

Application No: 22/0969/FH

Location of Site: 4 Taylor Road, Lydd-on-Sea, TN29 9PA

Development: Change of use of the ground floor from community centre (class F1 (e)) to retail shop (class E(a)) re-submission of 21/1854/FH.

Applicant: Mr Bhupendra Manani

Agent: CLArchitects

Officer Contact: Robert Allan

SUMMARY

The report considers whether planning permission should be granted for the change of use of the ground floor from a community centre to a retail outlet. The report assesses the principle of the loss of a community facility, the amenity of neighbouring residents, and parking issues. It finds that the period of marketing falls far short of that required by adopted policy and the loss of the community centre is not, therefore, justified. There are noted to be minor potential impacts in respect of car parking, but these are considered acceptable.

RECOMMENDATION:

That planning permission be refused for the reason set out at the end of the report.

1. INTRODUCTION

1.1. The application is reported to Committee because of the views of Lydd Town Council.

2. SITE AND SURROUNDINGS

2.1. The application site is within the defined settlement boundary of Lydd-on-Sea and is located on the north side of Taylor Road in an area that is primarily residential. The application property is a two storey property of mid to late 20th Century origin, constructed of yellow brick with some render and a tiled, pitched roof. The ground floor level is given over to commercial uses in the form of a fish and chip shop and a hairdresser, as well as a community centre. The fish and chip shop has an extract flue projecting from it, as well as an area sectioned off, which is presumed to be for deliveries. The first floor of the property is given over to two flats, but planning permission has recently been granted for the subdivision of these two flats to form four self-contained flats, together with the formation of an additional two flats within the roof space under planning reference 21/1806/FH (see section 4 below).

2.2. The site extends to the rear where there is concrete hardstanding, an area of overgrown grass and a pre-fabricated garage. Entrance to the flats is from the rear, while commercial properties have entrance from the front for customers and to the rear. There is no clearly defined area for bins, but storage can be seen to be taking

place to the rear of the building. Parking is available to the front and rear of the property but is not clearly defined at this moment.

2.3. The wider area is characterised by predominantly single storey bungalow style properties, although some two storey properties, with the first floor contained within the roof space are situated opposite to the site.

2.4. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 The proposal is for the change of use of the ground floor of 4 Taylor Road from a community centre to a retail use and is a resubmission of the previously refused scheme 21/1854/FH for the same proposal. The retail shop would be created within the confines of the existing footprint and will retain and reuse the existing access doors to the front and rear (images 1 & 2, below). The shop would have a retail area in the front, with storage, kitchenette, and WC facilities to the rear (image 3, below).

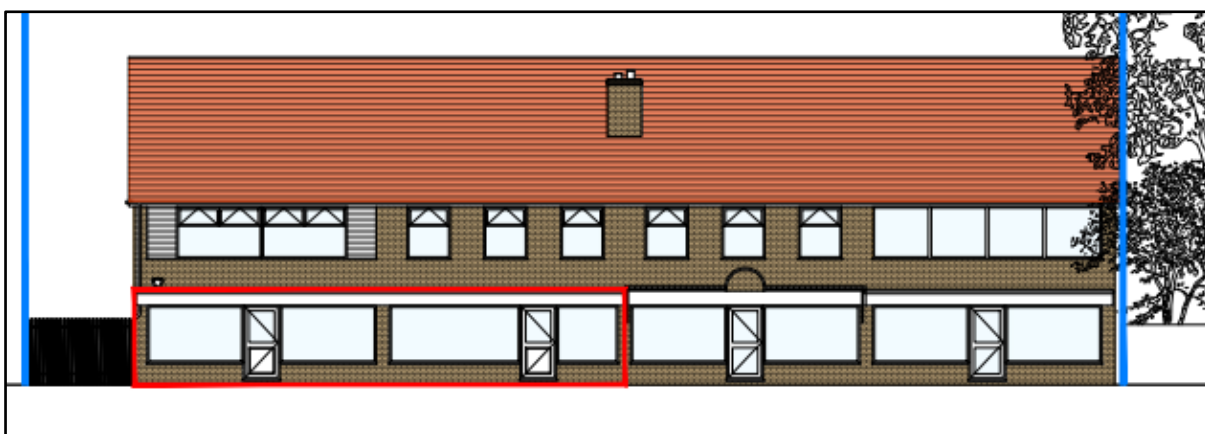


Image 1: front elevation



Image 2: rear elevation

3.2 The proposal seeks to utilise the existing car parking spaces on the hardstanding area to the front of the property. The planning statement highlights that there is a nearby public car park. It is also noted that there are no restrictions on the highway preventing on street parking.

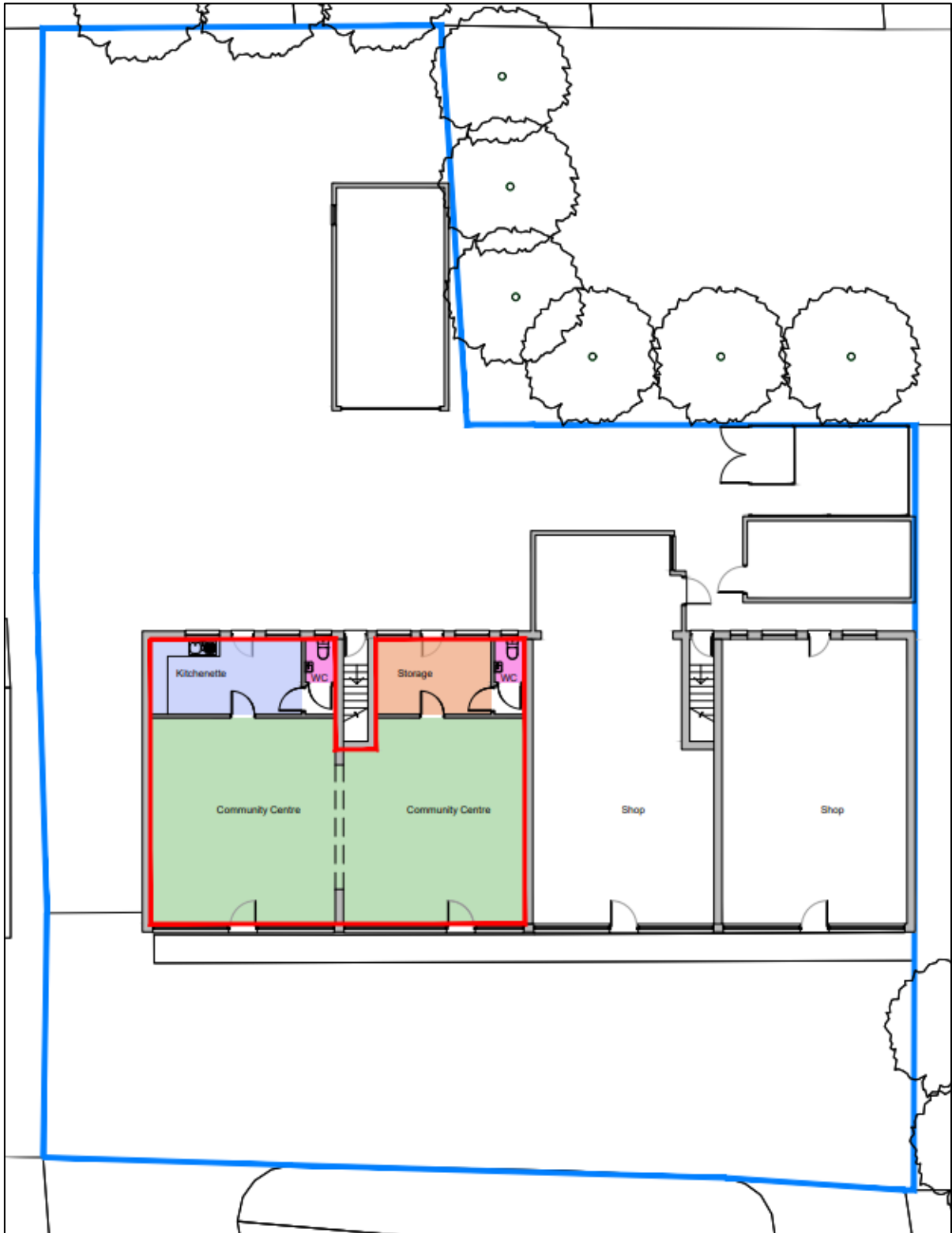


Image 3: proposed layout and site plan

- 3.3 In addition to the drawings and application form, the following documents were submitted by the applicant in support of the proposals:

Planning Statement

This document describes the site and surrounding area, lists the planning history, sets out the background for the development, confirms the extent of the proposal in relation to matters of appearance, access, and marketing, concluding that the revised proposal addresses the objections associated with the previously refused scheme, application reference 21/1806/FH.

Marketing Report

This document sets out the timeline for the marketing that has taken place, as well as what the premises has been marketed for. Marketing of the premises started on 05 May 2021 and ran until the 02 February 2022, but it was not marketed as a community centre until the 03 February, to the present day. The property was advertised via the Angela Hirst website, as well as Rightmove, Zoopla, Bloomin, Onthemarket.com and Prime Location. There was also a signboard at the site.

Details of viewings and queries have been provided, alongside details of the marketed rental price (£13500 per annum) and comment on the market interest. The latter sets out that, when marketed as a retail unit, interest had been reasonable, whilst when advertised as a community centre, there have been three inquiries, concluding that there is no effective demand for a community centre use.

4. RELEVANT PLANNING HISTORY

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

21/1854/FH	Change of use of the ground floor from community centre (class F1(e)) to retail shop (class E(a)).	Refused
21/1806/FH	Re-submission of planning application 21/0101/FH. Sub-division of the existing two first floor flats to form four self-contained flats, together with the construction of six front dormer windows in the existing roof to form an additional two flats within the roof space, insertion of 8no. roof lights in the rear roof slope, re-location of existing extractor flue on the rear elevation, addition of external cladding to the first floor front elevation and formation of associated parking area following demolition of existing structures.	Approved
21/0101/FH	Sub-division of the existing two first floor flats to form four self-contained flats, together with the construction of three front and three rear dormer windows in the existing roof to form an additional four flats within the roof space, insertion of two roof lights in the rear roof slope, relocation of existing extractor flue on the rear elevation, addition of external cladding to the first floor front elevation, insertion of new windows to the rear elevation and formation of associated parking area following demolition of existing structures.	Refused
15/0459/SH	Conversion of roof space to 2 self-contained flats together with alterations to the 1st floor to form 4 self-contained flats.	Approved

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Lydd Town Council: Support

KCC Highways & Transportation: Outside of current consultation protocol

Local Residents Comments

5.2 7 neighbours directly consulted. 1 letter of objection, no letters of support received and no letters neither supporting nor objecting to the application.

5.3 I have read the letter received. The key issues are summarised below:

Objections

- There is a need for a community hall in the area
- Parking issues from existing shop
- Flats have been permitted which will also exacerbate parking issues
- Nothing in area for residents

5.5 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 Review 2022. The Folkestone & Hythe District Core Strategy Review was adopted by Council on 30 March 2022.

6.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

HB1	Quality Places Through Design
C2	Safeguarding Community Facilities
T2	Parking Standards
T5	Cycle parking

Core Strategy Review 2022

SS1	District Spatial Strategy
SS3	Place-shaping and sustainable settlements strategy

6.3 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 2021 are relevant to this application: -

11	Presumption in favour of sustainable development
47	Applications for planning permission be determined in accordance with the development plan
93	Promoting healthy and safe communities
130	Achieving well-designed places

7. APPRAISAL

Background

7.1 This application is a resubmission of planning application 21/1854/FH, which was for the same proposal. That application was refused on the following grounds:

The proposed development would result in the loss of an existing social and community facility, and it has not been satisfactorily demonstrated in the application that there is no longer a need for the facility or alternative community use, or that such a use is not viable. The proposal is therefore contrary to policy C2 of the Places and Policies Local Plan and guidance contained in the National Planning Policy Framework which seek to retain such facilities to meet local social and community needs and to resist the unnecessary loss of social or community facilities unless it has been demonstrated there is no longer a need for the facility.

The current application is identical to the previous one, but is supported by a Marketing report, as identified in section 3 above.

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

- a) Loss of a community facility
- b) Residential amenity
- c) Highway

a) Loss of a community facility

7.3 The site is within the defined settlement of Lydd-on-Sea and in line with Core Strategy Review policies SS1 and SS3, development should be focussed on the most sustainable towns and villages, with a spatial priority for new development in the Romney Marsh Area at the towns of New Romney and Lydd.

- 7.4 Paragraph 93 of the NPPF protects community facilities; Core Strategy Local Plan policy SS3 requires development to address social and economic needs in the neighbourhood and not result in the loss of community, voluntary or social facilities (unless it has been demonstrated that there is no longer a need or alternative social/community facilities are made available in a suitable location); and PPLP policy C2 requires development leading to the loss of an existing community facility to demonstrate that:
1. There is no longer a demand for the facility within the locality, supported by evidence that the premises have been actively marketed for a minimum period of 12 months in the recent past prior to submission of the planning application; and
 2. As part of the evidence in point 1 above, the sale or rental price was realistic for the existing use, supported with a written valuation from a commercial estate agent.
- 7.5 Taking part 2 of the policy first, the applicant has utilised a respected commercial agent in Angela Hirst Chartered Surveyors who has advertised the rental of the unit at £13,500 per annum, contrasting this with that of Unit 2, which is half the size of this unit, and has been successfully let for £8000 per annum. It is considered that the advertised price is acceptable.
- 7.6 Turning to part 1 of the policy, the unit has been advertised for a period in excess of 12 months, but the first 10 months did not advertise it for use as a community facility, which has only taken place since February 2022, a period of approximately 5 months which is significantly less than the 12 months required by the policy.
- 7.7 The supporting information within the Planning Statement claims that following the conversion of the retail shop into the community centre in 2012, the community centre has faced many complications and has been underutilised. Due to lack of bookings, the low hire charge of £5.00 per hour did not cover the cost of the ongoing maintenance and statutory upgrades. Additionally, the community centre is stated to not be compliant with the Disability Discrimination Act (DDA) and it is stated that attempts to raise funding for the installation of accessible toilet and ramps has not been successful.
- 7.8 Representation has been received (section 5) claiming that members of the community have tried to utilise the facility for community use but have been unsuccessful in contacting local politicians and the mayor.
- 7.9 Notwithstanding the acceptance of the letting fee, the suggested issues with letting the premises for the permitted use, and the claims of community members regarding a need for a facility, the primary issue remains that the information and justification submitted with the application falls significantly short of that required by the adopted policy. The additional information that has been submitted, in the form of a Marketing report, has not addressed the previous grounds for refusal, it has not been demonstrated that the loss of a community facility would be acceptable, contrary to Places and Policies Local Plan policy C2 and Core Strategy Local Plan policy SS3 and the application should, therefore, be refused.

b) Amenity

- 7.10 There are no proposed alterations to the premises so there would not be any additional overshadowing or overbearing presence, or any additional overlooking.

7.11 Regarding noise and disturbance, the existing use could have points of noise and disturbance, because of events/gatherings taking place, although these are likely to be infrequent. On a day-to-day basis, the proposed retail use is considered likely to be generally compatible with the neighbouring residential uses, with disruptive events such as deliveries controllable via suitably worded conditions (i.e. restricting deliveries to within certain time frames). Consequently, it is considered that there would be no likely loss of residential amenity in accordance with Places and Policies Local Plan policy HB1 and National Planning Policy Framework paragraph 130.

c) Highway

7.12 Policies T2 and T5 of the Places and Policies Local Plan, are applicable. The requirement for a retail use is 1 space per 18sqm, which generates a requirement of 6.8 – rounded up to 7 spaces. The existing use has a demand of 1 space per 22sqm, which is a demand of 5.6 – rounded up to 6 spaces.

7.13 The application proposes to use the existing car parking spaces on the hardstanding area to the front of the property. A condition of the recently permitted planning application 21/1806/FH requires the parking spaces shown on the approved plans to be marked out prior to first occupation, with five to the front and two to the rear.

7.14 Although the increase in demand for parking associated with the permitted residential scheme would place increased pressure on the spaces to be marked out, there is on-street capacity available for visitors to the other uses, as there are no on-street parking controls in the area, with a public car park on the seafront also as is currently the case. Although there would be potential for conflict at peak times between the commercial and residential uses, paragraph 111 of the NPPF advises that “*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*”.

7.15 Overall, it is considered that the additional parking demand is unlikely to result in a significant impact upon the amenity of uses or the safety and free flow of the road network and the proposal is considered acceptable regarding policy T2 of the Places and Policies Local Plan.

Environmental Impact Assessment

7.16 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

7.17 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.

7.18 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This proposal is not CIL liable.

Human Rights

7.19 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

7.20 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

7.21 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 Notwithstanding the additional information submitted with the current application, it is considered that, as with the previously refused scheme, the proposal would result in the loss of a permitted community facility, without addressing the requirements of adopted policy and whilst the amenity of neighbouring residents is considered unlikely to be detrimentally affected by the proposal and there would be limited potential for any significant impacts in respect of car parking, the proposal is contrary to adopted policy and is recommended for refusal.

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 is refused for the following reason.

The proposed development would result in the loss of an existing social and community facility, and it has not been satisfactorily demonstrated in the application that there is no longer a need for the facility or alternative community use, or that such a use is not viable. The proposal is therefore contrary to policy C2 of the Places and Polices Local Plan and guidance contained in the National Planning Policy Framework which seek to retain such facilities to meet local social and community needs and to resist the unnecessary loss of social or community facilities unless it has been demonstrated there is no longer a need for the facility.

Appendix 1 – Site Location Plan