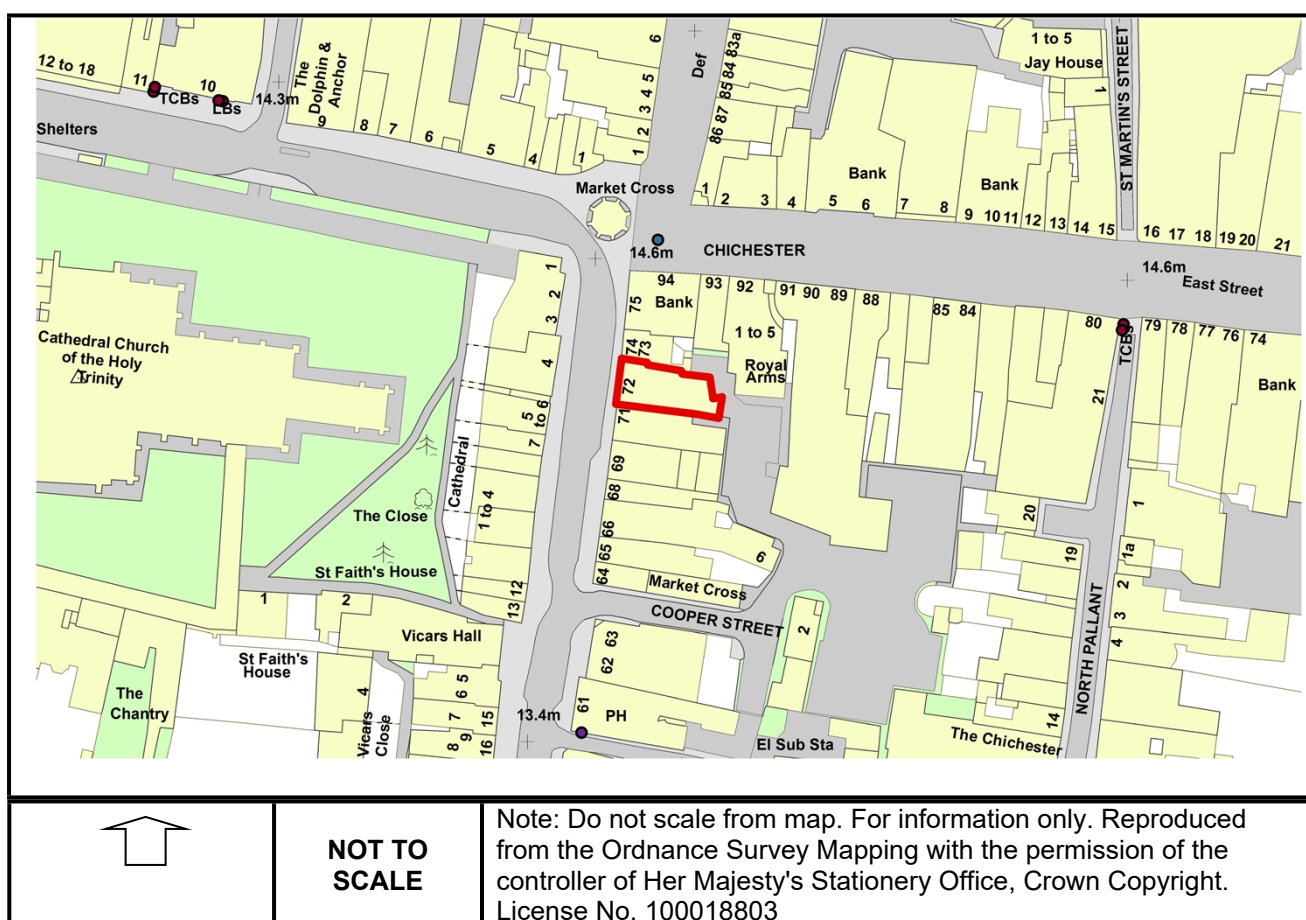


Parish: Chichester	Ward: Chichester Central
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CC/19/01323/FUL

Proposal	Change of use from A1 (retail) to flexible A3/A4 use (restaurant/drinking establishment).		
Site	72-73 South Street Chichester PO19 1EE		
Map Ref	(E) 486070 (N) 104788		
Applicant		Agent	Mrs Natalie McKellar

RECOMMENDATION TO REFUSE



**NOT TO
SCALE**

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1.0 Reason for Committee Referral

Red Card: Cllr Bowden Important information/opinion to raise in debate

The City Council followed the Officer's advice in objecting to this application according to Local Plan policy, but members were keenly aware that conditions in Retail, and in the Chichester High St., have moved rapidly since the current policy was set, and that it is currently subject to Review. Therefore this application merits further consideration at District Planning Committee'.

2.0 The Site and Surroundings

- 2.1 The application site (known as 72-73 South Street) forms a vacant A1 retail unit located on the eastern side of South Street within the centre of Chichester, in close proximity to the market cross.
- 2.2 The building is set over three floors, with all three floors forming the application site. The shopfront likely dates from the latter half of C20 and comprises a timber fascia with 1 no. display window either side of a central door way. The property is constructed from red brick with 4 no. window bays to the first and second floors. The property is non-listed and is flanked by Grade II Listed A1 retail units to the north and south. The rear of the site opens out onto a service yard which is accessed via Cooper Street.
- 2.3 South Street forms one of the 4no. main shopping streets within Chichester. The application site is located in close proximity to the Market Cross where these shopping streets converge. Surrounding units are predominantly A1 units, set over the ground and first floor, interspersed with A2 and A3 units. The northern end of South Street does not contain any A4 units. To the South of West Pallant, the character of South Street begins to change, with the number of non-A1 units increasing.

3.0 The Proposal

- 3.1 Planning permission is sought for a change of use from A1 retail to flexible A3/A4 use (restaurant/drinking establishment). At this stage no specific occupier has been identified by the applicant. No external alterations are proposed as part of the scheme.

4.0 History

09/01759/ADV	PER	Main fascia sign.
09/01765/FUL	PER	Decoration of shopfront, removal of window beds. Alteration to door so they open outwards. Removal of ground floor stockroom.

5.0 Constraints

Listed Building	No
Conservation Area	Chichester City Conservation Area
Countryside	No
AONB	No
Tree Preservation Order	No
EA Flood Zone	
- Flood Zone 2	No
- Flood Zone 3	No
Historic Parks and Gardens	No

6.0 Representations and Consultations

6.1 Parish Council

Objection. Non-retail uses in the city centre already exceed the 25% threshold and further non-retail changes of use would harm the viability and vitality of the city centre contrary to Policy 27 of the Local Plan.

6.2 CCAAC

The Committee has no objection to this Application.

6.3 WSCC Highways

Summary

This proposal is for the change of use from A1 (Retail) to flexible A3/A4 use (Restaurant/Drinking Establishment). The site is located on South Street, an unclassified road subject to a speed limit of 20 mph.

Content

No vehicular access or parking is associated with this proposal and this is the existing arrangement. An inspection of collision data provided to WSCC by Sussex Police from a period of the last 5 years reveals no recorded injury accidents within the vicinity of the site. Therefore there is no evidence to suggest that the existing arrangement is operating unsafely or that the proposal would exacerbate an existing concern. The proposed change of use is not anticipated to result in a material intensification of vehicle movements to or from the site.

The site is situated in a sustainable location within walking distance of Chichester Train Station and Bus Station. Regular bus connections can be caught at bus stops close to the site on South Street. Public car parks such as Avenue de Chartres and Cattlemarket are also within walking distance of the site.

Conclusion

The LHA does not consider that the proposal would have 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

6.4 CDC Planning Policy

Chichester Local Plan: Key Policies 2014 - 2029

The Chichester Local Plan: Key Policies 2014 - 2029 was adopted by the Council in July 2015 and now forms part of the statutory development plan for the parts of the District outside of the South Downs National Park. Planning legislation requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The proposal seeks the change of use from A1 (retail) to flexible A3/A4 use (restaurant/drinking establishment). The site falls within the Primary Shopping Frontage that has been identified in Policy 27: Chichester Retail Centre. Para 16.10 of the supporting text of Policy 27 identifies that the policy seeks to ensure that the retail frontages in those streets included in the primary shopping frontages are retained and enhanced, and in order to minimise disruption of these shopping frontages, the introduction of non-retail uses will be carefully controlled. The policy intends to protect the vitality of the city centre as a high quality shopping destination. Policy 27 explains how applications in the Primary and Secondary Shopping Frontage will be determined. The policy sets out that within the primary shopping frontages, additional non-shopping (A1) uses will be granted at ground floor level, providing all the policy criterion are met. Criterion 1 sets out that additional uses will be permitted provided that "additional use (Class A2-A5) results in no more than 25% of the sum total of the street frontages in non-shopping (A1) uses". The Council regularly undertake retail frontage monitoring to monitor the percentages in A1 and non-A1 uses. As of June 2019, 25.43% of the primary shopping frontage was in non-retail use. This exceeds the 25% upper limit. If permission was to be granted for this proposal, the percentage in non-retail use would rise to 25.93%.

Chichester Local Plan Review

The Council recently undertook consultation on the Chichester Local Plan Review 2016-2035 Preferred Approach plan (December 2018). The Council is proposing to amend Crane Street to secondary retail frontage in the Local Plan Review Preferred Approach, however at this stage the emerging Plan carries very little weight. The development plan remains the adopted Chichester Local Plan: Key Policies 2014 - 2029.

Other relevant proposals include 1, 10 and 47.

Conclusion

Objection on the basis that the proposal does not comply with criterion 1 of Policy 27: Chichester Retail Centre

6.5 CDC Economic Development

Comments received 14.08.2019

Further to the Economic Development Service previous comments, we wish to clarify our stance on this change of use.

This site is less than 35 metres from The Cross, which is traditionally the centre of the City, in terms of retail. The site is within the Primary Shopping Frontage, linked to Policy 27 of the Local Plan.

Policy 27 seeks to "ensure that non-retail uses in the Primary Shopping Frontage do not become dominant in one area and that where non-retail uses are introduced, an active and visually appealing shop frontage is maintained". There are already a large number of A3 premises on South Street.

Given the location of this property, it is essential that there is robust evidence that this property could not be let to a retailer. There are other areas in the Primary Shopping Frontage where the Economic Development Service would be more open to changes. For example, Crane Street; properties there are generally taking over a year to let as it is considered by many to be a secondary location and indeed it has been designated as such in the Local Plan Review.

This property has only been vacant for 6 months, and in fact, a pop up art gallery used the premises during June and July this year, which further proves the viability of the site in retail use.

The market for retailers has undoubtedly changed over the past few years for retailers and this is being reflected in the changing High Street. The aim of Economic Development is to support the High Street, without fundamentally impairing it. Our concern is, at the moment that this application could undermine the vitality of the High Street and there is no evidence within the application that wholly justifies this that the current A1 use is of no interest to prospective tenants.

Comments received 22.07.2019

Economic Development do not support this change of use. It is contrary to the Local Plan; within both the current and the Local Plan review, this site falls within the primary shopping frontage.

There has been limited marketing and the shop has been in use as a shop very recently, showing that there is a demand, depending on the flexibility of terms.

Retail is changing and as a result this is having an impact on the "High Street". Where possible, it is important to preserve retail units for retail use, especially where there is no marketing evidence to prove lack of need.

6.6 CDC Environmental Health

Noise

The premises are located in a retail/commercial area of Chichester and it appears that neither of the adjacent buildings are currently in residential use. There are premises in the area that include residential use at upper floor level so a noise assessment should be submitted to assess if any noise mitigation measures are required at the premises. An assessment should be made of all proposed plant associated with the proposed use (eg. refrigeration plant, air conditioning, extraction and ventilation plant within the kitchen area). External noise levels should be predicted at the nearest noise sensitive use in order to determine if noise mitigation is required. In order to control noise levels from any plant, the following condition should be applied:

- Prior to development, a scheme for the control of noise and vibration of any plant (including ventilation, refrigeration, air conditioning and air handling units, to be used in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority. This shall then be so installed prior to the first use of the premises and this shall be so retained and operated in compliance with the approved scheme.

Informative: External mechanical plant, to include any kitchen extraction, shall be assessed in accordance of BS4142:2014 "Methods for Rating and Assessing Industrial and Commercial Sound". A rating level, as determined 1m from the façade of the most sensitive receptors, that is no more than the established, representative background sound level is an indication of a "low impact", dependent on context.

It is noted that closing hours are proposed as 2330 hrs on Mondays - Saturdays and 2230 hours on Sundays. These hours are considered acceptable providing the following conditions are applied:

- There should be no use of outdoor pavement areas for eating or drinking after 2100 hours - in order to reduce noise levels at residential properties.
- Deliveries via Cooper Street should be restricted to 0800 - 1800 hours.

Reason: to reduce the noise impact of the proposals on nearby residents.

Air Quality

A scheme should be submitted showing how it is proposed to provide extraction and ventilation to the premises prior to construction in order that an assessment can be made as to whether the premises is suitable for the proposed use - a condition should be applied to require this scheme , suggested wording as below:

- Prior to development, a scheme for the extraction and treatment of fumes and odours generated from cooking or any other local activity undertaken on the premises shall be submitted to and approved by the Local Planning Authority. Any equipment, plant or process provided or undertaken in pursuance of this condition shall be installed prior to the first operation of the premises and these shall be operated and retained in compliance with the approved scheme.

Informative: It is considered that "The Control of Odour and Noise from Commercial Kitchen Exhaust Systems" (EMAQ, September 2018) acts as an appropriate reference document. Where practicable, the highest level of cooking extraction, ideally 1m above roof ridge, would be encouraged. Any lower level extraction shall require a commensurate level of filtration.

Given the location of the premises there is no requirement for on-site parking and the premises are not within an Air Quality Management Areas so there is no need to carry out an air quality assessment.

Amenity issues

A condition should be applied requiring the applicant to submit a scheme detailing smoking facilities including plans showing waste receptacles - in order to prevent littering outside the premises.

It is noted that the application is for Change of Use only so building works should be minimal (ie internal fitting out only) so a full construction management plan is not required. Building works should be restricted to 0730 - 1800 hrs in order to reduce impacts on nearby residents.

6.7 Third Party Comments

No third party comments were received during the course of the application

7.0 Planning Policy

The Development Plan

- 7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans. There is no made neighbourhood plan for Chichester at this time.
- 7.2 The principal planning policies relevant to the consideration of this application are as follows:

Chichester Local Plan: Key Policies 2014-2029

Policy 1: Presumption in Favour of Sustainable Development
Policy 2: Development Strategy and Settlement Hierarchy
Policy 3: The Economy and Employment Provision
Policy 10: Chichester City Development Principles
Policy 27: Chichester Centre Retail Policy
Policy 39: Transport, Accessibility and Parking
Policy 47: Heritage

National Policy and Guidance

- 7.3 Government planning policy now comprises the 2018 National Planning Policy Framework (NPPF), paragraph 11 of which states:

At the heart of the NPPF is a presumption in favour of sustainable development,
For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 7.4 Consideration should also be given to section 6 (Building a strong, competitive economy), section 7 (Ensuring the vitality of town centres), Section 16 (Conserving and enhancing the historic environment) and paragraph 127 (Creating places that have a high standard of amenity for existing and future users).

Other Local Policy and Guidance

7.5 The following documents are also material to the determination of this planning application:

- o The Chichester Conservation Area Character Appraisal
- o Your City Your Vision: Chichester Tomorrow

The aims and objectives of the Chichester in Partnership Community Strategy 2016-2029 which are relevant and material to the determination of this planning application are:

- Maintain low levels of unemployment in the district
- Support local businesses to grow and become engaged with local communities
- Maintain the low levels of crime in the district in the light of reducing resources
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 **Planning Comments**

8.1 The main issues arising from this proposal are:

- i. Principle of development and impact upon local economy
- ii.. Impact upon amenity of neighbouring properties and the surrounding area
- iii.. Impact upon heritage assets
- iv. Impact upon highway safety
- v. Other matters

Assessment

- i. Principle of development and impact upon the local economy

8.2 The application site lies in a sustainable city centre location where in accordance with policy 1 of the Chichester Local Plan development would usually be permitted without delay provided it accords with the provisions within development plan. The majority of South Street is designated primary shopping frontage under the adopted Chichester Local Plan and the current use of the unit is A1. Policy 27 intends to protect the vitality of the city centre as a high quality shopping destination. Policy 27 states that additional non-shopping (A1) uses will be granted at ground floor level where all of the following criteria are met:

1. Additional uses (Class A2-A5) results in no more than 25% of the sum total of the street frontages in non-shopping (A1) uses;
2. Additional uses result in no more than two non-shopping (A1) uses adjacent to each other or a total of 15 metre continuous non-retail frontage (whichever is the greater)

3. Proposal does not prejudice the effective use of the upper two floors; and
4. Shop window and entrance is provided or retained which relates well to the design of the building and to the street-scene and its setting.

- 8.3 Criterion 1 requires additional uses (Class A2-A5) to result in no more than 25% of the sum total of the street frontages in non-shopping uses. The most recent quarterly review carried out by CDC Planning Policy Team (June 2019) found that 25.43% of the primary shopping frontage was in non-retail use. Additionally, CDC Planning Policy note that if permission were to be granted, the percentage in non-retail use in the primary shopping frontage would rise to 25.93%. As the non-A1 use of primary shopping frontage currently exceeds the 25% threshold, this would ordinarily prohibit further changes of use to non-shopping uses, and the proposal would conflict with this part of policy 27.
- 8.4 Criterion 2 requires that additional uses result in no more than two non-shopping uses adjacent to each other or a total of 15 metre continuous non-retail frontage (whichever is the greater). The adjoining unit to the south and north are both in A1 use and therefore the application would comply with Policy in this respect. The length of the frontage of the unit subject to this application falls below the 15 metre threshold, measuring approx. 9.35 metres in length. The proposal would therefore comply with this element of Policy 27.
- 8.5 Criterion 3 requires that the proposal does not prejudice the effective use of the upper two floors. The first and second floors forms ancillary space to the application site and therefore the proposed change of use would not impede the functional use of these floors. The proposal therefore complies with this element of policy 27.
- 8.6 Criterion 4 requires the shop window and entrance is provided or retained which relates well to the design of the building and to the street-scene and its setting. As no external changes are proposed under the application, and it is considered likely that the existing shopfront is generally compatible with the proposed A3/A4 use of the site, the proposal is considered to comply with this element of Policy 27.
- 8.7 On the basis of the above, the application would not comply with criterion 1 and therefore would conflict with Policy 27 of the Chichester Local Plan.
- 8.8 However, material to the consideration to the application, and whether the proposal would be acceptable in principle, is the assessment of the economic impacts of the proposal, and the potential benefits of the proposed change of use. It is notable that in February 2019, the NPPF was updated and recognises the challenges faced by town centres. Paragraph 85 says, "Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption". Further, in 85(a) it goes further to say that town centres should be allowed, "to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries". In addition the 'Your City Your Vision: Chichester Tomorrow' (CDC October 2017) document recognises that city must adapt and meet the challenge of a limited evening and night time economy, whilst also making Chichester more attractive for younger people to live and work in the city, and the document expresses the need to capitalise on the student population that is spending in other towns and cities due to Chichester's limited offering.

Policy 10 of the Chichester Local Plan also outlines proposals should support the evening economy. It is considered that the proposed A4 usage with the opening hours would support this objective. It is notable that the document also includes the aims of 'welcoming more people into Chichester' and to 'ensure Chichester is open for business'.

- 8.9 Locally, Chichester's High Street has long outperformed national vacancy trends; however vacancy rates in Chichester City Centre have risen from 6.8% in May 2018, to 8.2% in May 2019, albeit this is below the national vacancy rate of 10.3% (July 2019). Additionally, Chichester has seen a number of well-established High Street names vacate the city in recent times including House of Fraser, HMV and Poundland.
- 8.10 The application site is situated less than 25 metres from the Market Cross which marks the convergence of Chichester's main shopping streets. On the basis of its size and central location the application site therefore is a key retail unit at the heart of the City's retail offering. Whilst it is noted that there are a number of A3 uses located along South Street; these are contained to the south of Canon Street and West Pallant. In this regard the character of the northern end of South Street is of a primary retail location. It is therefore considered that a flexible A3/A4 unit would not be appropriate in this location as it would result in the reduction of Chichester's A1 capacity which still forms the core of the High Street. This, in turn, would be harmful to the viability and vitality of Chichester's High Street.
- 8.11 The application site has been vacant for a period of approx. 6 months only and during that time it has also been used as a pop-up art gallery. No marketing evidence has been submitted to ascertain whether there is no demonstrable need for the retention for A1 in this location. The Local Plan recognises that some non-A1 uses are required within the primary shopping frontage to provide essential services, however the proposed A3/A4 unit cannot be considered to fall into this category. Furthermore, maintaining the established rhythm of Chichester's retail offering within primary shopping frontage is essential to maintaining an attractive and viable city centre. For this reason A3/A4 uses are complimentary uses situated to secondary locations within the City Centre.
- 8.12 On balance, whilst the proposal would bring back into use a vacant unit, officers consider that the loss of a key A1 retail unit would be harmful to the vitality and viability of Chichester's city centre. The retention of A1 units in the core of the city is deemed essential to ensuring that Chichester is 'open to business' and continues to be an attractive shopping location in the regional context. This is considered to outweigh the potential benefits of the proposals contributing to the evening economy. Therefore, the scheme would conflict with Policy 27 of the Chichester Local Plan and the proposed location of the unit would be inappropriate for diversification encouraged under paragraph 85 of the NPPF.

ii. Impact upon amenity of neighbouring properties and the surrounding area

- 8.13 Paragraph 127 of the NPPF states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

- 8.14 The first and second floors of the application site are ancillary to the ground floor unit. The ground floor of adjoining properties are both A1 retail units. The CDC Environmental Protection Officer has commented that neither of the adjacent properties are in residential use, however there are premises in the area that include residential at upper floor level. A noise and vibration assessment has therefore been recommended by CDC Environmental Health. It is considered that the principle of the proposal would not inhibit the uses of any nearby units/properties, and mitigation measures and conditions would be sufficient in order to ensure the amenity of neighbouring properties is maintained.
- 8.15 The proposed opening hours (until 11:30pm Monday to Saturday and until 10:30pm on Sunday) are considered to be broadly in line with what would be expected for an A4 usage and accord with similar uses within the city. The proposed opening hours are not in themselves a cause for concern given the city centre location and the characteristics of the surrounding uses.
- 8.16 Overall, officers consider that the proposal would not result in significant harm to neighbouring or public amenity and is in accordance with Policy 127 of the NPPF.

iii. Impact upon Heritage Assets

- 8.17 Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, requires that the Local Authority give special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, which states that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." Policy 47 of the Chichester Local Plan requires that proposals must conserve and enhance the special interest and setting of Conservation Areas.
- 8.18 The proposed use is considered compatible with the overall character of the city centre and therefore would not impact significantly upon the Chichester Conservation Area. The proposal would not have any harmful impact upon the setting of the neighbouring listed buildings to the north and south as the city centre location forms part of the assessment of their setting and A3/A4 uses are considered to common uses within city centres, whilst additionally no external alteration is proposed. Overall, it is considered that the proposal would not have any adverse impact upon the Character and appearance of the Chichester Conservation Area or the setting of the neighbouring listed buildings and is acceptable in accordance with Sections 66&72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy 47 of the Chichester Local Plan.

iv. Impact upon Highways Safety

- 8.19 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Additionally, Policy 39 of the Chichester Local Plan asserts that development should be designed to minimise additional traffic generation.

- 8.20 The site is located within a city centre location that encourages sustainable modes of transport and use of public transport. Additionally, the city centre benefits from the presence of many nearby public car parks. The Highway Authority has been consulted on the proposal and no objection has been received
- 8.21 Overall, the scheme is not considered likely to result in highways safety issues and the proposal is acceptable in accordance with the NPPF and Policy 39 of the Chichester Local Plan.

Other Matters

- 8.22 No public comments have been received, and there are no other material considerations which would outweigh the conclusion.

Conclusion

- 8.23 On balance, whilst the proposal would bring back into use a vacant unit, officers consider that the loss of a key A1 retail unit would be harmful to the vitality and viability of Chichester's city centre. The retention of A1 units in the core of the city is deemed essential to ensuring that Chichester is 'open to business' and continues to be an attractive shopping location in the regional context. The scheme would fail to comply with Policy 27 of the Chichester Local Plan and the proposed location of the unit would be inappropriate for diversification encouraged under paragraph 85 of the NPPF. The application is therefore recommended for refusal.

Human Rights

- 8.24 In reaching this conclusion the Human Rights of the applicants and nearby occupiers have been taken into account when reaching this recommendation and it is concluded that the recommendation to refuse is justified and proportionate.

RECOMMENDATION

REFUSE for the following reasons:-

The loss of a key A1 retail unit would be harmful to the vitality and viability of Chichester's city centre. The retention of A1 units in the core of the city is deemed essential to ensuring that Chichester is 'open to business' and continues to be an attractive shopping location in the regional context. The scheme would fail to comply with Policy 27 of the Chichester Local Plan 2014-2029.

Informatives

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, thereby allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied as part of a revised scheme. The Local Planning Authority is willing to provide pre-application advice and advise on the best course of action in respect of any future application for a revised development.

Decided Plans

The application has been assessed and the decision is made on the basis of the following plans and documents submitted:

Details	Reference	Version	Date received	Status
Location plan, block plan, floor plans	001		16.05.2019	

For further information on this application please contact William Price on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PRLEOVERKZD00>