

**Ward** Axminster

**Reference** 20/2496/COU

**Applicant** Andrew Swann

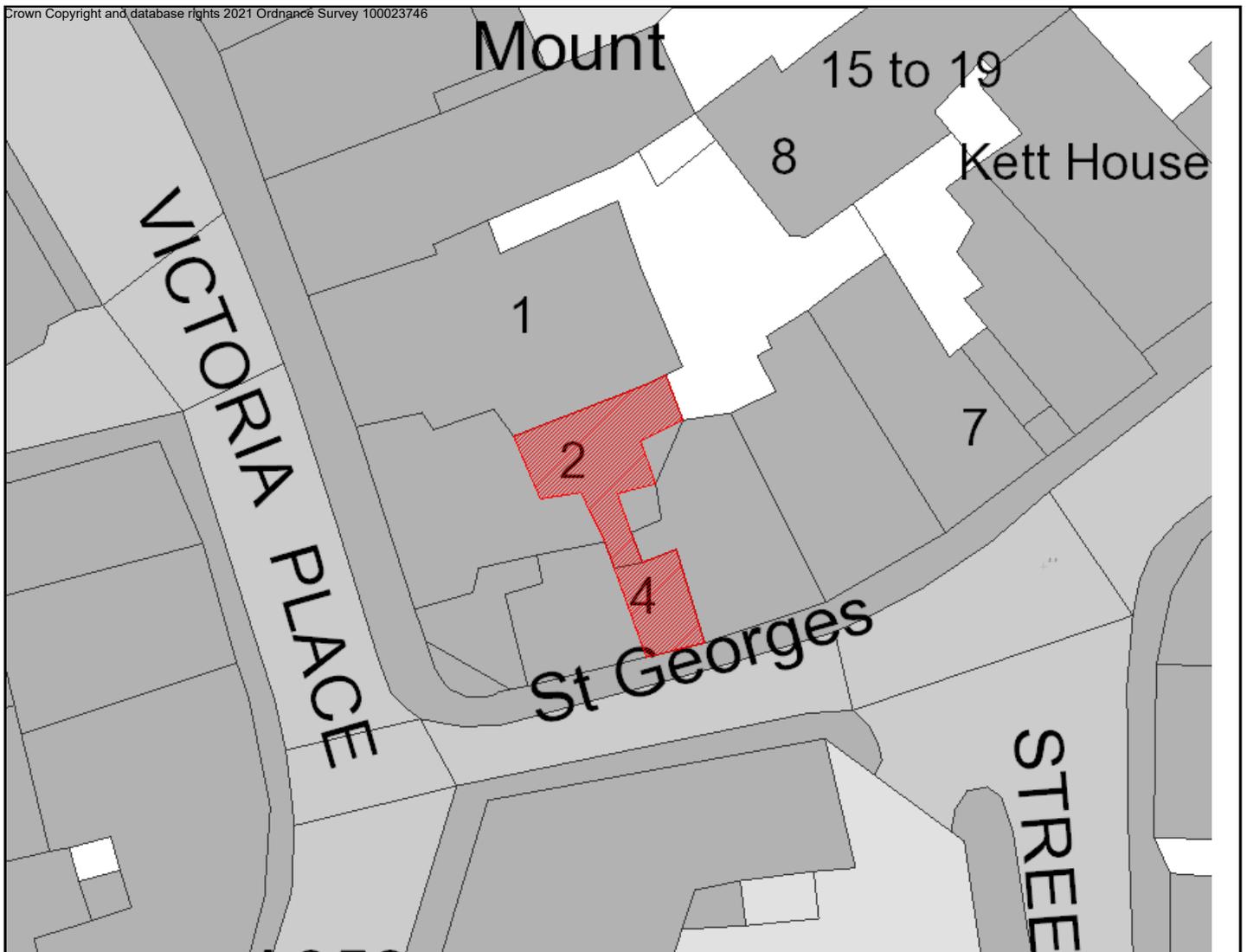
**Location** 2 & 4 St Georges Chard Street Axminster EX13 5DL

**Proposal** Change of use of ground floor of buildings from shops (Class E) to micropub (sui generis)



**RECOMMENDATION: Approval with conditions**

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		<b>Committee Date: 15<sup>th</sup> February 2021</b>
<b>Axminster (Axminster)</b>	<b>20/2496/COU</b>	<b>Target Date: 07.01.2021</b>
<b>Applicant:</b>	<b>Andrew Swann</b>	
<b>Location:</b>	<b>2 &amp; 4 St Georges Chard Street</b>	
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**RECOMMENDATION: Approval with conditions**

#### **EXECUTIVE SUMMARY**

**This application is before Members as it represents a departure from the Local Plan and is recommended for approval.**

**The application follows the granting of permission in July of last year for the change of use of part of the current application site (unit 4) from retail use to use as a micro-pub (19/2672/COU). Following on from that permission the applicant has been offered the potential to increase the floor area for the micro-pub by incorporating part of the floor area of an adjoining unit (unit 2). This, it is advised, would allow generally for more customer space but specifically allow the use to operate in accordance with appropriate social distancing measures as and when these come back into effect.**

**As was the case with the earlier application, the proposal seeks the change of use of retail floor space to a non-retail use within the designated Primary Shopping Frontage of Axminster. Policy E10 (Primary Shopping Frontages) of the Local Plan requires such proposals for change of use to be accompanied by evidence of marketing of the premises for a minimum period of 12 months to demonstrate there is no ongoing demand for retail use. The application is not accompanied by such evidence and as such the proposal does not meet the requirements of policy E10.**

**However, this was also the case with the earlier application where despite this permission was granted on the basis that the nature of the proposed use had the potential to add to the vitality and viability of the town centre and, where market conditions at the time supported the provision of alternative active uses in the town centre. Since that time market conditions have not improved and indeed the prospects facing the retail sector and town centres in general continue to look bleak, at least in the short to medium term. The proposal offers an alternative**

**active use for the building which has the potential to support the wider function of the town centre.**

**The proposed increase in size of the unit also addresses some of the previous concerns raised in relation to the size and constrained layout of the approved unit and its ability to function as a micro-pub but would result in the loss of only a limited amount of further active retail floorspace. Matters relating to amenity impacts can be suitably controlled by condition.**

**Taking into account all the relevant considerations the proposal is considered to be acceptable and is recommended for approval subject to the conditions set out at the end of the report.**

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

AXMINSTER TOWN COUNCIL SUPPORTS THIS APPLICATION

#### Axminster - Cllr Andrew Moulding

I recommend that this application is approved

#### Axminster - Cllr Sarah Jackson

- I support this application in principle as an enhancement to the proposed viability of this venture. I am, however, mindful that the resultant increase in patron occupancy may exacerbate the issues relating to congregation on a particularly narrow section of pavement and would welcome comments from the county highway officer in this regard. I also note that the rear door leading to a residential courtyard is NOT to be used for anything other than a fire exit which will bring reassurance to residents of the apartment complex to the rear. Perhaps a condition relating to ventilation might be appropriate, in anticipation of the summer months to come.

### **Technical Consultations**

#### Environmental Health

I have considered the application 20/2496/COU and reviewed the submitted noise data and do not anticipate any environmental health concerns

#### Conservation

CONSULTATION REPLY TO PLANNING EAST TEAM  
PLANNING APPLICATION AFFECTING LISTED BUILDING AND CONSERVATION  
AREA

ADDRESS: 2 & 4 St Georges, Chard Street, Axminster

GRADE: Local List APPLICATION NO: 20/2496/COU

CONSERVATION AREA: Axminster

PROPOSAL: Change of use of ground floor of buildings from shops (Class E) to micropub (sui generis)

**BRIEF DESCRIPTION OF HISTORIC CHARACTER/ ARCHITECTURAL MERIT:**

The property is located within the Axminster Conservation Area and is identified within the Axminster Conservation Area as being of local interest on the Local List of buildings of architectural or historic interest. The building is three storey, painted stone with multi-paned sash windows at first and second floor. Those to Unit 4 are upvc. The ground floor is divided into two separate retail units, both with modern shopfronts. The building, in conjunction with the adjacent buildings contributes to the streetscene and the wider Axminster Conservation Area.

The George Hotel, listed Grade II is located opposite St Georges.

**HOW WILL PROPOSED ALTERATIONS AFFECT HISTORIC CHARACTER OF BUILDING AND ITS SETTING:**

This application relates to the change of use of the ground floor of the building from retail use to a micropub. No changes are envisaged for the shopfront, but some internal alterations to the existing layout are proposed. However, it is noted in the Planning Statement that some signage is likely to be required to be fixed to the interior of the existing windows.

This application is subsequent to 19/2762/COU and now includes the rear portion of Unit 2. This is at the rear of the units and not visible from the street.

It is considered that the proposals will not harm the character and appearance of the Local List building itself nor the setting of The George Hotel, listed Grade II, or the wider Axminster Conservation Area.

**PROVISIONAL RECOMMENDATION - PROPOSAL**  
ACCEPTABLE in terms of heritage issues

Other Representations

1 letter of objection has been received raising the following issues:

- Concerns over the potential for commercial use of the rear courtyard
- Impact of increased noise associated with the use of the premises and effect on residential amenity.

**PLANNING HISTORY**

Reference	Description	Decision	Date
19/2762/COU	Change of use of ground floor of building from shop (A1) to micropub (A4)	APPROVE	20.07.2020

## **POLICIES**

### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 20 (Development at Axminster)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

D1 (Design and Local Distinctiveness)

EN10 (Conservation Areas)

EN14 (Control of Pollution)

E9 (Town Centre Vitality and Shopping Areas)

E10 (Primary Shopping Frontages)

Axminster Neighbourhood Plan (In preparation)

### Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

## **Site Location and Description**

Unit 4 St. Georges relates to a small ground floor unit forming one side of the ground floor of a three storey building. The unit is set to the right hand (east) side of the building and has a glazed shop frontage. Unit 2 is an adjoining but separate larger ground floor unit that fronts onto Victoria Place to the west.

The site lies within the designated Built-up area boundary of the town, the defined Town Centre Area and Area of Primary Shopping Frontage and is within the town's conservation area.

## **Background**

Planning permission was granted in July of 2020 by the Planning Committee for the change of the use of Unit 4 from retail use to use as a micro-pub. That permission remains capable of implementation but the applicant has been offered the opportunity to include part of the rear part of an adjoining retail unit (unit 2) to allow a reconfigured layout and expansion of the approved micro-pub use.

The proposal would allow the micropub use to comply with the table service and social distancing requirements that have previously been imposed and which are likely to continue in some form, at least temporarily, when the current lockdown restrictions are lifted.

## **ANALYSIS**

The principle of a micro-pub use in this location including the change of use from retail have previously been considered and found to be acceptable. Nevertheless, the current application seeks to expand the size of the unit approved and would result in the loss of further retail floor space within the designated Town Centre Area and Primary Shopping Frontage. The issues considered in the determination of the previous application therefore need to be reconsidered in light of the development now proposed, these are:

- The principle of the change of use, having regard to the loss of the retail use
- Amenity/Environmental Health Impacts
- Economic benefits

### **Principle**

The application site lies within the built-up area boundary of the town where the principle of development is acceptable under Strategy 6 of the East Devon Local Plan (EDLP) and subject to a number of listed criteria being met. In addition, Strategy 20 seeks to give priority to the enhancement and promotion of business opportunities within the town centre. There is no made Neighbourhood Plan for Axminster but Visions and Objectives have been produced and these include a desire to see a 'High Quality Town Centre' with encouragement given for 'vibrant businesses and shops'.

The proposal lies within the town centre area and area defined as primary shopping frontage. Whilst policy E9 of the EDLP permits proposals for both retail and non-retail uses '*which would add variety and increase activity*' within such areas, policy E10 relating to Primary Shopping Frontages is more restrictive. That policy seeks to retain retail uses but does allow alternative uses where these would not undermine the retail function, character, vitality and viability of the area. In addition, it states that permission for change of use will not be permitted unless it has been demonstrated that there is no longer a need for such uses *and* that the building has been marketed for at least 12 months (and up to two years) at a realistic price without interest. Where this can be demonstrated it will also be necessary for the development to be acceptable in terms of amenity impacts.

At the time of the earlier application it was acknowledged that the unit in question (unit 4) was one of several vacant units within the town centre and where Axminster, along with other retail centres was facing extremely challenging times. This situation has clearly not improved and the impact of the coronavirus pandemic on the retail industry whilst not yet fully understood is likely to be particularly hard. The government has brought in changes to the Use Classes Order and Permitted Development legislation which seek to provide for more flexibility in town centre uses and for movement between different commercial uses, however A4 uses, such as that proposed, fall outside of this new commercial use class and therefore still require planning permission for change of use.

As with the previous application the view remains that alternative uses that bring footfall to the town centre and add to their vitality and viability can play an important role. The proposed use is of a type that could, if successful, add to the vitality of the

town centre by bringing an active use designed to attract customers and increase footfall in the vicinity, although potentially more so in the evening than during the day. In principle a larger floor space would improve the viability prospects of the business providing an active frontage (unit 4) and utilising underused retail space to the rear of an existing larger retail unit (unit 2). Such benefits therefore weigh strongly in favour of the proposal.

On the other hand, the application is not supported by any marketing evidence to demonstrate that there is no ongoing interest in unit 2 in its current format and where the proposal would result in the loss of some retail floorspace. In this regard, the Council's has produced Marketing Strategy Statement Guidance which seeks to provide further advice on the level of information expected in relation to proposals which would result in the loss of commercial (including employment and retail uses) or community facilities. It has been produced in an attempt to ensure that the process of marketing is appropriate and rigorous enough to ensure any potential for continued commercial/community use has been fully explored. The information submitted with the application fails to demonstrate that the site has been appropriately marketed, in line with this guidance for the minimum 12 month period specified by policy E10 and therefore conflicts with that policy and the requirements of Strategy 32.

At the time of the previous application there were a notable number of vacant retail premises in the town centre but the number of retail premises advertised for lease at present appears to be fewer. However, this is most likely explained by landlords recognising that current restrictions make the prospect of attracting new tenants for retail premises extremely limited and as such marketing in the present climate may be somewhat futile.

The supporting statement advises that unit 2 has housed a 'pop-up' shop but only up until Christmas and that subsuming part of the floor space of that unit into the approved micro-pub use in unit 4 would provide a smaller retail unit making it more attractive to lease. Whether a decrease in the size of unit 2 would make it more or less attractive to potential tenants would obviously depend on their individual needs. However the amount of active retail floor space that would be lost is limited and the retained retail floor space of unit 2 would be that at the front of the unit and capable of accommodating a continued retail or other commercial use function. As was the case with the earlier application, finding an active use for the site is considered to bring more benefits than leaving the unit(s) vacant and where demand is likely to be limited, at least in the short term. No marketing details have been submitted with the current application but the agent has suggested that the owner of both units has indicated difficulties in attracting new tenants.

In terms of principle, there are arguments that can be made for and against the proposal. However, despite the lack of marketing that has taken place the re-use of unit 4, and the loss of a limited area of retail floor space within unit 2, for an alternative commercial use is, in this instance, considered to be acceptable.

### **Amenity/Environmental Health Impacts**

The potential for impact from the proposed use on residential amenity was considered as part of the previous application and, subject to conditions, was found to be

acceptable. Those potential impacts remain the same in relation to the proposed expanded unit.

The proposed use has the potential to give rise to amenity impacts primarily from noise and activity associated with its use, as well as odours related to the preparation or cooking of hot food. Policy EN14 of the EDLP seeks to control pollution including noise impacts and similarly policies E9 and E10 require consideration to be given to amenity impacts of development.

The previous application included conditions which sought to: control the hours of opening; prevent the playing of amplified music (or game sounds) where these would be audible outside the unit; to prevent the preparation of hot food or cooking on the premises, and; requiring the submission of a further noise report to determine the requirement for any additional noise mitigation measures. The additional noise report was subsequently carried out and the existing sound proofing between unit 4 and the first floor flat above was found to be adequate with no further mitigation measures to required. In relation to the current application the additional area of floor space is below an elevated courtyard area and therefore there is not residential unit directly above which could be affected. No objections/issues have been raised by the Environmental Health team and in the event of a positive recommendation and where relevant similar conditions could be re-imposed.

A concern has been raised in relation to the potential for use of the rear external courtyard space in conjunction with the proposed use and the increase amenity impacts which would result. The application site does not include this external area and relates only to the internal floor areas indicated on the proposed plans, whilst there is a fire escape door leading from the rear of unit 2 to the courtyard this does not provide customer access to or from the premises and nor is this proposed, a condition could be imposed that makes clear its use is only permitted for emergency purposes.

### **Economic benefits**

The proposal would bring a vacant commercial unit back into use and some economic benefits would derive from this, there is also the potential that the use could provide knock-on benefits to other businesses in the town centre. On the other hand, the proposal would also result in the loss of one retail unit (albeit already permitted) and the reduction in floor area of another both sited within the defined primary shopping frontage and where there is a lack of marketing evidence relating to attempts to secure alternative retail uses. In this instance given that an active town centre use would be retained, that the loss of retail floor space for unit 2 is limited and that there is unlikely to be any swift turnaround in the fortunes of town centres in the short to medium term or latent demand for retail premises it is considered that the benefits of the proposal are considered to outweigh any potential harm.

### **Other Issues**

One of the ward member councillors has raised a potential highway issue resulting from any congregation of customers on the pavement forward of unit 4. The increase in the floor area has some potential to increase customer numbers but this is not a matter on which the highways authority has chosen to comment nor was it matter that

they raised in relation to the previous application. At that time the potential for customers to block the pavement by congregating outside the unit were noted but as this is public highway and lies outside the site area no control can be exerted through the application. As before, the applicant will be required to obtain a licence for the sale of alcohol and this can place restrictions on areas of use, for example restricting consumption of alcohol to within the premises.

The comments related to appropriate ventilation are noted but this is a matter controlled under the Building Regulations.

The proposed works are all internal and has such the proposal would give rise to no harm to the conservation area and would preserve its character and appearance.

## **CONCLUSION**

The proposal would bring a vacant commercial unit within the town centre back into active use and would utilise part of another such unit. Whilst the proposed use is not a retail it is of a nature that has the potential to add to the vitality and viability of the town centre and has previously been found to be acceptable. Against the background of wider changes in the retail market and its declining role in the town centre it is considered that alternative uses likely to retain activity in the town centre will have benefit in supporting its overall function. The size and nature of the proposed unit is considered unlikely to result in any significant amenity impacts, and subject to the imposition of the suggested conditions the proposal is considered to be acceptable and is recommended for approval.

## **RECOMMENDATION**

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.  
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.  
(Reason - For the avoidance of doubt.)
3. The premises shall not be open to the public other than between the hours of: 11.00 hours and 23.30 hours, Mondays - Sundays  
(Reason - In the interests of residential amenity in accordance with Policies D1 - Design and Local Distinctiveness and EN14 - Control of Pollution of the East Devon Local Plan 2013 - 2031.)
4. No amplified or other music shall be played or any game sounds generated in the premises in such a way that they are audible at any location outside the premises or within any nearby premises.

(Reason - To protect the amenity of local residents from noise in accordance with policies E9 (Town Centre Vitality and Shopping Areas), E10 Primary Shopping Frontages) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.)

5. The premises shall not be used for the preparation or cooking of hot food.  
(Reason - To protect the amenity of local residents from cooking smells in accordance with policies E9 (Town Centre Vitality and Shopping Areas), E10 Primary Shopping Frontages) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.)
6. The pedestrian access door indicated on the east (rear) elevation, as shown on proposed floor plan drawing (SWANN\_PRO.FP Rev 1.0), shall not be used by customers/members of the public other than where required for emergency egress from the building.  
(Reason - To prevent the regular use as a means of access in the interests of amenity and in accordance with policies D1 (Design and Local Distinctiveness) and EN14 (Control of Pollution) of the East Devon Local Plan 2013-2031.)

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

##### Plans relating to this application:

	Location Plan	11.11.20
	Proposed Site Plan	11.11.20
SWANN_PRO.F P	Proposed Floor Plans	11.11.20

##### List of Background Papers

Application file, consultations and policy documents referred to in the report.