709/WEST MALLING/03 dated 15.09.2007, Email dated 24.09.2007 subject to compliance with the following conditions:

1. This consent shall expire at the end of a period of five years from the date of consent.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. Any advertisements displayed, and any land used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the local planning authority.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. Where any advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the local planning authority.

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: In pursuance of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Contact: Bevan Houlbrooke