

(Report of the Licensing Supervisor, Samantha Potts 7364)

**Application – Premises Licence Variation**

**Premises – Jittermugs Coffee Shop, Preston Street, Faversham**

<b>Requested Licensable Activities</b>	<b>Current</b>	<b>Requested</b>	<b>Agreed</b>	<b>Comments</b>
Supply of alcohol	Monday-Saturday 12:30-21:00* Sunday 12.30-16.30	Monday – Thursday 12.00 – 22.00 Friday – Saturday 12.00 – 22.30 Sunday 10.00 – 17.00		*Although granted cannot currently be used beyond 18.30hrs
Recorded Background Music	Throughout opening	Throughout opening		Exempt under new de-regulations
Amendment to condition 1 (part 5)	Sale of alcohol limited to beer & wine only.	Spirits to be included but only sold in conjunction with food		
Removal of condition 2 (part 5)	Sale of alcohol only permitted until 18.30 until such time as sound insulation is provided and agree by the Environmental Protection Manager	That this be removed as work has been completed and the condition is unworkable.		See main report.

**Background**

Mr Green of Jittermugs, Faversham has applied for a Premises Licence Variation for Jittermugs Coffee Shop, Preston Street, Faversham. The premise is a former furniture shop situated in the busy town centre of Faversham. In the immediate vicinity are five other late night establishments, two public houses, 2 Indian Restaurants and The Alexander Centre which can be hired for many different types of function. The shop is accessed directly from the street, to the rear is a small enclosed courtyard accessed through the shop. The issue with this premises is that above it is residential accommodation.

Mr Green is the owner of the business and the Designated Supervisor. Jittermugs holds a full Premises Licence granted on the 19<sup>th</sup> July 2011 following a Committee Hearing. On the licence is a condition that restricts the sale of alcohol to 18.30hrs *'until such time as adequate noise controls have been put in place'*. There is also a condition that restricts alcohol sales to *'wine and beer only'*. These conditions were placed on the licence following objections from the resident upstairs and Environmental Protection, however at the initial hearing it was the applicant (not an Authority) that offered the conditions and now feels that he has not only complied with them but that they have become unworkable.

In February of this year the applicant was granted Planning consent to extend his opening hours, this was granted for a trial 12 month period, during which time the premises are to be noise monitored by the Environmental Protection Team. Whilst Planning restrictions or a lack of planning consent are not considerations under Licensing, this application will have a direct impact on the monitoring of how this premises trades and therefore should be noted.

The variation application requests hours for alcohol to be in-line with the new Planning times, as listed above, it also requests that the condition that relates to wine and beer only be amended to include spirits. Drinks would only be served in conjunction with food and by amending this condition it would allow customers to be served liquors with coffee and other drinks of this nature.

The variation also seeks the removal of condition 2 which relates to noise controls and meeting the approval of the Environmental Protection Manager. Letters/reports have been received (see attached) but the applicant feels that he has now complied with the condition and carried out the necessary sound proofing. At a committee hearing in February of this year a TEN was granted for a Valentines dinner event, a condition of the grant was that the event was monitored by Environmental Protection. The Licensing Department did not receive any complaints or noise reports in respect of this event.

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Recorded background music is also requested throughout opening hours, however since the de-regulation orders took effect last year, recorded music in this scenario is now exempt.

Since granting the licence for alcohol in 2011 the Licensing Department has received no complaints from any of the Statutory Authorities.

**Consultation**

The application was served by the applicant on Kent Police, Kent Fire & Rescue, the Councils Environmental Protection Team and Planning, Child Protection, Public Health England and Licensing, these being the Authorities consulted under the Licensing Act 2003.

A Public Notice was displayed at the front of the premises for a period of 28 days and the application was advertised in the local paper.

The Environmental Protection Manager has submitted an objection on the grounds of 'Public Nuisance' and the potential for noise to transfer to the first floor flat. The occupier of the first floor flat has also made a representation and submitted noise readings (taken whilst a small private event was being held), although it should be noted that these were not witnessed or recorded on equipment supplied by the Environmental Protection Team.

**Conclusion**

Mr Green has applied for a Premises Licence Variation for Jittermugs Coffee Shop to bring his licence for alcohol in-line with Planning. The Environmental Protection Manager and the occupier of the first floor flat have raised objections under the Public Nuisance objective.

Councillors must decide if any of the following are appropriate:

- *Grant the variation as applied for (any licence would be reviewed alongside the Planning later this year)*
- *Grant the variation with conditions and/or changes.*
- *Refuse the variation.*

**Supporting Documents**

Variation application  
Part 2 and 5 of the existing licence  
Environmental Services memo  
Letter of objection  
Minutes from Planning Committee – February 2014  
Decision from original Licensing Committee – July 2011  
Decision from TEN Licensing Committee – February 2014  
Plan of the area.

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Nicholas Darren Green

*(Insert name(s) of applicant)*

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number FAV/SWALE/189/0554
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Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Jittermugs 18A Preston St			
Post town	Faversham	Post code	ME13 8NZ

Telephone number at premises (if any)	01795 533121
Non-domestic rateable value of premises	£3600

Part 2 – Applicant details

Daytime contact telephone number	01795 533121		
E-mail address (optional)	nick@jittermugs.co.uk		
Current postal address if different from premises address			
Post Town		Postcode	

**Part 3 - Variation**

Please tick yes

Do you want the proposed variation to have effect as soon as possible?

If not do you want the variation to take effect from

Day	Month	Year

Please describe briefly the nature of the proposed variation (Please see guidance note 1)  
We would like to apply to remove the current conditions so that sale of alcohol be permitted until 10pm Monday to Thursday and 10.30pm Friday to Saturday and 12pm to 5pm Sundays.  
We would also like to take opportunity for the sale of spirits as well as beer and wine. The sale of alcohol will only be accompanied with food.

We submit that we have installed more than adequate sound insulation between the commercial and residential premises. The Environmental Protection Team Manager has also seen all stages of work carried out.

We understand that planning permission and licencing permission are two separate entities and are considered on own merits, however this is an instance where there is a clear dependency on each other.

On the 13<sup>th</sup> April 2014 we were granted planning permission for the extension of hours to operate as an eatery with the sale of alcohol. Directions were made at the planning committee that permission be granted for a period of twelve months to allow the Environmental Protection Manager to carry out sound measurements during evening operating hours.

The findings of the committee were that objections from the Environmental Protection Team Manager were subjective and there was no data to establish that noise levels had not been reduced.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend

#### Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

##### Provision of regulated entertainment

Please tick yes

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

##### Provision of entertainment facilities:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

##### Provision of late night refreshment (if ticking yes, fill in box L)

##### Sale by retail of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 6)			<b><u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Mon	9am	10pm			
Tue	9am	10pm			
Wed	9am	10pm	<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 4)		
Thur	9am	10pm			
Fri	9am	10.30 pm			
Sat	9am	10.30 pm	<b><u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Sun	10am	5pm			

**M**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)</b>	On the premises	<input checked="" type="checkbox"/>			
				Off the premises	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol (please read guidance note 4)</b>					
Mon	12pm	10pm						
Tue	12pm	10pm						
Wed	12pm	10pm						
Thur	12pm	10pm				<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)</b>		
Fri	12pm	10.30 pm						
Sat	12pm	10.30 pm						
Sun	10am	5pm						

**N**

**Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)**

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)	
Day	Start	Finish		
Mon	8.30	10		
	am	pm		
Tue	8.30	10		
	am	pm		
Wed	8.30	10		
	am	pm		
Thur	8.30	10		<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)</b>
	am	pm		
Fri	8.30	10.30		
	am	pm		
Sat	8.30	10.30		
	am	pm		
Sun	8.30	10.30		
	am	pm		

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

Sale of beer and wine only  
Restriction to the hours of 6.30pm



**P** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)**

Our objective is to provide a safe and enjoyable alternative to existing drinking establishments. We believe that by trading in the evening we shall provide a safe environment that shall attract more people to the town which would go further to discourage bouts of crime and disorder.

There will be no sale of alcohol to minors or anyone that appears to be under age. Our policy is to ask for identification if anyone remotely appears under 21 which acts as additional safeguard. We have also put considerable measures in place to minimise sound transmission to our neighbours.

**b) The prevention of crime and disorder**

No additional steps necessary to those stated in the application when we was granted the premises licence.

**c) Public safety**

No additional steps necessary to those stated in the application when we was granted the premises licence.

**d) The prevention of public nuisance**

We have provided comprehensive sound proofing from the café below. Any noise generated from the café in the evening shall come only from a maximum of 20 customers who shall be seated, eating and drinking. We believe that this level of noise does not amount to a public nuisance. We have fully complied with conditions imposed to carry out sound insulation. We also now regularly change the feet protectors on all furniture to also minimise the sound of furniture being moved.

**e) The protection of children from harm**

We believe that our variation will have no impact to harm children. To safeguard and minimise sound transmission to neighbours and those that have children, recorded music shall be kept a low background level, the use of the rear courtyard shall not be used beyond 6.30pm. There are also no bedrooms directly above the café and our hours of operation are not late hours.

Please tick yes

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 5 – Signatures (please read guidance note 10)**

**Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 11). If signing on behalf of the applicant please state in what capacity.**

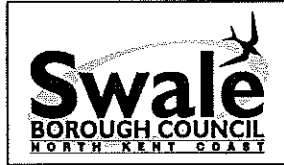
Signature	
Date	12 <sup>th</sup> March 2014
Capacity	Director

**Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	

**Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)**

Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			



**Premises Licence number:** FAV/SWALE/189/0554

Part 1 – Premises Details

**Postal address of premises, or if none, ordnance survey map reference:**

Jittermugs Coffee Shop  
18a Preston Street

**Post Town:** Faversham, Kent

**Postcode:** ME13 8NZ

**Telephone number:** 01795 533121

**Where the licence is time limited, the dates:**

No limitation.

**Licensable activities authorised by this licence:**

Sale of alcohol.

**The times the licence authorises the carrying out of licensable activities:**

Monday – Saturday 12.30 – 21.00 (See condition in section 5)

Sunday 12.30 – 16.30

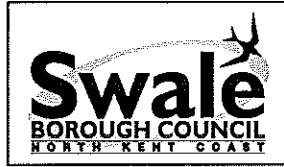
**The opening hours of the premises:**

Monday – Saturday 08.30 – 21.15

Sunday 10.00 – 17.00

**Where the licence authorises supply of alcohol, indicate whether for consumption on or off the premises:**

On the premises.



**Premises Licence number: FAV/SWALE/189/0554**

Part 5

**Conditions applied after a committee hearing:**

- The sale of alcohol is limited to beer and wine, no spirits
- Sale of alcohol will only be allowed until 18.30hrs Monday – Saturday until such time as adequate sound insulation is provided between the commercial and residential premises to a standard to the satisfaction of the Environmental Protection Team Manager.

## Internal Memorandum

**To:** Sam Potts, Licensing Manager  
**From:** David Ledger, Environmental Protection Team Manager  
**Date:** 3<sup>rd</sup> April 2014  
**Location:** Jittermugs, 18A Preston Street, Faversham

### **Application to extend operating hours for Jittermugs**

I can advise that the Applicant Mr Green already has a licence to sell alcohol until 21.00 hours granted in 19<sup>th</sup> July 2011 and the Licensing Sub-Committee conditioned the licence that alcohol could not be consumed after 18.30 without the premises being insulated to the satisfaction of the Environmental Protection Team Manager.

In terms of the insulation that has been installed to the premises in the latter part of 2013, by his own admission, Mr Green has stated that the insulation at the front of the café is incomplete due to problems of load bearing joists not able to take the full weight. This has resulted in an improvement of the insulation in the rear public area under the kitchen, but in the front area of the café, which is under the family's lounge, the insulation is still inadequate. The noise coming up through the stairwell appears not to have been treated at all.

The Department has been criticised by Mr Green for not specifying the amount and quality of insulation to be provided to satisfy any noise problem being transmitted to the family. The Department has maintained that to be impartial, it is for Mr Green to provide the details and have the necessary work carried out. Mr Green commissioned an Acoustic Consultant in 2011 and a report was provided. However the recommended insulation work was not carried out and different materials were installed in 2013. In being impartial, the Department has not agreed with nor sanctioned the work and is then free to ask that further work is done to the original specification if the insulation is still not satisfactory. The building is very old and noise transmission paths are numerous and hard to remove. I am unsure if any improvements were carried out to the junctions of the ceiling and the walls which are very hard to insulate.

There is still an unacceptable level of noise transmitted up to the flat above. Owing to the continuing transmission of noise to the neighbouring residential property, any increase in the operational hours of the café which allows them to open late into the evening will have a significant impact on the amenity to the flat above, the premises are not suitable for evening opening.

The position is confirmed by an event held at the premises on the evening of Saturday 29<sup>th</sup> March 2014. The Department has been sent recordings of noise recorded during the evening by the occupant above. Although the equipment used has not been ratified or calibrated, the digital recording is good enough to give a clear indication of the noise being transmitted. The occupant is a professional musician and has a good knowledge about sound and I am prepared to accept the recordings as good evidence. Recordings were taken in the lounge, kitchen and hallway and second floor landing and music is clearly audible together with raised voices, laughing and people singing along to the music. A later recording of noises relating to cleaning and clearing up a little before 23.00 hours were

inconclusive in terms of the source. The occupant has confirmed that he switched off his own fish tank and fridge to avoid extraneous noise from his own flat.

The residents in the flat above have already reported that in the time since the insulation works were completed, noise of conversation, laughter, hellos and goodbyes from customers in the café is audible particularly in the lounge area of the flat above in the daytime. This is accompanied by the noise of chairs scraping on the wooden floor and the doors (front and stairs to the basement) opening and shutting. The occupant of the flat has also heard music playing at a low level from the café on Sunday mornings.

As reported before, Officers of the Team have attended in the morning and could hear voices when only 3 people were in there. The business has stated as many as 16-20 people could be in the premises, with a convivial atmosphere, voices and laughter will be clearly heard in the flat above until the last people leave. This will unquestionably be an unreasonable disturbance to the family above. This is borne out by the recordings on the 29<sup>th</sup>.

The licence already allows for operating until 21.30 once the Department is satisfied that the insulation is sufficient to prevent a problem to the residents. We have still not reached this point where the condition is met.

On the basis of the recent event held, the Department is seriously concerned that the amenity of the family living above will be compromised every day that the premises are open in the evening.

I cannot in my professional opinion stand by and let this proceed without raising these concerns. I therefore raise an objection to the application and ask for it to be refused.

David Ledger  
Environmental Protection Team Manager

**For Head of Service Delivery**

**Re: Licensing application for Jittermugs Cafe, 18a Preston St.**

To whom it may concern,

I am writing to oppose the alteration to the current licensing hours for Jittermugs Coffee House, 18a Preston St, on the grounds that it will result in causing a Public Nuisance to myself, my partner and our two young boys, who live directly above the cafe. Although planning permission has now been granted provisionally for 12 months, the negative impact of noise from the café has continued to affect us. We are without doubt that the proposed extension to the hours alcohol can be sold will only result in the situation getting considerably worse for us, which will affect the physical and emotional wellbeing of my whole family.

Even though we were assured that the soundproofing work that was a condition of the planning permission would be sufficient to protect us from noise, we continue to have our private lives affected by unwanted background disturbance.

We believe this is due to:

1. The completed work outlined and presented both to the council prior to the work commencing and again stated in the Planning application, was not carried out as outlined and only just covered the required specifications outlined in clause 4 of the planning permission.
2. The apparent lack of consultation of acoustic professionals and/or the subsequent disregarding of professional advice led to a less than adequate level of sound protection.
3. No work to address flanking transmission of noise through the walls of the building was carried out, and
4. The timber-framed construction of this old building makes it very difficult to avoid the transference of impact sounds.

The sounds we continue to hear include; peoples conversations, the blender, the coffee machine, the stereo, furniture being moved, door bangs and a myriad of noises from the kitchen area.

We are aware that our concerns have been acknowledged by numerous officers working for Swale Council and by the café owner himself in communications with the Council. And yet we continue to be penalized for doing nothing wrong while the applicant continues to be rewarded for his persistence and disregard for the harm he is causing us.

From private parties (not to mention the three weeks of building work that only happened in the evenings, against our wishes) that have taken place over the last 12 months in the café, we know from experience that sound levels from below in the evening result in an incredible level of emotional distress for myself, my partner and our two young children with the noise levels noticeably louder than what we have to put up with during the day.

As we are aware that our continued opposition to the development of this business may be seen as counter productive to the development of the Faversham town centre. We would like to stress that our situation is unique in that we are the only privately owned dwelling above a food establishment, where the occupants have nothing to do with the operation below. There are however other privately owned properties above retail premises.

Also, we purchased the property in 2004 only after consulting the council, enquiring specifically about the likelihood of the shop below us ever being granted permission to have a change of usage to A3. The response from the council at the time was that, as the property lay within the area defined as Core Shopping Area, the change of usage would add to the number of non-retail properties in the town centre to the detriment of the traditional and local shopping character of the town and this would be contrary to Policy B3 of the Swale Borough Local Plan, and any application to change the use of the property would be refused. A precedent for this can be seen with application SW/08/0533. Added to that, 18a Preston St was viewed as particularly not suitable for such a use at any time due to its timber construction and its relatively small size and limited space for a food preparation area. We knowingly purchased the property aware of the sounds that would be around us during the day, but also knowing that our evenings would be unusually quiet at the back of the property as we also had no immediate residential neighbours. This is of particular importance as I am a musician/composer and we both have to work in the evenings as a rule.

It seems to be a trend that Councils regularly accept retrospective planning applications and we are concerned that with any allowance for Jittermugs to sell alcohol in the evenings as well, it will result with the council being reluctant to take away the permission once it has been established.

Regarding the status of Jittermugs as a café, we are particularly concerned that while the applicant may be limited to the extent to what he can serve at the moment, due to the limited food preparation area and a condition on his planning consent, he has made very public his intention to serve tapas and wine. This in our opinion will be a clear departure from his operation as a mixed A1/A3 coffee shop, while at the same time promoting a style of eating that emphasises the combining of alcohol with a limited quantity of food.

Whether the applicant is successful in balancing the level of food consumed to the level of alcohol or not, we are bound to suffer. Either with increased activity in the food preparation area, with sounds that very easily carry right up to the second floor where the boys sleep and where we are increasingly being forced to work, or with a greatly increased noise level from conversations that have reached raucous levels in the past that is inescapable anywhere in our flat.

While we have been patient and tolerant allowing time for the council to reach a solution to this situation, the prospect of having the cafe open at all in the evenings until 10pm is totally untenable for us. We had the unfortunate experience of having people in the cafe until 10pm last Saturday (29/3/2014), followed by the clatter of cleaning up until 11pm. We could clearly hear individual voices (including the owners), the stereo loud enough that we could identify individual songs, singing, laughter, and boisterous conversations. This level of noise resulted in us leaving the first floor entirely and migrating to the second floor where we still had to suffer from the noise. This is not the first time we have had to endure



Monday, April 7, 2014

such a situation and when we have called downstairs to complain they have ignored the phone knowing that the call is from us.

To conclude, while we have had to live with the increased intrusion caused by the change of use for the shop below, with its increased foot traffic, its longer hours, its use of the outside area at the back, and its 7 days a week operation, we are reluctant to see any further erosion of our right to a peaceful home life. Any further permission granted to the applicant will definitely result in an untenably high level of nuisance and emotional distress to my family, and we are happy to present sound recordings that clearly supports this fact (<http://www.dafmusic.com/18aprestonst.html>).

It is impossible to see how any level of assurance on the part of the applicant can adequately protect us from an unacceptable increase in the negative impacts caused by the café being allowed to sell alcohol in the evenings. So we ask you to refuse this application for the amendment of the licensing conditions for Jittermugs Coffee House on the grounds of Public Nuisance.

Yours sincerely



SW/13/1582 (Case 02940)

**Faversham**

Jittermugs, 18A Preston Street,  
Faversham, Kent, ME13 8NZ

**Location :**

**Proposal :**

Variation to conditions 2 and 3 of  
SW/11/1216 to extend permitted hours

**Applicant/Agent :**

Mr Nicholas Green, Jittermugs Coffee  
Shop, 18A Preston Street, Faversham,  
Kent, ME13 8NZ

The Planner referred to the tabled paper from the Environmental Protection Team Manager reiterating reasons for recommending refusal. He also reported that three further emails had been received from supporters, which had raised points already raised in the report and had also requested that Members visited the coffee shop 'to appreciate the experience.' The Planner also reported that the Applicant had emailed a letter to Members in support of his proposal.

Councillor Shiel Campbell, representing Faversham Town Council, spoke in support of the proposal.

Mr Andy Culham, a supporter, spoke in favour of the proposal.

Mr David Leahy, an objector, spoke against the proposal.

Mr Nicholas Green, the Applicant, spoke in favour of the proposal.

Environmental Protection Manager outlined the points raised in his tabled paper.

The Ward Member spoke in favour of the proposal and considered it was within a bustling principal area of the town centre. He accepted that a certain amount of noise would be audible in the centre of town.

Members raised the following points: the views were very polarised; it was normal to be able to hear some noise from neighbouring properties; the Applicant had taken measures to mitigate any noise issues, the neighbours should also take some measures to address these; it would be beneficial to see full acoustic survey results; the sound proofing was inadequate, and this was causing stress to neighbouring residents; this was a prime town centre location; A1 retail use was less noisy than A3 use; the officer's report was subjective; the Applicant was aware of the limited hours of opening when he started his business in the premises; there was general noise being generated in the High Street; and noise from the court yard would be unacceptable.

Councillor Harrison moved an amendment to defer the application so that more information could be sought, including acoustic readings. Councillor Prescott, seconder of the original motion did not accept the amendment.

On being put to the vote the original proposal was lost.

The Planner suggested that, as Members were not unanimous in either support or objection to the proposal, the granting of a temporary permission might be a solution.

Councillor Andy Booth moved a motion for a temporary permission for four years to allow any noise in the evenings to be monitored. This was seconded by Councillor Prescott.

Councillor Andy Booth moved an amendment to the motion for temporary permission from four years to two years. This was seconded by Councillor Prescott. On being put to the vote the motion was lost.

Councillor Ben Stokes moved an amendment to the motion for temporary permission for one year. This was seconded by Councillor Sylvia Bennett. On being put to the vote the motion was agreed.

***Resolved: That application SW/13/1582 be delegated to Officers to approve with suitable conditions for a temporary permission of one year to enable the noise levels to be monitored.***

# SWALE BOROUGH COUNCIL

## Licensing Sub-Committee

Tuesday 10<sup>th</sup> February 2014

Application by Mr Nicholas Green for a Temporary Event Notice relating to Jittermugs Coffee Shop, 18a Preston Street, Faversham, Kent

### DECISION

Sub-committee: Cllr. Lesley Ingham (Chairman)  
Cllr. Ben Stokes  
Cllr. Tony Winckless

The Applicant has applied to the Council for a Temporary Event Notice for Jittermugs Coffee Shop, for a 2 day Valentines Event. The application seeks to allow alcohol to be served until 22.30hrs on the 14<sup>th</sup> and 15<sup>th</sup> February, low level recorded background music is also requested.

Representations must be based on one or more of the four Licensing Objectives in the Licensing Act 2003, which are:-

1. the prevention of crime and disorder
2. public safety
3. the prevention of public nuisance
4. the protection of children from harm.

In this instance a representation was received from the Environmental Protection Department, the representation linked clearly to Objective 3.

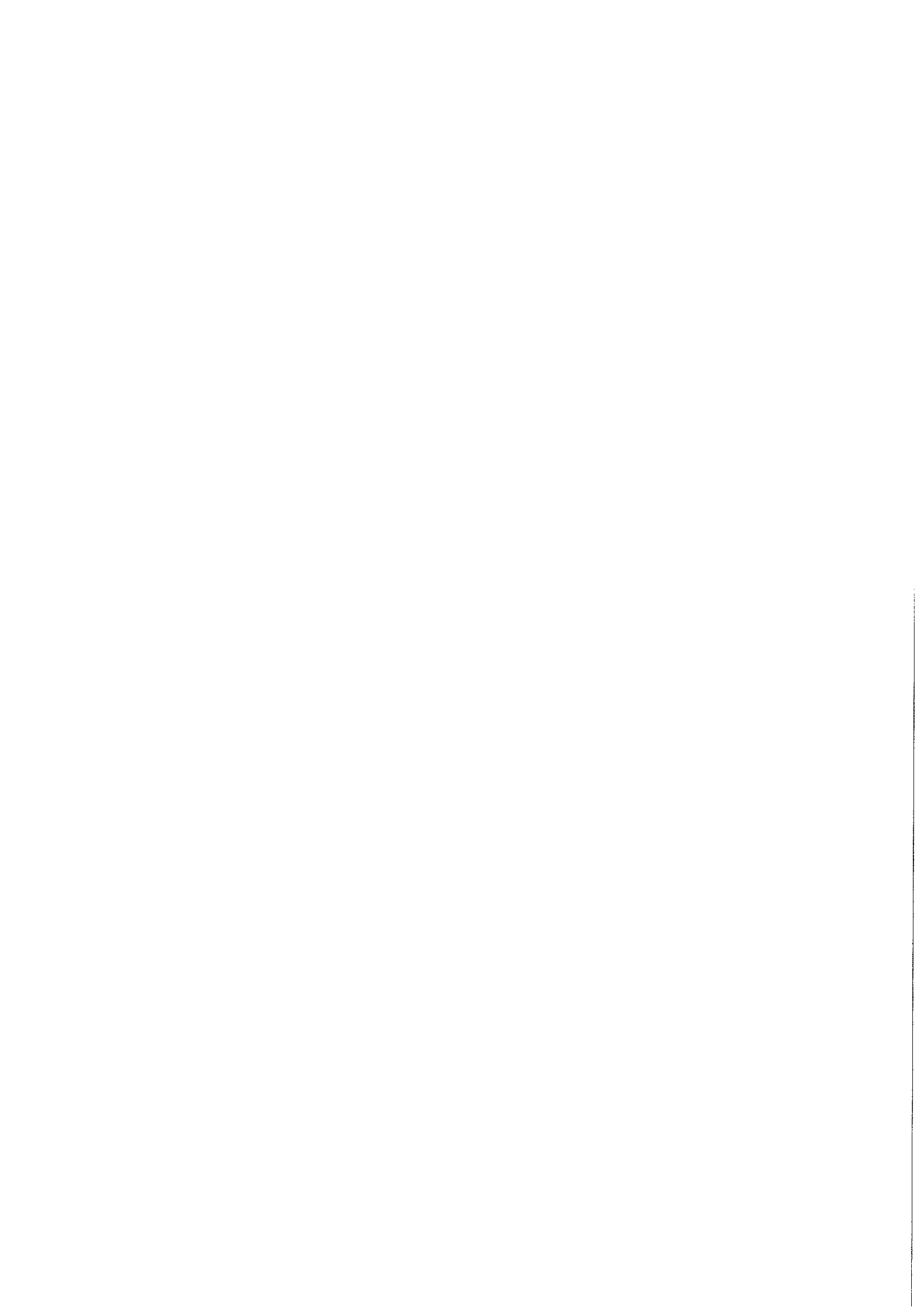
The Applicant presented his case and both David Ledger and Kevin Tucker (Environmental Protection) spoke on the matter of noise. In their representation they stated that (in their opinion) there was still inadequate noise insulation between the premises and the resident above. Mr Green stated that he has already installed extra noise insulation and complied with any current licence conditions. He further confirmed exact numbers that would be in attendance of the event, if approved.

In making our decision today, we have read the Licensing Officer's report. We have considered all the papers before us and we have heard from both the applicant and Environmental Protection. We have spoken with our Legal advisor and we have considered the provisions of the Licensing Act 2003, the Guidance given under it and the Council's published Licensing Policy.

**We have agreed to grant the TEN as applied for, however we request that the event is monitored by Environmental Protection to ascertain the extent of any noise disturbance that may occur.**

**We reiterate that this matter is still subject to the necessary Planning consents.**

.....  
Cllr Lesley Ingham (Chairman)



# SWALE BOROUGH COUNCIL

## Licensing Sub-Committee

Tuesday 19<sup>th</sup> July 2011

Application by Mr Nicholas Green for a new Premises Licence relating to  
Jittermugs Coffee Shop, 18a Preston Street, Faversham, Kent

### DECISION

Sub-committee: Cllr. Derek Conway (Chairman)  
Cllr. June Garrad  
Cllr. Colin Prescott

The Applicant has applied to the Council for a new premises licence for Jittermugs Coffee Shop, which is a commercial premises offering a mixture of refreshments and retail items for sale. The application seeks to allow alcohol to be served and the hours of operation to extend into the evening until 9pm (4.30pm on Sundays).

Representations on Licence Applications must be based on one or more of the four Licensing Objectives in the Licensing Act 2003, which are:-

1. the prevention of crime and disorder
2. public safety
3. the prevention of public nuisance
4. the protection of children from harm.

In this instance representations were received from the resident in the flat above the premises and the Environmental Protection Department, these representations link clearly to Objective 3.

The Applicant presented his case and Sharon Honey (Environmental Protection) spoke on behalf of the resident and on the matter of noise. In her representation Ms Honey stated that there was no adequate noise insulation between the premises and that whilst the resident above accepted daytime noise there were potential issues if the hours of operation extended into the evening, even if it were only during the summer months. Mr Green offered to install extra noise insulation and not to open past 6.30pm until he had done so. Mr Green stated that the reason for applying was to meet customer demand and promote the café culture within the town centre, he also confirmed that he has applied for all of the necessary Planning consents.

In making our decision today, we have read the Licensing Officer's report. We have considered all the papers before us and we have heard from both the applicant and Environmental Protection. We have spoken with our Legal advisor and we have considered the provisions of the Licensing Act 2003, the Guidance given under it and the Council's published Licensing Policy.

**We have agreed to grant the licence as applied for (Sale of alcohol, Monday – Saturday 12.30 – 21.00 and Sunday 12.30 – 16.30) however there will be two conditions as follows:**

- **The sale of alcohol is limited to beer and wine only, no spirits.**

- **Sale of alcohol will only be allowed until 18.30hrs Monday - Saturday until such time as adequate sound insulation is provided between the commercial and the residential premises to a standard to the satisfaction of the Environmental Protection Team Manager.**

We point out that, should issues arise from the grant of this licence, the matter will return to a sub-committee under Section 53 of the Licensing Act 2003 for review.

The applicant, resident, and the Councils Environmental Protection Department all have the right of appeal, any appeal must be lodged within 21 days of today's date (8<sup>th</sup> August) to the Magistrates Court.

.....  
Cllr Derek Conway (Chairman)



Main Town Centre.

Scale 1:1'500



Jittermugs.