

Parish: Selsey	Ward: Selsey South
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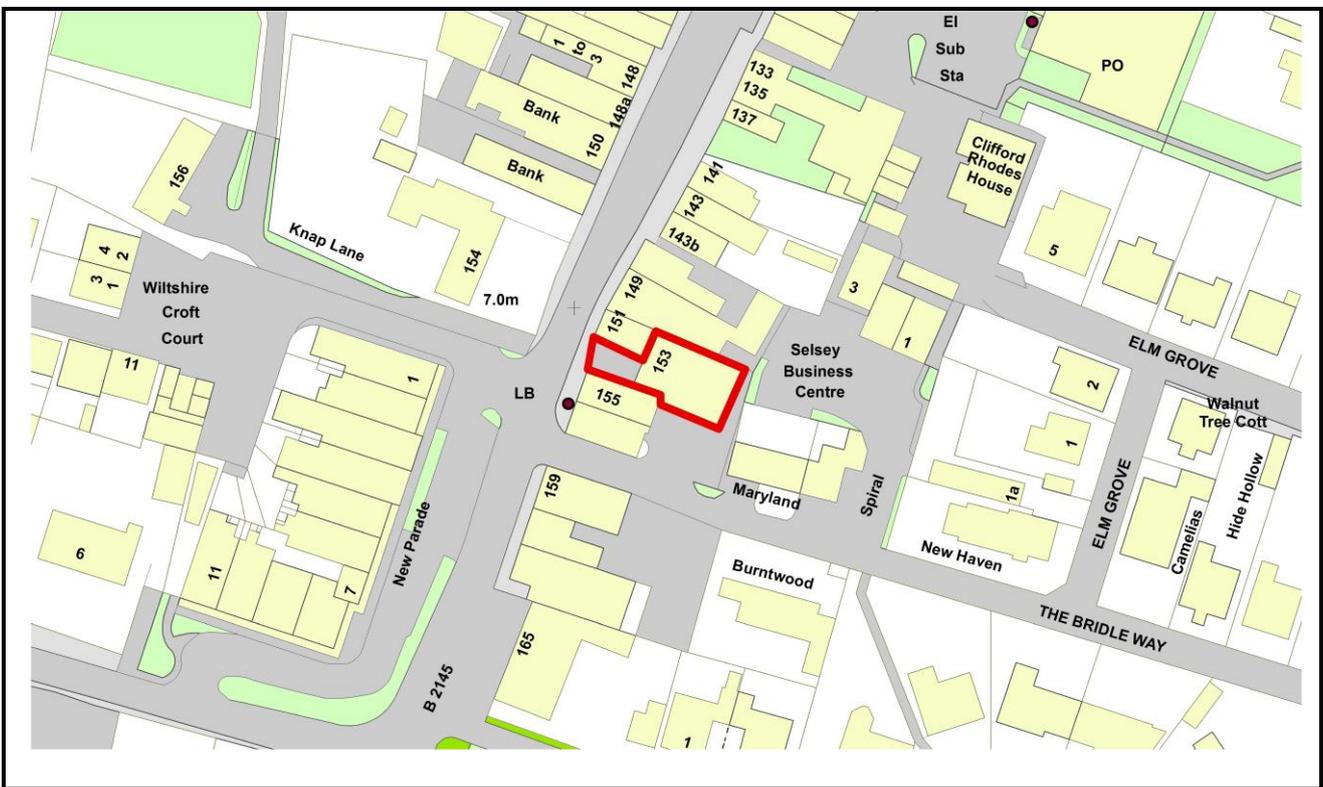
Proposal Change of Use from A1 to A4.

Site J And B Drinks Trading 153 High Street Selsey Chichester West Sussex PO20 0QB

Map Ref (E) 485303 (N) 93111

Applicant Mr E Sye

RECOMMENDATION TO REFUSE



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1.0 Reason for Committee Referral

1.1 Red Card: Cllr Johnson - on the basis that there is an exceptional level of public interest.

2.0 The Site and Surroundings

2.1 The application site is a single-storey retail unit towards the southern end, and on the eastern side, of the High Street in Selsey. The building, which is also within the Selsey Conservation Area, is set-back from its neighbouring commercial buildings, and contains a small forecourt to the front located between numbers 151 and 155 High Street. Additionally, there is a side access to a service/delivery yard adjacent to The Bridleway to the south. The site has most recently been occupied by a retail (Use Class A1) use in the form of an off licence/European market/coffee shop.

2.1 The immediate neighbouring properties currently comprise a Boots and charity shop; both of which are retail (A1) uses. The surrounding area is made up of predominantly commercial uses, with some residential; particularly at first floor level above shops, including above the neighbouring charity shop. The High Street also contains other pubs such as The Crown Inn and The Neptune a short distance to the north.

3.0 Proposal

3.1 The application seeks planning permission for the change of use of the building from retail (Use Class A1) to a micropub (Use Class A4).

3.2 No external alterations are proposed.

4.0 History

4.1 There is no recent or relevant planning history for the site.

5.0 Constraints

Listed Building	No
Conservation Area	Selsey Conservation Area
Rural Area	No
AONB	No
Tree Preservation Order	No
EA Flood Zone	Flood Zone 1
Historic Parks and Gardens	No

6.0 Representations and Consultations

6.1 Parish Council

Selsey Town Council supports this planning application but noted concerns regarding noise nuisance to neighbours in light of possible future entertainment events and that appropriate mitigation measures should be considered.

6.2 WSCC Highways

This proposal is for the change of use from A1 to A4. The site is located on High Street, a B-class road subject to a speed limit of 30 mph.

No vehicular access is associated with this property and no alterations to this arrangement are proposed.

A nil car parking provision is proposed. Under the WSCC Car Parking Standards, 1 car parking space per 5m² of public area, plus 2 parking spaces for staff may be provided for the proposal. Whilst on-street car parking is limited in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that would be detrimental to highway safety.

We would not consider that highway safety would be detrimentally affected through the proposed nil car parking provision. The Planning Authority may wish to consider the potential impacts of this development on on-street car parking from an amenity point of view.

With this in mind, Selsey has public car parks which are within walking distance. The site is situated close to bus stops that offer connections in and around Selsey and towards Chichester also.

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.

6.3 CDC Environmental Health

Our department has been to site, as we commented on a recent Premises Licence application for the same site. It shall be a requirement of the Premises Licence that patrons are not permitted in the front outside area after 21:00.

The Premises Licence application did not make reference to the provision of Live Music or Regulated Entertainment. It was understood that the micro-pub would be focusing on the sale of alcohol rather than "host events such as private parties, live music, comedy club and function room", as presented in this planning application.

It shall be possible to put on music events at the establishment by virtue of the Live Music Act 2012 (As amended) between the hours of 08:00 to 23:00 without regulation. The Licensing Department shall however have to be consulted for any events intended after this time.

It is evident that a well-managed entertainment establishment can operate at site, avoiding a significant adverse noise impact. Our department therefore does not object to the development, in principle. In order to ensure that noise is kept to an appropriate level, the following Condition is considered necessary:

Music Noise Management Plan:

* Prior to first operation, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority (LPA). The approved Plan shall be maintained thereafter. Alterations to the Plan will require formal written approval from the LPA.

Informative: While formalising a Noise Management Plan reference should be paid to the Institute of Acoustics (2003) "Good Practice Guide on the Control of Noise from Pubs and Clubs", the services of an approved acoustic consultant may also be of benefit.

Noise mitigation techniques can include measures such as:

- Restriction of music between specified times.
- Consideration to the number of events taking place in any one month.
- The installation of a noise limiter (Music noise level to be set with the assistance of the Environmental Health Team).
- Doors and windows to be closed during music entertainment and the use of a public announcement system.
- Orientation of speakers away from the nearest residential neighbour.
- The possibility of additional ventilation as a consequence of windows and doors being closed.
- Windows and doors to be fitted with soft rubber compressed seals.
- Community liaison, informing of event dates.
- Complaints procedure.
- Sound monitoring and logging during events.
- A contract to be signed by the event organisers and any band or DJ that they agree to comply with noise management conditions.
- To have an approved list of DJ's and bands for recommended use.
- Staff training and an appointed person of responsibility on site at all times during an event.
- Consideration of smoking areas and parking.

6.4 CDC Economic Development

Economic Development supports the proposed change of use and economic benefits this would provide to the area. The proposed change of use would enable this popular business to expand and make a positive contribution to the local economy

6.5 Third Party Representations

A total of 24 third party comments have been received to date; all of which support the application. The following comments have been raised within these representations;

- a) improves vitality of the town centre
- b) compliments retail uses within the town
- c) does not result in net loss of retail premises - existing building will revert back to retail use
- d) required for expansion of existing business
- e) supports the growth of small and local businesses
- f) merits of the proposal should outweigh Local Plan retail policy
- g) application site not overly suitable for retail use - set-back from high street
- h) retail planning policy outdated
- i) encourages more visitors into the area
- j) raises the profile of the town
- k) high street diversification should be taken into account
- l) there are a number of vacant retail units within the high street
- m) national policy would appear to support the proposal
- n) resisting the application may result in the loss of this business
- o) expansion of the business would increase employment opportunities
- p) layout/size of the site more suitable to this type of business

7.0 Planning Policy

7.1 The Development Plan for the area comprises the Chichester Local Plan: Key Policies 2014-2029 and all made neighbourhood plans.

Chichester Local Plan: Key Policies 2014-2029

7.2 The principal planning policies relevant to the consideration of this application are as follows:

- Policy 1: Presumption in Favour of Sustainable Development
- Policy 2: Development Strategy & Settlement Hierarchy
- Policy 26: Existing Employment Sites
- Policy 29: Settlement Hubs & Village Centres
- Policy 39: Transport, Accessibility & Parking

National Policy and Guidance

7.3 Government planning policy now comprises the National Planning Policy Framework (NPPF) 2019, with the sections relevant to this application and considered being: 2, 4, 6, 7, 8 & 9.

7.4 Section 2 (Achieving sustainable development), paragraphs 10 and 11 state:

"So that sustainable development is pursued in a positive way, at the heart of the Framework 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."

7.5 Section 4 (Decision making), Section 6 (Building a strong and competitive economy), Section 7 (Ensuring the vitality of town centres), Section 8 (Promoting healthy and safe communities) and Section 9 (Promoting sustainable transport) should also be considered generally.

Neighbourhood Plan

7.7 There is no adopted neighbourhood plan for Selsey at this time. However, there is an emerging Selsey Neighbourhood Plan (2017) which has recently undergone examination. It is therefore considered that some, albeit limited, weight can be given to this, which will eventually form part of the Development Plan. The following policies from the emerging Selsey Neighbourhood Plan are considered to be relevant to this application:

- Policy 002 – Historic Environment
- Policy 003 – Settlement Boundary
- Policy 012 – Economy

7.8 It should be noted that the Examiner for the Selsey Neighbourhood Plan recommended amending Policy 12, although stated that the general thrust and second criterion of the policy, which reflects Policy 29 of the Chichester Local Plan, is appropriate.

Other Local Policy and Guidance

7.9 There are no other relevant local policies of guidance.

7.10 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
- Influence local policies in order to conserve and enhance the qualities and distinctiveness of our area

8.0 Planning Comments

8.1 The main considerations are as follows:

- i. Principle of development, including loss of retail
- ii. Design, character and impact on conservation area
- iii. Impact upon the amenity of neighbouring properties
- iv. Highways, parking and refuse arrangements
- v. Other matters

i. Principle of development including loss of retail

8.2 The application site is situated within the high street of Selsey which forms part of the main shopping area of this 'settlement hub' as defined by Local Plan Policies 2 and 29. The application proposes the change of use of a retail unit (Use Class A1) to a micropub (Use Class A4). Local Plan Policy 29 relates to retail development within settlement hubs, including where development proposes the loss of retail use, and explicitly identifies the retail centre of Selsey within the policy text. Neighbourhood Plan Policy 12 also relates to retail development and loss of retail. Regarding the loss of retail; Local Plan Policy 29 and emerging Neighbourhood Plan Policy 12 both seek to protect retail uses within the established shopping centres, local centres and parades, including within the High Street. Other uses will only be permitted if the proposal does not result in a loss of shopping facilities, or there is no demand for continued retail use, and this has been justified through marketing and no local need has been identified.

8.3 This policy is clear in that the loss of shopping facilities (retail use) will not be supported unless the retail unit has been adequately marketed to justify there is no longer a need for a retail use. Appendix E of the Local Plan outlines the required marketing process. No marketing evidence or justification has been submitted as part of this application. The proposal is therefore contrary to both Policy 29 and Appendix E of the Chichester Local Plan.

8.4 It is acknowledged that some NPPF principles support a flexible approach to issues such as changes of use to support town centre vitality. However, the Planning and Compulsory Purchase Act 2004 states that; applications must be determined in accordance with the development plan unless other material considerations indicate otherwise, and the NPPF supports the aims of development plans. Paragraph 12 of the NPPF states: *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted."* The greatest weight should therefore be given to the relevant development plan policy; in this case, Policy 29.

8.5 Given the proposal is contrary to this policy, the development cannot be considered acceptable in principle, as it would result in a loss of retail facility within the shopping centre of Selsey without justification or marketing. A grant of consent for this application could also have implications for resisting other applications which involve the unjustified loss of retail; the cumulative impact of which could cause substantial harm to the vitality and viability of the town centre. It is also acknowledged that the applicant has a view to submit an application to revert the current micropub at number 145 back to retail use, aiming to prevent a net loss of retail within the high street. However, there are no mechanisms proposed to ensure this unit will be brought back into retail use, and planning permission would be required to change the use of a building from A4 to A1. Furthermore, the application site comprises roughly 90 sq m of floor space in comparison to 145 High Street which comprises a much smaller unit at 42 sq m. Even if number 145 were to revert to retail use, there would still be a significantly greater net loss of retail floorspace through the granting of consent for this application.

ii. Design, character and impact on conservation area

8.6 The proposal is for the change of use of the building only, and does not provide for any external changes or signage schemes. As a result, there is not considered to be any material change of appearance of the building or visual impact on the surrounding conservation area or street scene. An informative could nevertheless be included reminding the applicant that further applications may be required for any external changes or advertisement.

iii. Amenity of neighbouring properties

8.7 The proposed change of use would result in a change in both the operating nature and hours of the commercial site, in comparison to the current retail use. The main changes in this regard amount to later opening hours, a possible increased number in visitors who would also stay at the site for longer periods, ancillary use for occasional live music and entertainment, and use of the outdoor area to the front which has implications for potential noise and disturbance. The impact on neighbouring uses and, in particular, residents, therefore needs to be carefully considered.

8.8 The applicant has set out their intentions with regards to opening hours, day-to-day operating of the business and use of certain areas of the site. This is summarised as follows:

- Maximum desired opening hours: 1100-0100 Mon-Sat, and 1200-1800 Sunday
- Intended/standard opening hours: 1200-2130 Mon-Sat, and 1200-1730 Sunday
- Indoor seating for approximately 50 customers
- Use of forecourt (front) area for outdoor seating of up to 36 patrons till 2100
- Occasional live entertainment such as music and comedy
- Outdoor seating to be brought in each night
- Mixed indoor seating, cold room, office, WCs and small kitchen area
- Anticipated deliveries 3-4 times per week
- Refuse storage/collection to rear (as existing)
- Installation of CCTV for security and monitoring purposes

8.9 The applicant has stated that usual opening hours would be 1200-2130 from Monday-Saturday and 1200-1730 on Sunday, but wishes to have the option of opening longer during occasions such as during holidays or for special events etc. Nevertheless, these longer hours could be implemented on a daily basis if the application were to be approved including the maximum hours. An application has also been permitted by the CDC Licensing Department for the same, longer hours. It should be noted that planning consent is not required for indoor occasional live entertainment up until 2300; which would be covered under the Premises Licence and Live Music Act 2012, respectively.

8.10 The Council's Environmental Protection Team was consulted on this application, and raised no objection subject to a comprehensive noise mitigation and management scheme being approved and adhered to. This would provide for control over all elements, from use of outside area to music/noise limits, in addition to opening and delivery times. This condition is deemed suitable in most regards, and could adequately limit any amenity impacts on surrounding residents and uses. Noise and disturbance is also subject to separate legislation, and controlled through the Premises Licence. However, it is considered necessary to impose specific conditions in relation to opening hours and delivery hours to more robustly and clearly control these. There is also some concern regarding the maximum opening hours until 1am. By comparison, the two nearby pubs appear to close at 11pm (The Neptune), and between 11pm-12.30am (The Crown Inn). Similarly, hot food take-aways and restaurants in the High Street also appear to close before 12am. Given the close proximity of a residential property, other nearby residential properties, and opening hours of similar surrounding uses it is considered more appropriate to restrict the maximum opening hours of the proposed micropub to 12am. The applicant has verbally confirmed this would be acceptable and agrees it would not place an onerous restriction on the business.

8.11 It is also relevant that the site, although close to some residential properties, is currently a commercial premises and is within the town centre and surrounded by similar commercial uses. The proposed use as a drinking establishment is therefore not at odds with the surrounding uses, and could typically be expected in this area. Subject to the above conditions and noise mitigation measures, the proposal is therefore considered to preserve the amenity of neighbouring residents and uses.

iv. Highways, parking and refuse arrangements

8.12 The application proposes a nil parking provision for the micropub, which has been the situation for the existing retail use. Given the site is in a sustainable location within the High Street of the town, close to public transport stops, there is ample public car parking within the area, and the nature of a drinking establishment is typically inconsistent with that of driving, this is considered to be appropriate. The County Highways Authority was consulted and raised no objections on the grounds of highway safety or parking, stating that a nil parking provision was acceptable in this instance.

8.13 The applicant has provided additional information with regards to refuse storage and deliveries. Refuse is to be stored to the rear, within the alleyway, as is the existing arrangement. Delivery frequency is anticipated to be three to four times per week via transit sized van, and would utilise the 'goods only delivery bay' to either the front or rear of the premises. This arrangement is not deemed to raise any highway or refuse issues.

8.14 The proposal is therefore considered to be acceptable in terms of highway safety and parking, would not result in a material change with regards to (delivery) vehicle movement, and raises no concerns with regards to refuse storage or collection; thus according with Local Plan Policy 39.

Other matters

8.15 Many of the matters raised through public comment have been addressed within the above assessment sections. The remainder of these comments are addressed below:

- the loss of retail, which is resisted by Policy 29 of the Local Plan, is considered to outweigh all other material considerations, including any positive effects associated with: expansion/relocation of the existing business, enhanced town profile or increased level of visitors, diversification of the high street, potential loss of this business, employment generation, and suitability of premises.
- the retention of the application property within a retail use is considered necessary to ensure the vitality of the town centre
- the application site is considered suitable for retail use, and has been used as such to date
- shop vacancy within high streets is not uncommon, form part of the natural process of retail units, and is not considered to prejudice this application.

8.16 The letters of support, including from the Parish Council and the CDC Economic Development officer are noted, however it is considered that without any marketing having been undertaken to demonstrate there is no demand to use the application premises for retail purposes the expansion of the proposed non-retail business would not outweigh the clear conflict with both Policy 29 of the Chichester Local Plan and Policy 12 of the emerging Selsey Neighbourhood Plan. Therefore the proposal would not accord with Development Plan policies and it is not considered there are any other material considerations which outweigh the recommendation.

Conclusion

8.17 The proposal is would result in the loss of retail use on a High Street, without sufficient justification, and is therefore contrary to Policy 29 and Appendix E of the Chichester Local Plan, and Policy 12 of the emerging Selsey Neighbourhood Plan, and as such the application is recommended for refusal.

Human Rights

8.18 In reaching this conclusion, the Human Rights of the applicants and nearby occupiers have been taken into account and it is deemed that the recommendation to refuse is justified and proportionate.

RECOMMENDATION:

REFUSE for the following reason:-

1) The proposal would result in the loss of retail use within the town and shopping centre of the defined settlement hub of Selsey. No marketing for the property and its current use has occurred, and therefore there is not a sufficient level of information provided to demonstrate that there is no longer a demand for the retail unit or to justify the loss of A1 use. The proposal would therefore result in the loss of a shopping facility which is resisted in this area, and thus conflicts with Policy 29 and Appendix E of the Chichester Local Plan: Key Policies 2014-2029, and Policy 12 of the emerging Selsey Neighbourhood Plan 2017.

INFORMATIVES

1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, it has not been possible to resolve them. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

For further information on this application please contact James Gellini on 01243 534734

To view the application use the following link - <https://publicaccess.chichester.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PP0ZKRER0ZT00>