

<b>Date of Meeting</b>	05 December 2019
<b>Application Number</b>	19/08556/FUL
<b>Site Address</b>	5 Andover Road, Ludgershall, Andover, Wiltshire SP11 9LU
<b>Proposal</b>	Change of Use of Ground Floor and Basement of the Premises from A1 (Retail) to A4 Micropub (Drinking Establishment) together with new shopfront and associated alterations
<b>Applicant</b>	Mr Edward Toomer
<b>Town/Parish Council</b>	LUDGERSHALL
<b>Electoral Division</b>	Ludgershall and Perham Down – Councillor Christopher Williams
<b>Grid Ref</b>	426502 150783
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Julie Mitchell

### Reason for the application being considered by Committee

This application is brought to committee at the request of Councillor Christopher Williams, in support of the Town Council's objections, for the following reasons:

- Relationship to adjoining properties
- Environmental or highway impact
- Potential noise and disturbance to adjacent residential properties

### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved/refused.

### 2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Planning history
- Principle of development
- Neighbouring amenity
- Highway safety issues/parking
- Visual impact

The application has generated an objection from Ludgershall Town Council and a number of third party representations; 9 objections and 3 in support.

### 3. Site Description

This application relates to an existing shop unit (A1 retail) located within a terrace of properties with commercial uses at ground floor level and residential accommodation above. It is located within the centre of the Market Town of Ludgershall.



*Site Location Plan*

The existing retail unit is currently vacant but was last in use as a newsagent in 2017. The premises can be identified by the “Sun” canopy which remains below the fascia sign in the photographs below. A hair salon occupies the unit to the left-hand side and a massage studio occupies the unit to the right-hand side. Commercial units adjoining comprise a fish and chip shop, a Chinese take-away and Sands restaurant which is set back from the frontage of the terrace:



*Photo of Streetscene (1)*



*Photograph of streetscene (2)*

#### 4. Planning History

19/03784/FUL	Change of use of cellar and ground floor of premises from A1 (retail) to A4 (drinking establishment)	Refused
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This application follows the refusal of an earlier application for the change of use to a micropub (A4 use class) on the grounds that the submitted plans did not adequately demonstrate how the proposed use would be accommodated within the shop unit and impact on nearby residents due to the outdoor area at the rear of the building due to its potential to be used for an outdoor area (full reasons cited above). No external alterations were included within the earlier application.

The submitted floor plan for the above application is shown below. The reasons for refusal given for this application were as follows:

1. In the absence of floor plans that show a layout of the building to indicate how the proposed use as an A4 drinking establishment could function within the very limited floor area of the subject building, the suitability of these premises to be adapted to accommodate the proposed change of use has not been adequately demonstrated having regard to Core Policy 57 of the Wiltshire Core Strategy

2. The site is located within close proximity to residential properties including The Mews Cottage and the flats above adjoining properties on Andover Road which creates a strong potential for the proposed use as a micropub to expose nearby residents to unacceptable levels of noise and disturbance at unsocial hours to the detriment of residential amenity. The scheme is therefore considered to be contrary to Core Policy 57 of the Wiltshire Core Strategy.



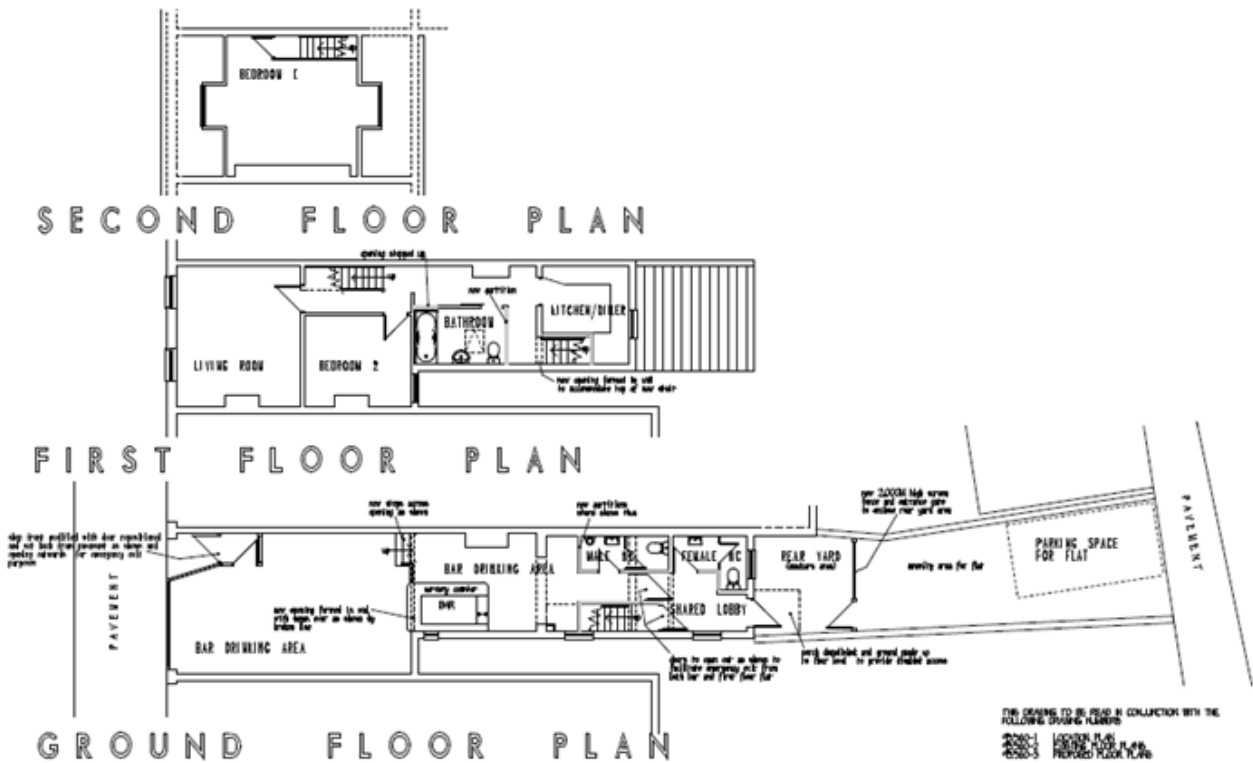
Floor plan for 19/03784/FUL (refused scheme)

Previous planning history:

K/10858	EXTENSIONS AND ALTERATIONS (No. 5) (Approved)
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## 5. The Proposal

The proposed change of use to a “micropub” (A4 use) would relate the ground floor and cellar only. The residential use at first and second floor level would be retained with alterations to the means of access. This application also proposes external changes to facilitate the proposed change of use. This includes a new shop front with repositioned door to the side of the frontage and a recessed porch area. Any associated changes to the signage would be subject to consideration under the advertisement regulations and a separate application for advertisement consent submitted as appropriate. To the rear, new fencing is proposed that would enclose a small outside area where customers would be permitted to smoke. The remainder of the area would be retained for car parking to the residential unit at first/second floor level.



Proposed Floor Plans

**6. Local Planning Policy**

*National Planning Policy Framework (NPPF) 2019  
 Planning Policy Guidance (NPPG)*

*Kennet Local Plan Policies (saved by Wiltshire Core Strategy) (KLP)  
 None*

*Wiltshire Core Strategy:*

- Core Policy 1: Settlement Strategy
- Core Policy 2: Delivery Strategy
- Core Policy 26: Tidworth Area Strategy
- Core Policy 38: Retail and Leisure
- Core Policy 57: Ensuring high quality design and place shaping
- Core Policy 60: Sustainable Transport
- Core Policy 61: Transport and New Development
- Core Policy 62: Development Impacts on the Transport Network

*Supplementary Planning Guidance:*

- Creating Places Design Guide SPG (April 2006).
- Wiltshire Local Transport Plan 2011-2026 - Car Parking Strategy

## 7. Summary of consultation responses

**Ludgershall Town Council** – Ludgershall Town Council object to this proposal for the reasons listed below:

- Unacceptable level of noise, disturbance and anti-social behaviour to nearby residential properties.
- No parking for customers on site.
- Position of smoking area could have an impact on neighbours in Levell Court and other nearby residents along with noise.
- No provision made for storage of waste or recycling bins.
- Alcohol can be purchased from:
  - 3 supermarkets in the town from 0600 to 2200, 7 days a week
  - One public house (The Crown Inn) has a late night extended music and alcohol licence up until 0200 Friday and Saturday
  - Other establishments selling alcohol – Mugal Restaurant, Sands Restaurant, Post Office, Ludgershall Sports Club, Ludgershall Old Castle Club and The Queen's Head. All of these (9) premises listed above are within approximately 400 m radius from the proposed development.
- Disabled access shown at rear of building, but no disabled access through from drinking area in the front of building to smoking area.
- No disabled WC shown on floor plan.
- Front porch for access onto Andover Road could still lead to road safety issues after customers have been drinking.
- The Housing Association for Levell Court dwellings are currently investigating Residents Parking Permits.
- Fire Regulations – should number of customers be limited?

**WC Highways** – 'I refer to the above planning application for a change of use of the ground floor and basement of the premises from A1 retail to A4 micropub.

I note that I have previously commented on a similar proposal and, given that there are no changes from a highways perspective, I wish to adhere to these previous comments as given below.

I have considered the proposal and the concerns raised. The site is located on Andover Road amongst other commercial premises. The on-street parking in the vicinity of the site is restricted to allow a small number of short stay parking bays, all other parking is restricted by double yellow lines. There is a large public car park in close proximity to the site to accommodate customers and there is an assumption that some customers will choose to walk given the central location.

I am of the view that the proposal will not be detrimental to highway safety and I do not wish to raise a highway objection.'

**WC Public Protection** - The proposed development is for a drinking establishment. Such premises can be inherently noisy and it is essential that the proposed unit is constructed appropriately to contain entertainment noise so that it does not adversely affect residential occupiers.

In order to assess whether there is likely to be a significant negative impact on residential occupiers in the flat above the proposed development, the applicant must submit a noise assessment as part of this application. This assessment must be carried out by a competent acoustic professional. The assessment shall have regard to standards contained within BS8233 2014 'Guidance on sound insulation and noise reduction for buildings'. If the assessment indicates there is likely to be a significant impact to residential occupiers, a mitigation scheme involving sound insulation shall be submitted in writing and approved in writing by the local planning authority detailing measures that will be implemented and maintained to ensure that any noise associated with the development does not cause detriment to amenity or a nuisance to residential occupiers.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy.

If there was a condition specifying that the residential accommodation must be for staff of the business then we wouldn't require a noise assessment, I'd be happy with that.

**Wiltshire Police, Designing Out Crime Officer** – 'I am employed by Wiltshire Police as a Designing Out Crime Officer and wish to object to the above application.

The National Planning Policy Framework (NPPF) defines three fundamental objectives to achieving a sustainable development: economic, social and environmental (NPPF, page 5, para 8). Crime has a direct impact on all three objectives. This has been reinforced throughout the NPPF where the government makes clear its view of what sustainable development, in England, means in practice for the planning system. Specifically, Section 8 'Promoting healthy and safe communities', para 91, states that 'planning policies and decisions should aim to achieve healthy, inclusive and safe places which....are safe and accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion'. Furthermore, section 8, para 95 states 'Planning policies and decisions should promote public safety and take into account wider security and defence .....This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security. Similarly the NPPF Para 124, states 'Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people; paragraph 127 (f) states that 'planning policies and decisions should aim to ensure that developments create places that are safe, inclusive and accessible... where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

With the publication of the accompanying National Planning Practice Guidance (NPPG) the government has reiterated that designing out crime and designing in community safety should be central to the planning delivery of new development. Specifically the Planning Practice Guidance on design reminds practitioners that local authorities are duty bound to adhere to Section 17 of the Crime and Disorder Act 1998 and exercise their functions with due regard to their likely effect on crime and disorder, and do all that they reasonably can to prevent crime and disorder. Furthermore, practitioners are also

reminded that the prevention of crime and the enhancement of community safety are matters that a local authority should consider when exercising its planning functions under the Town and country Planning legislation. Paragraph 10 of the NPPG states; planning should address crime prevention – designing out crime and designing in community safety should be central to the planning and delivery of new development. It goes further stating that crime should not be seen as a stand-alone issue, which is why guidance on crime has been embedded throughout the guidance on design rather than being set out in isolation.

In addition Core Strategy; Core Policy 57 Ensuring high quality design and place shaping states ‘A high standard of design is required in all new developments.... (viii) - Incorporate measures to reduce any actual or perceived opportunities for crime or antisocial behaviour on the site and in the surrounding area’.

I have read the brief Design and Access statement and the Planning Statement and could find no mention of safety or security of the customers in relation to the built environment, nor training of the staff to ensure the safety and security of the customers whilst in the premises. Given the layout of the premises is a matter of concern and was a key objection to the previous planning application, I am surprised that this has not been addressed by the applicant this time. Therefore, if this application is allowed I would ask for a comprehensive CCTV system to cover all the internal areas, as well as the rear yard and the two entrance/exits, both internally and externally.

I continue to have concerns regarding the layout of the proposed licensed premises. I am pleased that the plans have been altered following the refusal of 19/03784/FUL, with a serving hatch having been made in the wall to allow vision of both drinking areas. However, the distance between the bar area and the rear yard, which is also separated by two doors and the toilets, does mean that those using the rear yard will be unsupervised at all times. There will be access to this outside area from the rear of the premises, which does allow for persons to enter the yard and the building unseen by the staff. This layout also allows access to the entrance to the flat unseen by anyone via the rear access, thereby diminishing the security of the flat. Although it is common for there to be an entrance to the living quarters in a pub, this is routinely from the restricted bar area or in an area with direct vision from the bar. If this application were to be allowed I would ask that it be conditioned that the entrance door to the living accommodation be compliant with Secure by Design to ensure the occupants and property of the flat are as safe and secure as possible.

As per in my objection to 19/03784/FUL, my concerns remain regarding the entrance opening directly onto the public footpath adjacent to the busy highway, with no barriers to stop those under the influence of alcohol from stepping directly into the road. It is also worth noting the pavement at this point is considerably narrower than it is at the junction with the High Street.

As previously stated, I have concerns that an additional drinking establishment would put further pressure on Police resources. Given that, as mentioned in the planning statement, there are two public houses and three off licences in the near vicinity.



I would contend that the plans do not constitute good design, do not address the matters of crime or antisocial behaviour and should not be permitted.

I would welcome contact with the applicant to discuss these matters should they wish.'

## **8. Publicity**

This application was advertised through the use of site notice and letters of consultation and a number of third-party representations have been received as follows:

Nine letters of objection/concern have been received from residents/owners of the following addresses: 1A Andover Road, Enhance Hair Beauty & Tanning Ltd (3 Andover Road), Hong Kong Chinese Takeaway (9 Andover Road), 2A High Street, Queen's Head (32 High Street), Mews Cottage (Levell Court), 20 Levell Court and 4 Violet Court. The following comments were made:

- Concerned that the Police are attending both of our local pubs often
- May Bank Holiday The Sands Restaurant/The Queens was involved in a disturbance due to drink which in total had 4 Police cars each.
- It sounds a very nice idea but I live a few doors away from this building can you say that people's property/shops and cars would be safe from the fights that may occur.
- The shops windows could easily get broken which then causes stress on the retailer/ residents/home owners to get sorted out.
- Maybe some street cameras may help.
- Concerned that adding another drinking establishment will increase the already very loud and antisocial behaviour we experience outside our house (1a Andover Road).
- We have lived here just over a year and have experienced fights outside our house, people sitting on our step smoking, leaning against and banging on our front door, people shouting and swearing through our living room window and urinations against our wall by quite obviously intoxicated people as we are on the route between the pubs and the takeaways, so we get a lot of drunken footfall unfortunately.
- It may seem unfair to rule out a new business because of a minority of local people who can't handle their drink, however I have two children, one of whom sleeps at the front of the house and they are my number one priority.
- Having an extra drinking establishment, especially so close to our family home, may negatively impact my children's quality of sleep, we are literally next door but one to the property.
- Under the impression that this application had been refused.
- Disappointed to have received a letter from Wiltshire Council Development Services inviting us, as residents near to the premises, to make comments on the application, does this mean it is actually still ongoing?
- Reiterate objections as a local resident who lives very close to the premises (Station Approach).
- Already two pubs within 100 yards of this address, cannot see a need for a third.
- We already have to listen to drunken behaviour in the early hours of the morning on the weekends.
- Really don't need another source adding to the mix.

- There is no parking for this address, it is already difficult enough to exit Station Approach when cars, vans and lorries park either outside the Prince of Wales or outside the chip shop across the road.
- The situation can be dangerous enough at times when parking restrictions tend to be ignored on a regular basis.
- Having drop-offs, parking or pick-ups outside this address will only exacerbate the situation.
- Can see no upside to this idea.
- It will potentially take business from establishments that have been here for decades.
- It will cause more noise, more drunken behaviour and potentially more drain on the police as it's not unheard of for them to have to come to this area of Ludgershall to attend fights or anti-social behaviour.
- It will also cause yet more problems for parking in what is already a difficult junction to exit.
- There are already 4 large drinking pubs and clubs in the village of Ludgershall which all have parking and smoking areas etc.
- This will create a major problem on a very small foot path in front of the shop especially when mums and children are walking past.
- What worries me for my business is that people will use my car park (The Queen's Head) and walk around to the bar causing me problems with my customers.
- Object not due to competition but the problems it could bring to the village we need shops not another bar.
- Very concerned about the shop front being changed to the door being on the left instead of the in the middle as it is now.
- Our staff and customers (Enhance Hair Beauty and Tanning Ltd) would feel intimidated and will have a negative effect on our business and cause security issues for our staff & customers, as people always congregate outside the front of drinking establishment.
- To place this business between 2 established businesses that provide relaxing treatments where a certain amount of peace and quiet are required is going to have a detrimental experience for customers in both business.
- The road directly outside the property is very busy in the evenings and it's becoming very dangerous, to add another business which remains operational into the late evening will only add to the situation.
- We would love the shop to be back in business and the high street offering full occupancy but feel this type of business will be detrimental to current well established business in Andover Road
- We live in Levell Court at the back of this property, deliveries are a nightmare round there at the moment with other van/lorries delivering to the shops.
- Emergency the fire engine or Ambulance cannot get down there because of all the cars + delivery, parking with cars everywhere.
- We have anti-social behaviour.
- The housing Associations are going to have yellow lines put round.
- We have Rats around that area as well because of the rubbish, smells, with bins.

- We have two pubs already that cannot control the fighting here as I have explained in earlier emails to you if you can guarantee that this Micro Bar will not do the same that is fine.
- As the Police could be helping someone in need and not someone who thinks he is under the influence of Drink.
- Otherwise keep it as a shop as we need them to bring people into Ludgershall.
- No 3 Andover Road consists of a Ladies Hairdressing establishment on the ground floor and a 2 bedroom flat above, both currently let on leases.
- There is a private dwelling next door to No 3 and a private dwelling directly behind it.
- Opposite side of the road is a large block of domestic flats.
- To allow a Micro- pub establishment in the vicinity of what is largely a domestic location would cause much disruption to the owners of these properties as there would be much disturbance from the late night opening hours and probably a great deal of music coming from the property into the early hours.
- There are plenty of other places in Ludgershall at the moment for people to purchase alcohol and we all know what problems come with alcohol.
- Is there going to be restrictions on opening hours?
- Is the recently erected shed and space behind going to be for storage or customer use?
- There are already many food and drink establishments in Ludgershall and there is already a big problem with parking/noise etc even outside our own business.

Three letters of support have been received from residents of 3 Drovers View, Ludgershall, 2 Fishers Field, St Mary Bourne and 9 McFauld Way (Whitchurch, Hampshire). The following comments have been made:

- I feel that it would be a good thing for the village, with even more houses and families moving in, the existing facilities are at breaking point.
- A new business in the village should be welcomed as it helps the local businesses and economy.
- We've already lost so many businesses out of the village, so a new venture looking to employ local people should be celebrated.
- Having been to a few micro pubs/breweries before I found they have a different atmosphere to a standard pub, and are usually a quiet place to go and chat and have a decent beer, often being provided by local breweries.
- I wish to register support for this application as a regular visitor to Ludgershall.
- Ludgershall is a location that has suffered from a chequered history around its 'drinking establishments' with just two large public houses serving the area.
- These are believed to be both linked to the same national Pub Company, and have limited offerings in local ales and produce due to the trading ties imposed, whilst separately managed, competition and choice is restricted which is not to the benefit of customers or local residents.
- The pubs have also suffered the vagaries associated with such large establishments that often stay open late and can become crowded leading to sometimes unruly behaviours.
- Micropubs are entirely different, usually attracting a completely different clientele and one that is far more discerning.

- There is currently nowhere in Ludgershall that caters for those who seek the simplicity of a small quiet and social meeting place where quiet conversation can be enjoyed along with locally brewed ales and produce.
- In micropubs people can chat without loud music or juke boxes, play board games, interact socially, make friends, read newspapers and books, or may just sit alone and contemplate life.
- The growing popularity of the micropub has provided such places as special havens of tranquillity away from the corporate, noisy and often characterless style of the pubs of the big Pub Cos and all that often spills out from them.
- By using small units, such as this proposed unused shop, micropubs add a special serene yet vibrant feel to an street, increasing footfall to other local businesses and providing a local sustainable amenity for residents and visitors alike with very little effect on surroundings.
- By their very nature micropubs tend to be quiet, have hours in sympathy with local residents wishes, and cause little if any disturbance beyond the “Hello” of a friendly welcome.
- Parking and special infrastructure is rarely needed as user numbers are relatively low and encouragement is usually to walk or cycle.
- In addition Ludgershall has a very good bus service that stops within yards of the premises.
- Deliveries are very limited due to the nature of the business.
- This application will greatly enhance Ludgershall.
- A worthwhile application - new places like thus are needed to give an alternative to the mainstream.
- I support this opportunity of having something different to choose from.

## 9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

### **Principle of Development**

The proposed change of use falls within an A4 use class as a drinking establishment. There are no permitted changes from an A1 use class and an A4 use class and as such full planning permission is needed.

#### *Loss of retail space:*

Ludgershall is defined as a Market Town within Core Policy 26. The supporting text to CP26 indicates at paragraph 5.140 that “further improvements to the retail offer of Tidworth and Ludgershall are a priority to help improve the self-sufficiency of the area. Regeneration is particularly important as both town centres currently are poorly defined and suffer from a lack of continuity. The centres also have a generally weaker retail offer than for comparable sized nearby market towns. In planning for Tidworth and Ludgershall together, it is therefore important that any additional retail provision is directed to the central area of Tidworth to help improve the retail offer and the vitality

and viability of the area overall. Ludgershall centre should be consolidated to provide for local needs”.

The existing shop unit is located within the central area of the town but is currently vacant, with the application detailing that it ceased trading as a newsagent in February 2017 when it was put on the market and, with minimal interest for a continued retail use, was subsequently sold at auction after a period of 2 years. There is no detailed evidence of the marketing strategy that took place however it is reasonable to assume that if there were strong ongoing demand for retail use that the unit was available to purchase for a sufficient period for this to be occurred prior to it being purchased by the applicant. It is noted that the Town Council and some residents object to the loss of retail space and it is acknowledged that the continuation of a retail use would be desirable and consistent with the aims of Core Policy 26 for the Tidworth Community Area, which has identified that the town centre should be consolidated to provide for local needs. In consideration of the loss of the retail space, the proposal would not result in the closure of a viable business and the town benefits from a number of retail facilities. The loss of this retail unit would not, in isolation, represent the loss of a vital community facility in a location where there are convenience food stores and other retail units which provide for a range of services and facilities. Additionally, although not one of the permitted changes of use introduced into the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, to allow greater flexibility in town centre uses, the proposed change of use would, if implemented, bring a vacant unit back into a commercial use which could make a positive contribution to the local economy. The loss of retail space was not given as a reason for refusal in the last application and there is no change in policy or material considerations which would not suggest that refusal on these grounds would now be justified.

*Proposed use:*

The proposed A4 use is described as a “micropub” with a limited floor area that would not be large enough to support any associated food service or live music. Whilst there is nothing to distinguish the proposal from any other type of A4 drinking establishment, the floor area of the premises is self-limiting and management of the premises would be subject to control under the licensing regime. As a result of concerns expressed in the previous application, the opening hours proposed have been significantly reduced and it is now proposed that the weekday closing time would be 10 pm, Saturdays would be 10.30 pm and Sundays and Bank Holidays 9.30 pm with opening at 12 noon on each day.

Uses falling within Classes A1, A2, A3, A4 and A5 relate to shops and services which are usually but not exclusively to be found within the town centre locations. In this context, the proposed A4 use is an appropriate land use for a town centre location in principle. However, the Town Council and a number of the third-party representations have raised objections specifically to the nature of the proposed use. The need for another venue which would sell alcohol is questioned and the problems associated with existing licensed premises in the town and the negative impact that customers under the influence of alcohol place on the local community and police resources are highlighted. The incompatibility with adjoining commercial premises is also raised. Wiltshire Police have also maintained an objection to the proposal.

In response to the key areas of concern relating to the principle of the change of use, the points of concern are addressed as follows:

- The applicant is not required to demonstrate a need for the proposal, if there is no demand for the service being offered, the premises could revert to a use falling within Class A1 (shops) or Class A2 (financial and professional services).
- Town Council provide a list of establishments which already sell alcohol in the town, the retention of the retail use could also offer the sale of alcohol (subject to an off-licence) but without the associated consumption on site.
- The provision of staff training and requirement for CCTV would be management issues which are considered to be outside of the scope of planning control, as they would be in the event of the re-opening of the A1 retail use.
- A reason for refusal based on the potential for use of police resources due to intoxication or fighting would, in effect, preclude any new proposal for licensed premises in Wiltshire being supported in principle.
- The beauty treatment salons which current occupy the adjoining commercial premises are located on a busy public highway and do not benefit from a private or peaceful environment and as such harm due to the incompatibility of different commercial uses would be difficult to identify or quantify.
- The potential impact on other established drinking establishments in the locality would not be a valid reason for refusal of planning permission.

In contrast to the objections to the proposed use, a small number of representations express support for the proposal as having benefits to the community both in terms of bringing a new business to the vacant unit and providing a quieter alternative to the existing drinking establishments in the town, without music, entertainment and late opening hours.

It is recognised that an A4 use has the potential to generate impacts on the local community which may be less positive than the existing A1 use and at the same time has the potential to generate associated benefits from the re-use of the premises and customer choice. It is considered that, in principle, a small micropub establishment with opening hours comparable to the previous shop use and adjacent fish and chip shop and Chinese takeaway premises would be an acceptable town centre use subject to appropriate conditions to control the hours of opening and consideration of the submitted plans and supporting information demonstrating that the proposed use can be accommodated within the existing premises having regard to reason for refusal (1) cited for the previous application.

*Suitability of the existing building:*

Core Policy 57 states that a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings, indicating that good design relates not just to what is visible from the outside of a building but the relationships between different uses, having regard to clause (vii) “to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself,

including the consideration of privacy, overshadowing, vibration, and pollution (e.g. light intrusion, noise, smoke, fumes, effluent, waste or litter)” and clause (viii) which requires the incorporation of “measures to reduce any actual or perceived opportunities for crime or antisocial behaviour on the site and in the surrounding area through the creation of visually attractive frontages that have windows and doors located to assist in the informal surveillance of public and shared areas by occupants of the site.”

The existing layout of the premises is clearly designed to serve the previous retail use. The internal alteration of a building does not in itself require planning permission, however where those internal alterations are associated with a proposed change of use it is necessary to have sufficient information on the existing/proposed layout of the building to be satisfied that the proposed use would be appropriate and would be capable of being accommodated within the existing building. The proposed layout shown on the submitted floor plan continues to generate concerns from Wiltshire Police with regard to the design of the licensed premises and concerns have also been raised by the Town Council regarding the provision of disabled access and toilets. In determining the previous application it was considered that there was insufficient information on the layout of the proposal to satisfactorily demonstrate how the existing building could accommodate the proposed use as a public house. However, it was acknowledged that some aspects of concern would be subject to separate control as part of the licensing regime and it is not for the planning process to duplicate the controls of licensing and the other statutory functions of the local authority. Failure to comply with Building Regulations or other health and safety legislation is not a reason for refusal of planning permission.

The revised design has included more clarity on the layout and sought to address the concerns raised as far as practicable within the limitations of the site. A lobby which would require customers to exit through two door openings designed to assist with controlling access onto the pavement. It is not unusual for traditional pubs to be located along a public highway used by vehicular traffic, however in recognition of concerns for the safety of customers whose judgement may be impaired by alcohol consumption on the premises, the revised door arrangement represents a significant improvement to the previous scheme. The revised layout also demonstrates that the serving area is open to the internal drinking area and gives views towards each entrance, giving a better level of surveillance than the previously refused scheme. It is considered that the layout would not be unsuitable or unusual for small-scale licensed premises and represents an acceptable form of development.

Some provision for disabled access is made although it is recognised that not all public areas of the building may be accessible. The acceptability of the disabled access and toilets will be subject to consideration of the current Building Regulations (Part M) and changes may be required to the internal layout to satisfy the regulations.

The access to the flat is currently from the rear of the building, although it is currently necessary to enter the staff/storage area at the rear of the shop to access the staircase. There would be no change in the proposed external entrance to the existing arrangement. However there is currently no occupancy restriction on the residential accommodation and as the applicant has confirmed that the flat would be occupied as

staff/managers accommodation this is considered to improve security. An occupancy condition has been agreed with the applicant.

On the basis of the information provided the suitability of these premises to function as a micropub has now been adequately demonstrated with the revisions which have been made to show a separate access to the first floor accommodation, revised door entry, internal changes to the layout of the serving and drinking areas and enclosure of the small outdoor smoking area. It is recognised that the internal layout will be subject to control under Building Regulation and the premises will require a licence. Should any revision to the internal layout be required that result in external alterations a new planning application would be required.

*Summary:*

The benefits of securing the re-use of the empty A1 shop unit with an alternative commercial use is recognised and supported. The concerns regarding the potential impacts from an A4 drinking establishment are acknowledged but with the significantly reduced openings hours, the reduction and demarcation of the outdoor area so that it is not part of the drinking area and the revisions made to the internal layout it is considered that the principle of development is acceptable subject to conditions restricting the opening hours. Licensing matters will appropriately considered through the licensing regime. The impact on the amenities of occupiers of adjoining properties, highway matters and matters of design are considered under the subsequent sub-headings.

**Residential Amenity**

There are residential properties above the row of shops, including the application site, as well as a residential unit in Levell Court, The Mews Cottage, which is located immediately to the rear of No. 3 Andover Road. The rear wall and windows of this property are a distance of 7.5 metres from the rear of 5 Andover Road. The garden area of this property is adjacent to the rear courtyard area which forms part of the site.

With regard to Core Policy 57, the existing retail use would have potential to create conflict with the adjoining residential uses. Such conflicts might occur during the delivery of goods for example since any delivery vehicles would need to access the residential development in Levell Court. It is also noted that as a retail unit there are currently no limitations on the opening hours of the shop so theoretically customers could visit at any time during the day or night, although such access would likely be limited to the public entrance to the front with staff only access at the rear of the building. It is reasonable to consider that an A4 use would introduce some impacts which could generate more conflict between neighbouring uses than the current use and local residents have raised concerns primarily in relation to the likelihood of disturbance to their properties from customers consuming alcohol.

The proposed opening hours are specified as 12:00 to 22:00 Monday to Friday, 12:00 to 22:30 on Saturdays and 12:00 to 21:30 on Sundays and Bank Holidays. Hours of opening can be a condition of any permission granted and would also be subject to the licensing regime. Of particular concern in the consideration of the previous application and reason for refusal was the layout of this building relative to the surroundings in that because the front entrance of the premises opens on to the narrow footway to the side



of Andover Road, there would be a strong potential for the rear courtyard area to be utilised as an outdoor drinking and smoking area. The impact of such a use which would be significantly greater than the use of the interior of the building and the current use and as it would not be enclosed there would be no suitable planning mechanism to limit the potential for noise from this outdoor area. With the proposed plans showing a very small area dedicated to providing a smoking area with no potential for an outdoor drinking area and tables to be provided, together with the significantly reduced opening hours now proposed and the town centre location where there are a mix of residential and commercial uses in close proximity, it is not considered that the proposal would introduce significant harm to amenity that would be in conflict with the aims of Core Policy 57.

Consultation with WC Public Protection has not resulted in an objection in principle to the proposed use, however the need to provide additional information regarding noise impact assessment in relation to the residential use above was identified. As the occupancy of this property is to be associated with the management of the commercial use at ground floor by a planning condition, it was agreed that this would not be necessary and the changes to the layout now provide for a suitable access other than through the central area. In determining the previous application, noise and odour were also raised as potential conflicts to both existing and proposed residential receptors as a result of any fixed plant associated with extraction and ventilation and amplified music. The applicant has confirmed that there will be no food served or amplified music and as such there would be no potential for noise or odour from external plant. A condition is recommended that no amplified music shall take place and further conditions that no external extraction and ventilation equipment or external lighting is provided unless details are submitted and approved to ensure that any impacts can be appropriately assessed.

It is considered that the proposed plans now demonstrate a satisfactory layout of the proposed use in relation to existing residential uses. It is acknowledged that those in support of the proposal are not immediate neighbours of the site. However, the site is located within a town centre environment where residential and commercial uses are in close proximity, this is confirmed by residents who have identified existing issues with patrons of established licenced premises in the locality. In this context, the small scale and limited opening hours of the proposed A4 establishment is not considered to materially increase the potential for noise and disturbance having regard to the residential amenity of existing occupiers and the aims of Core Policy 57.

#### **Highway Issues/Parking:**

The site lies within a terrace which fronts directly onto the pavement adjoining Andover Road. There is an access to the rear of the building from Levell Court, where there is a hard-surfaced area large enough to serve as a parking space for the residential unit above. It is assumed this area would have also been used for loading and unloading of goods when the shop was in use and that this arrangement would continue with or without the proposed change of use. There would be no alteration to the existing means of vehicular access and there would be no parking provision associated with the commercial use of the premises, as is currently the case. Objections have been raised by the Town Council and third parties in respect of the absence of parking. However,

the existing retail unit would serve customers who may also park in the vicinity of the site and there is no evidence that the nature of the proposed change would materially alter the type and volume of traffic resulting from customers. With the proposed use not including any food service, it would be anticipated that many patrons would visit the premises to consume alcohol would either arrive by pedestrian means or public transport/taxi, however it is also noted that there is a public car park in close proximity. The absence of car parking to serve the premises would not be a reason for refusal taking into account that the proposal relates to an existing retail unit where there is no dedicated parking provision for customers. WC Highways have confirmed that there are no objections in highway safety terms.

Concerns have also been raised regarding the proximity of the door opening to the highway and public safety in terms of those leaving the premises under the influence of alcohol. The same concerns could be said of any persons walking between existing drinking establishments using the same length of pavement and it is not unusual for traditional pubs as well as restaurants where alcohol is served to be located along on a busy public highway. Whilst understanding the concern, it is not considered that this would sustain a reason for refusal for the change of use and measures to improve the layout of the access have been addressed earlier in the report.

**Visual Impact/Character of the Area:**

The proposed change of use is accompanied by external changes to the shop front which would remove the existing fully glazed, aluminium framed shopfront and canopy. The existing and proposed elevations below show how it is proposed to relocate the door opening to one side, with a recessed area in front to the door opening, and new windows with lower section infilled beneath. The associated signage would be subject to consideration under the advertisement regulations.



*Existing and Proposed Front Elevation*

As can be seen in the photographs of the terrace earlier in the report (Section 3), there is no uniformity with regards to the positioning of the door within the shopfronts, three of the five shops have the entrance door positioning to one side, the subject property and one other has a centrally located door. The existing shop front is dated and as a result of the period of disuse of the shop appears untidy. The replacement of the shopfront with painted timber joinery would represent a significant visual enhancement to the streetscene. Details of materials to be used in the infill section below the window frames can be secured via condition to ensure an appropriate finish.

## 10. Conclusion (The Planning Balance)

The benefits of securing the re-use of the empty A1 shop unit with an alternative commercial use for the local economy is recognised and supported and the proposed replacement shop front would represent a significant visual enhancement to the existing vacant shop front. Having regard to the established commercial use of the application site and its town centre location, the proposal is not considered to generate significant impacts on the amenities of nearby occupiers subject to the recommended conditions in respect of opening hours, restriction on amplified music and external plant and lighting and occupancy of the upper floor residential unit. Additionally, given the established use, the proposal is not considered to introduce impacts on highway safety or parking requirements with no objections from the LHA.

Officers therefore consider that as a result of the proposed revisions to the previously refused scheme and detailed consideration of the objections received, the proposal is acceptable and with appropriate conditions there are no material considerations which would justify refusal of permission.

## **RECOMMENDATION**

### **Approve with conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

95-560-1 Location Plan April 2019

95-560-2 Existing Floor Plans Aug 2019

95-560-3 Proposed Floor Plans Aug 2019 (Revised Plan received 29 October 2019)

95-560-4 Existing Elevations Aug 2019

95-560-5 Proposed Elevations Aug 2019

REASON: For the avoidance of doubt and in the interests of proper planning.

3. The occupation of the dwelling at first/second floor level shall be limited to the owner/manager or person solely or mainly employed in the business operating at the ground floor level of the building.

REASON: In the interests of the amenities of the occupiers of the residential unit due to the nature of the use at ground floor level and shared access and outdoor space of the commercial and residential units.

4. The hours of opening to customers and members of the public shall be limited to 1200 hours to 2200 hours Monday to Friday, 1200 hours to 2230 hours on Saturdays and 1200 hours to 2130 hours on Sundays and Bank Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

5. No sound-amplifying equipment, loudspeaker, or public address system shall be installed/operated or music played within the premises hereby approved or its curtilage.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

6. Details of the material to be used in the infill section below the new shopfront window shall be submitted to and approved in writing by the Local Planning Authority prior to the said works being carried out. Development shall be carried out in accordance with the approved details.

REASON: In the interests of visual amenity and the character and appearance of the area

7. The screen fences shown on the approved plans shall be erected prior to the premises being first brought into use and shall be retained and maintained as such at all times thereafter.

REASON: To prevent loss of amenity to neighbouring properties.

8. No external lighting shall be installed unless plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Professionals in their publication "Guidance Notes for the Reduction of Obtrusive Light GN01:2011" have been submitted to and approved in writing by the Local Planning Authority. Any approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

9. No external ventilation and extraction equipment shall be installed unless plans and full details (including details of its position, appearance and details of measures to prevent noise emissions) have been submitted to and approved in writing by the Local Planning Authority. Any approved ventilation and extraction equipment shall thereafter be maintained in a serviceable condition in accordance with the approved details.

REASON: In the interests of the amenities of the area.

#### INFORMATIVE TO APPLICANT:

This permission does not permit the display of any advertisements which require consent under the Town and Country Planning (Control of Advertisements) (England) Regulations, 2007 or under any Regulation revoking and re-enacting or amending those Regulations, including any such advertisements shown on the submitted plans.