

Application No: 20/1570/FH

Location of Site: 60 High Street, New Romney, TN28 8AU

Development: Section 73 application for variation of condition 3 (opening hours) of planning permission Y18/1527/FH (Change of use of ground floor to create a bar/restaurant unit (use class A3/A4) and a retail unit (use class A1) together with the erection of a first floor extension to create an additional 3 flats (4 in total)) to amend the opening hours of the bar/restaurant.

Applicant: Mr L. McKay

Agent: On Architecture, Logan House, St Andrew's Close, Canterbury, CT1 2RP

Officer Contact: Ross McCardle

SUMMARY

This application seeks to amend condition 3 of planning permission Y18/1527/FH to allow extended opening hours at the approved bar/restaurant. The current approved hours allow opening at midday and closure at 23.00 (00.00 on Fridays and Saturdays). The proposed extended hours would allow opening at 09.00 and close at 23.00 (00.00 on Fridays and Saturdays). This is considered to be an acceptable balance between enhancing vitality and viability within this town centre location and protecting local residential amenity. The application is therefore recommended for approval.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. INTRODUCTION

1.1. The application is reported to Committee because New Romney Town Council have objected.

2. SITE AND SURROUNDINGS

2.1. 60 High Street is a contemporary, brick-built end-of-terrace property situated within the centre of New Romney. The building line here is staggered and no.60 is set back from no.58 and forward from no.64. The building features a commercial unit at ground floor and flats above, as with the majority of the properties along the High Street.

2.2. Planning permission was granted in 2018 for change of use of the ground floor to a bar/restaurant and retail unit, and for the formation of additional flats at first floor (4 total). The construction works were carried out over summer 2020 and have been recently completed.

- 2.3. The site lies within the New Romney High Street conservation area, and the defined New Romney shopping area and town centre.
- 2.4. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Permission is sought to vary condition 3 (hours of use) of planning permission Y18/1527/FH) to extend the opening hours of the ground floor bar/restaurant unit.
- 3.2 The current permitted hours are 12.00 midday to 23.00 Sunday-Thursday, and 12.00 midday to 00.00 on Fridays and Saturdays.
- 3.3 It is proposed to amend these hours to 09.00 to 23.00 Sunday-Thursday, and 09.00 to 00.00 on Fridays and Saturdays. The extended hours are intended to give the applicant greater flexibility and to cater for the breakfast period.
- 3.4 The supporting covering letter sets out:

“Due to the current economic situation with Covid-19 the client would like more flexible opening hours to attract a range of customers to the bar/restaurant, including facilitating business meetings earlier in the day. This allows for a more adaptable and futureproof space which will allow the business to remain viable in the difficult months to come.”

4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the site is as follows:

Y18/1527/FH	Change of use of ground floor to create a bar/restaurant unit (use class A3/A4) and a retail unit (use class A1) together with the erection of a first floor extension to create an additional 3 flats (4 in total).	Approved
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5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

New Romney Town Council: recommend refusal on the grounds that the application “contravenes policy SD1.” **[CPO comment:** Policy SD1 was contained within the Council’s previous Local Plan, and was deleted following adoption of the Places and Policies Local Plan. Its aims were broadly consistent with those of adopted policy DSD, as set out below.]

The Town Council were re-consulted following amendment to the proposed hours, but have not yet responded.

FHDC Environmental Health officer: has no objections to the proposal.

Local Residents Comments

5.2 9 neighbours directly consulted, a site notice posted, and an advert placed in the local newspaper. No comments have been received in response.

5.3 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation and has been subject to an Examination in Public in January 2021. As such its policies should be afforded weight where there are not significant unresolved objections.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

HB1 (Quality places through design)
RL4 (New Romney town centre)

Policy RL4 sets out that “*within the designated town centre area (identified on the Policies Map), planning permission will be granted for development that provides for a range of town centres uses that adds to the vitality and viability of the town centre.*” In addition, para. 11.43 of the PPLP broadly encourages restaurant use within the generally thriving High Street, and states:

“The Town Centres Study suggests that the town has a significantly lower vacancy rate than the UK average, and just one vacant unit was identified in the Study. The centre is attractive and well-maintained and the centre is currently performing well. The primary shopping area benefits from a good concentration of retail and other footfall-generating activities, such as independent cafes and restaurants. Changes of use away from A1 (shops) or A3 (restaurants and cafes) will be resisted to retain the vitality and viability of the High Street.”

Core Strategy Local Plan (2013)

DSD (Delivering sustainable development)
CSD8 (New Romney strategy)

Policy DSD is a broad amenity policy which seeks to ensure that all developments are acceptable in terms of their potential impacts. It states:

“When considering development proposals Shepway District Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will

always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this plan...will be approved without delay, unless material considerations indicate otherwise...taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- Specific policies in that Framework indicate that development should be restricted.”*

CSD8 sets out that *“New Romney should develop as the residential, business, service, retail and tourist centre for the Romney Marsh... The strategy for New Romney therefore supports the following:*

- The enhancement of New Romney as a key market town and service centre for Romney Marsh, providing a range of services and attractions for local residents and tourists.”*

Core Strategy Review Submission draft (2020)

CSD8 (New Romney strategy)

As above: CSD8 sets out that *“New Romney should develop as the residential, business, service, retail and tourist centre for the Romney Marsh... The strategy for New Romney therefore supports the following:*

- The enhancement of New Romney as a key market town and service centre for Romney Marsh, providing a range of services and attractions for local residents and tourists.”*

The Folkestone & Hythe District Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made ‘sound’ by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan’s spatial strategy and overall approach to the district’s character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors’ outline of main modifications required.

6.4 The following are also material considerations to the determination of this application.

Government Advice

National Planning Policy Framework (NPPF) 2021

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development and sustainability
- b) Residential amenity
- c) Other

a) Principle of development and sustainability

7.2 Planning permission has been granted for the use of the premises as a bar/restaurant, and is therefore lawful. The only matter that falls to be considered here is whether the proposed extended opening hours are acceptable.

7.3 The site lies within a sustainable town centre location where the general thrust of adopted and emerging policies is to ensure a vibrant and bustling economy which would attract a diverse range of visitors, including local residents and tourists. Extended opening hours would allow the applicant to provide a broader offering from the premises, catering for the breakfast crowd as well as lunch and evening guests. This would enhance the range of services available and contribute to the vitality and viability of the High Street as an economic centre.

7.4 I therefore consider the principle of extending the hours is acceptable, and would contribute towards sustainable economic development.

b) Residential amenity

7.5 The current permitted hours are 12.00 midday to 23.00 Sunday to Thursday, and 12.00 midday to 00.00 on Fridays and Saturdays.

7.6 The application originally proposed to extend these to 09.00 to 23.30 Sunday to Thursday, and 09.00 to 00.30 on Fridays and Saturdays. Officers raised concerns about the extent of these hours in regards residential amenity; while the site is within the town centre where one would expect a certain degree of noise and activity during the evenings, it was considered these hours would have been excessive and to have potential to harm the amenity of neighbouring residents.

Following discussions the applicants have amended the proposed hours to 09.00 to 23.00 Sunday-Thursday, and 09.00 to 00.00 on Fridays and Saturdays.

- 7.7 I have no objections to the premises opening earlier in the day. Operation from 09.00 would be unlikely to give rise to any unacceptable amenity impacts for local residents. There is no change proposed to the opening hours in the evenings, and there would consequently be no additional impacts on local amenity over and above those associated with the existing permitted hours.
- 7.8 I note the Town Council's objection, but would reiterate (as above) that policy SD1 has now been deleted and its replacements (DSD, CSD8, and RL4) all aim to help New Romney grow as a thriving commercial centre for the marsh; extended opening hours will be a small towards this goal. The TC was re-consulted on the amended (reduced) hours but has not yet responded.

c) Other

- 7.9 The nature of s.73 applications (applications seeking to amend conditions or details) is such that grant of permission results in an entirely fresh planning permission being issued. In that regard it is best practice to repeat the conditions of the original permission to ensure implementation of the permission does not give rise to any unintended consequences.
- 7.10 I have therefore repeated the conditions from Y18/1527 apart from those that are no longer needed and the amended hours of opening condition.

Environmental Impact Assessment

- 7.11 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

- 7.12 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

Human Rights

- 7.13 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

7.14 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

7.15 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

8. CONCLUSION

8.1 This application seeks to extend the permitted opening hours of the bar/restaurant at 60 High Street, New Romney. The proposed hours would allow the premises to operate 09.00 to 23.00 Sunday-Thursday, and 09.00 to 00.00 on Fridays and Saturdays, and would provide the applicant with greater flexibility and would not give rise to unacceptable harm to residential amenity within this designated town centre location.

8.2 Taking the above into account the application is recommended for approval.

9. BACKGROUND DOCUMENTS

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Conditions:

1. The bar/restaurant unit (use class A3/A4) hereby permitted shall not be open to customers outside the following times:

- 09.00 to 23.00 Sundays to Thursdays; and

- 09.00 to 00.00 Fridays and Saturdays.

Reason: In the interests of the residential amenities of nearby residents.

2. The retail unit (use class A1) hereby permitted shall not be open to customers outside the following times:

- 08.30 to 18.00 on any day.

Reason: In the interests of the residential amenities of nearby residents.

3. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: PR302_02 Rev A; PR302_03 Rev B; PR302_04 Rev B; PR302_05 Rev B; PR302_06 Rev B; PR302_07 Rev A; PR302_08 Rev A; PR302_09 Rev A; PR302_10 Rev A; PR302_11 Rev A and PR302_01.

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

4. The development hereby permitted shall be carried out in accordance with the material details as set out within the Design and Access Statement (Version 2).

Reason: In the interests of visual amenity.

5. The works approved by the acoustic report agreed under application ref. 20/0984/FH/CON shall be carried out prior to the first occupation of the residential units above.

Reason: In the interest of the residential amenities of nearby residents.

Appendix 1 – Site Location Plan