

2.4 REFERENCE NO - 21/503772/FULL		
APPLICATION PROPOSAL		
Section 73 - Application for Variation of condition 2 (permanent change of use), 4 (to allow external lighting) and 7 (to allow music to cease Sun-Thu at 10 PM Fri-Sat at 11 PM) pursuant to application 18/501494/FULL for - Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.		
ADDRESS St Saviours Church Whitstable Road Faversham Kent ME13 8BD		
RECOMMENDATION - Grant subject to conditions		
REASON FOR REFERRAL TO COMMITTEE		
Town Council objection		
WARD Abbey	PARISH/TOWN COUNCIL Faversham Town	APPLICANT Mrs Romana Bellinger AGENT
DECISION DUE DATE 07/09/21	PUBLICITY EXPIRY DATE 23/08/21	

Planning History

18/502720/LBC

Listed Building Consent for proposed alterations to the layout of the joiners partitioned storerooms in the hall for use as a kitchen area, toilet and disabled toilet. To include drainage and damp repairs, underfloor insulation, erection of interior CCTV and reinstating dwarf wall with picket fencing. Insert guttering where missing.

Approved Decision Date: 10.10.2018

18/501494/FULL

Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink.

Approved Decision Date: 20.07.2018

1. DESCRIPTION OF SITE

- 1.1 The property is a late C19 'tin' church, a type of building now increasingly rare to find; as such, the building is Grade II listed. The building is situated on Whitstable Road, opposite the Faversham Recreation Ground, within the established built-up area boundary and within the Faversham conservation area. The immediate surroundings comprise rows of terraced housing dating to the turn of the 20th Century to the northeast, later 20th century semi-detached housing to the north and an area of recently completed development to the west. The area south of the church comprises an open recreation ground, with tree-lined paths. There is a zebra crossing a short distance to the east of the site along Whitstable Road.
- 1.2 The building consists of the church itself, and an extension to the rear, also in 'tin' and dating to the 1920s. The rear extension is in residential use, with the main body of the church having had a temporary three year permission for use as a centre for the local cultural arts and to provide food and drink.

- 1.3 The building was for many years used as a joinery workshop, and after which it had been used as an artist's studio with residential use at the rear.
- 1.4 The current applicants sought planning permission in 2018 for 'Change of Use of the space to re-instate it's previous early historical use for the local community and as a centre for the local cultural arts and to provide food and drink'. This application was first reported to the Planning Committee in June 2018 with a recommendation for approval, subject to the final comments of the Council's Environmental Health Manager. The original planning committee report stated:

The Environmental Health Manager raises no objection to the application subject to a condition requiring an acoustic survey, and one requiring no amplified music to be played on the site. I share his concerns, but at present I am not absolutely sure about the likely implications of the proposed use on the amenities of neighbours, and what implications there might be (in turn) on the need to insulate this lightweight building against noise which might have implications for the character or historic interest of the listed building. As such, I am still considering this matter with the Environmental Health Manager and I hope to report further at the meeting.

- 1.5 The conditions originally recommended were - noting that condition (6) was to be confirmed:

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted. Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) Details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises. Reason: In the interests of residential amenity.

(3) No floodlighting, security lighting or other external lighting shall be installed or operated at the site. Reason: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

(4) The premises shall be used for the purpose of a community café and arts centre and for no other purpose, including any other purpose within the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended). Reason: In the interests of the amenities of the area.

(5) The use of the premises hereby permitted shall be restricted to the hours of 8 am to 11pm, seven days a week. Reason: In the interests of the amenities of the area. (

6) Conditions to be recommended by the Environmental Health Manager in respect of noise issues and the possible implications for the amenities of neighbours.

- 1.6 Consideration of the application was deferred to a Members' site meeting; minutes of that meeting are attached as an appendix to this item. Minutes of the meeting held in July 2018 after a site meeting had been held to consider the application state:

18/501494/FULL – ST SAVIOURS CHURCH, WHITSTABLE ROAD, FAVERSHAM
The Planner drew attention to the tabled statement from the applicants which responded to issues raised at the site meeting. They had also added two amendments to the application: no music after 10pm, and that it be a temporary permission for three years only. The Planner advised that the Environmental Health Team Leader had since raised no objection, subject to conditions to reflect the above. The Planner sought delegation to approve the application subject to additional conditions to allow the use for three years, with no music after 10pm. The Chairman moved the officer recommendation to delegate approval of the application to officers and this was seconded by the Vice-Chairman. Members welcomed the responses to the issues raised at the site meeting, plus the two amendments that had been made. In response to a question, the Planner explained that 'no music after 10pm' included any musical entertainment, including singing. A Ward Member considered the site meeting had been beneficial in getting the views of local residents, and he was happy to support the application. Resolved: That application 18/501494/FULL be delegated to officers to approve subject to conditions (1) to (6) in the report, with the addition of two conditions, so that musical entertainment stops at 10pm, and the permission is temporary for a period of three years.

- 1.7 The temporary planning permission was then granted without a condition prohibiting the use of amplified music. The **approved conditions** were thus as follows:

(1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

(2) The use hereby permitted shall cease on or before 24th July 2021

Reason: In order that the position may be reviewed at the end of the period stated.

(3) Details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity.

(4) No floodlighting, security lighting or other external lighting shall be installed or operated at the site.

Reason: In the interests of visual amenity and the residential amenities of occupiers of nearby dwellings.

(5) The premises shall be used for the purpose of a community café and arts centre and for no other purpose, including any other purpose within the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as

amended).

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

(6) The use of the premises hereby permitted shall be restricted to the hours of 8 am to 11pm, seven days a week.

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

(7) No recorded or live music or singing shall be permitted on the premises after 10pm.

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

2. PROPOSAL

2.1 The current application seeks variations to conditions (2), (4) and (7) of the original planning permission 18/501494/FULL as follows:

- The proposed variation to condition (2) is for the permanent change of use of the building. The applicant says that this is to continue St. Saviour's early historical use for the local community and as a centre for the local cultural arts and to provide food and drink
- The variation to condition (4) is to allow a traditionally designed porch lantern at the front of the building. The applicant says that historical evidence shows a large lantern placed on the apex of the porch
- The variation to condition (7) is to increase the times music is permitted on the premises to 11pm on Fridays and Saturdays. The applicant makes the following points in this regard:
 - The owners will continue to address any concerns their neighbours have and have already put in place an NMP with Swale Borough Council.
 - Ensure the success and economic viability of The Hot Tin Cafe Ltd. and RouteStock CIC. The owners have lost a great deal of revenue during the Covid pandemic and need to restructure their businesses to survive and their financial history shows it has depended on their night time economy and their local patrons in Faversham's community support this going forward.
 - The owners have previously lost vital bar sales after 10pm when background music is cut at 10pm (the premises is licensed until 11pm)
 - Current legislation dictates 11pm for music to stop (unregulated music until 11pm by government suggests 11pm is a reasonable finish time)
 - The owners lose custom from the local community who wish to hire the venue for birthdays, weddings and other cultural events, due to the 10pm music cut off.
 - The owners ask for a variation and relaxation on Friday and Saturday only until 11pm to help promote their town's local night time economy.

- For the local community to experience a smooth transition after a performance. An extension to music till 11pm on Friday and Saturday will help to continue the atmosphere of the space and ensure customers enjoy a vibrant cultural life at the end of a working week.
- The owners request that only 2 days into the weekend are needed for an 11pm music finish.

3. PLANNING CONSTRAINTS

Potential Archaeological Importance

Conservation Area Faversham

Environment Agency Flood Zone 2

Environment Agency Flood Zone 3 136741

Listed Buildings MBC and SBC Ref Number: 1107/SW

Description: G II ST SAVIOURS CHURCH, WHITSTABLE ROAD, FAVERSHAM, ME13 8P

4. POLICY AND CONSIDERATIONS

4.1 Development Plan: Bearing Fruits 2031: The Swale Borough Local Plan 2017 policies:

CP1 (Building a strong economy)

CP6 (Community facilities to meet local needs)

CP8 (The historic environment)

DM1 (Maintaining and enhancing the viability of town centres and other areas)

DM14 (General development criteria)

DM32 (Listed buildings)

DM33 (Conservation areas)

4.2 National Planning Policy Guidance (NPPG) contains the following advice on noise:

Can noise override other planning concerns?

It can, where justified, although it is important to look at noise in the context of the wider characteristics of a development proposal, its likely users and its surroundings, as these can have an important effect on whether noise is likely to pose a concern.

What are the observed effect levels?

Significant observed adverse effect level: This is the level of noise exposure above which significant adverse effects on health and quality of life occur.

Lowest observed adverse effect level: this is the level of noise exposure above which adverse effects on health and quality of life can be detected.

No observed effect level: this is the level of noise exposure below which no effect at all on health or quality of life can be detected.

How can it be established whether noise is likely to be a concern?

At the lowest extreme, when noise is not perceived to be present, there is by definition no effect. As the noise exposure increases, it will cross the 'no observed effect' level. However, the noise has no adverse effect so long as the exposure does not cause any change in behaviour, attitude or other physiological responses of those affected by it. The noise may slightly affect the acoustic character of an area but not to the extent there is a change in quality of life. If the noise exposure is at this level no specific measures are required to manage the acoustic environment.

As the exposure increases further, it crosses the 'lowest observed adverse effect' level boundary above which the noise starts to cause small changes in behaviour and attitude, for example, having to turn up the volume on the television or needing to speak more loudly to be heard. The noise therefore starts to have an adverse effect and consideration needs to be given to mitigating and minimising those effects (taking account of the economic and social benefits being derived from the activity causing the noise).

Increasing noise exposure will at some point cause the 'significant observed adverse effect' level boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused.

At the highest extreme, noise exposure would cause extensive and sustained adverse changes in behaviour and / or health without an ability to mitigate the effect of the noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be avoided.

5. LOCAL REPRESENTATIONS

5.1 Over sixty (60) letters of support have been received from addresses within Faversham and also from areas such as Whitstable, Margate, London and Chatham. These letters can be summarised as follows:

- The Hot Tin is a unique cultural arts venue making art and artists accessible to the community
- They prioritise inclusivity and diversity
- Without this venue contemporary musicians would have nowhere in Faversham to go and make themselves heard
- I have lived in Faversham for 20 years and in that time the town has never had a venue that offers such a diverse range of events
- Faversham as a modern, inclusive and culturally thriving community would be foolish to cut off the lifeblood of its creative grassroots community

- Such promotion of the arts and the musical offerings can only enhance Faversham's reputation and quality and prevents stagnation
- Its raising Faversham's profile in terms of the demographic that can be attracted to the town
- Helps Faversham compete with other towns with established cultural offerings, like Whitstable, Margate, Ramsgate and Folkestone
- Plays a critical role in supporting tourism within Swale, drawing visitors from both London and the wider Kent County. In 2020/21 the Music Venues Trust listed the Hot Tin as one of the 30 most vulnerable venues to covid and raised awareness of the critical need to save the venue for the role it plays in promoting arts and events
- The venue provides youth and local employment and meets the requirements of Faversham Town and Swale Council's development and regeneration plans, and is a direct contributor to the tourism industry and Swale's visitor economy
- My exhibitions have brought visitors to Faversham where they have stayed for a while and contributed to the local economy
- The Hot Tin is currently recruiting for an apprentice and works with a Kent based youth employment charity to offer opportunities to those at risk of long term unemployment and works with Kent's universities to offer employment and work experience to students in live music and the visual arts
- As a music teacher I have students that have attended live music here with their families who have been inspired in their music studies with such positive experiences of live music in their own part of East Kent playing no small part in their considering pursuing music as a long-term career
- The Hot Tin focuses on highlighting and selling the products of Swale based food and drink producers
- Swale's own Visitor Economy Framework Action Plan promotes the development of tourism as vital to the Bourgh's economy. The Council's commitments in Workstream 2 of the Action Plan, on 'Business Support and Partnerships' highlights the potential need to revise opening times for venues to support their contribution to the visitor economy
- Faversham has been developing its 'Neighbourhood Plan' and during the two recent consultation periods, specific reference has been made multiple times for the need for the town to have 'more public spaces for art', more 'places for young people and young adults to use' and for the town to support local musicians and artists
- The value of the Hot Tin to the sector and the community was recognised when they were awarded Cultural Recovery Funding from the government, which sought to preserve spaces and places for live music
- The applicants have supported me in developing a creative coffee morning ('Make your Morning') for isolated people, people living with mental health problems and people living with dementia in Faversham and surrounding areas which could not have happened without the support of The Hot Tin. We meet every fortnight for two hours and they gave us the space for free with a special discounted coffee and cake deal
- Some of the 'Make your Morning' sessions were run by local artists brought to the venue through residencies organised by the applicants. The artists are able to share their skills with the group as well as learning more about dementia and how to make activities more accessible

- The applicants have become “Dementia Friends” in order to have a better understanding of the needs of those with dementia and to make the venue more accessible, they are one of the very few establishments in town to have made this commitment
- ‘Make your Morning’ was a finalist for the Dementia Friendly Kent awards for Arts and Culture organisation in 2019 and I strongly believe this is in part because of the partnership with such an innovative cultural venue
- This venue is accessible on foot and bike
- It has provided work and training to many residents
- During lockdown it has created Radio Routestock, connecting local DJ’s with both a local and global community of listeners, broadcasting culturally broad spectrum of music
- To force music to cease before the requested times has and will continue to limit the artists willing and able to perform here
- The popular events attract a well-behaved audience over a wide age range and the sound levels are never higher than comfortable within the building, and are usually barely audible from outside; time and levels are kept within very strict limits
- Events are ticketed and stayed well within the constraints of what a residential area would deem as respectful and necessary
- The Hot Tin is located very near to a long established pub which also features live music which in fact has more live music events which are louder and attract a lot more people
- The music volumes still allow for conversation within the building
- I don’t believe anyone has ever objected to the venue or to the police about noise when events were going on
- The owners monitor sound levels around the building when there is a music event on because they do not want to disturb the neighbours
- I live two doors away and have not found the music obtrusive enough to the extent I have had to close windows or turn the TV volume up
- We live three doors away with young children and have never been affected by the noise therefore keeping the venue open for an extra hour on Fridays and Saturdays would not be a concern for us
- I recognise that possibly for a small number of neighbours there has been on rare occasions music playing that is quite loud – however, this seems a passing inconvenience given the benefits that the Hot Tin brings to so many diverse groups and people
- We regularly attended the DJ nights with our then two year old and the music was never loud enough for us to worry or necessitate using ear defenders
- The external lighting will enhance the building and increase local safety
- The applicant’s connections both national and international and their reputation means they are able to invite artists who might otherwise not even know Faversham exists and the Faversham audience has responded with enthusiasm
- The applicant’s sensitivity to, and control of, noise issues are very well known and I am sure they will continue to be good neighbours

5.2 A comment in support was received by the Music Venue Trust which can be summarised as follows:

- This application is simply to try and align the planning consent for the premises with the premises licence for the venue
- The premises licence already contains conditions in relation to prevention of public nuisance especially in respect of a noise management plan
- Having a grassroots visual arts and music venue in Swale is extremely important both for a sense of community and also the mental health benefits
- Grassroots arts and music venues have been undervalued for years and they have been especially and continuously hit during the pandemic so retaining the 10pm curfew on live music at the location could be the difference for the site to continue to survive
- It is extremely difficult for a grassroots venue to run and operate with a terminal hour for their core activity that ends at 10pm
- Local artists often work day jobs and a 10pm curfew limits time to set up and sound check and it also restricts the ability of the venue to have support acts
- The application brings the venue more in line with the Live Music Act 2012 which amended the Licensing Act 2003 so that a licence for live music is not needed if it takes place between 8am and 11pm, it takes place at a licensed premises or workplace; and the audience is no more than 500 people
- We believe that engagement with the residents and Council Environmental Health team can address the local concerns

5.3 Twelve (12) letters of objection from eleven (11) mainly local addresses have been received; with one of these being from Whitstable. The letters can be summarised as follows:

- When the venue was open before lockdown there was extremely, intrusively loud amplified music regularly on Friday and Saturday nights
- The noise made it impossible to sit outside and enjoy the garden in the evenings
- The loudest events were private parties so not events that benefitted the local residents and certainly with no 'cultural' flavour
- As the building is made of corrugated iron the acoustics mean that the noise is even louder on the outside than on the inside with no sound proofing and no sound limiter
- Local pubs have to install various measures to deal with noise nuisance and I am at a loss to understand why the Hot Tin has not had similar measures imposed
- Quality of life was considerably reduced on Friday and Saturday nights
- Unable to hold a conversation or watch the television due to the noise
- Acoustic music at a cultural event is one thing but the venue was hired out for weddings, birthdays etc, with extremely loud, amplified music in a residential area in a totally unsuitable building with no consideration for the neighbours
- To continue to 11pm is something which I strongly object to
- We have never objected to the presence of a case of the running of art exhibitions and similar events at the Hot Tin during the day time and we acknowledge that the

original concerns about the effect on parking were unfounded however, we continue to object to the running of evening music events so close to our home

- The statement provided back in July 2018 to the Planning Committee outlined anticipation of music events being held once a month, and often acoustic and of contemporary classical music
- Within a few months there were weekly DJ evenings on Fridays plus other live music events on many Saturdays. The advertising description of the Unity DJ event of December 2019 included 'playing hot disco funk and bears' with 'wall to wall booty shakers and baby makers' which gives a flavour of the music featured. It has a sustained relentless beat which cannot be escaped
- We cannot invite friends and family to our home on these evenings and we have suffered distress and anxiety
- We have spoken to the applicants about the noise on more than one occasion and contacted the Planning Enforcement team in January 2020 as there had been two music events which had transgressed the planning consent
- The focus of the business has shifted from being a day time community café to a night time music venue as this is where the most financial gain lies, this changes the nature of the business as first described to SBC in 2018
- In Victorian times, the corrugated tin construction would have brought advantages for the church, as passers-by would hear the congregation's songs of praise
- We note that at the time of the original planning application in 2018, the Town Council objected to the application because 'it is in the wrong location for the proposed activity'. Similarly, the Environmental Health Manager recommended a condition be imposed requiring 'no amplified music to be played on the site'. I am unclear why this condition was not accepted however, I note in the Officer's report their anticipation was that the Hot Tin was 'likely to appeal to cultural people, parents with young children, and older people who might appreciate the opportunity of going for tea, cake and a chat'. This has proved not to be the case.
- Fears that the erection of external lighting and a more substantial seating area will bring noise out onto the street
- We have lived in our home for 34 years and have never had cause to complain about noise from previous neighbours. The running of music events has affected the quality of our lives and how we feel about living here. Our preference is that there should be no evening music events, or at the very least, no amplified music in order for us to retain the quiet that we enjoyed prior to 2018 and through the past 18 months of the venues closure
- There are many residents nearby who are elderly and do not wish to be disturbed late at night
- There is inadequate parking for residents in Cypris Road and Westgate Road so the addition of more cars is not welcome as the venue has no car park
- The use of the site as a community hub is excellent, but as it is in a residential area, extending the hours of loud music does not benefit the community
- You can hear when there is music from some way up Park Road
- By extending the hours this can take place it makes the whole environment less welcoming, especially for families

- Should there be an increase to the hours of music and the implication the more drinking it will enable, there will undoubtedly be an increase in public disorder around the site
- As part of my journey to and from work, the idea of having to travel past congregations of people who are heavily inebriated later in the evening makes me uncomfortable and worry for personal safety
- There is not adequate street space to allow for transit along the footpath if there are large gatherings in front of the premises
- Before lockdown and when music events did occur, I have witnessed public urination outside of the premises, which I understand is due to a lack of facilities inside. With the extension of hours and the implication of heavier drinking the likelihood of this becoming a regular occurrence increases. Needless to say this is very negative for the surrounding community.
- I also believe that it would lead to a decrease of its use for community events, the feature that I am most in favour of
- When the venue was operating before the lockdown I had to enter the church at approximately 8.30pm on a Saturday night to complain about the volume of the music. The owner told me that the music would stop at 10pm, I told him it was much too loud and it must be turned down immediately. This he did.
- The volume was unacceptable and I fear that should the new application be approved, this situation will escalate causing me to call the police
- Past experience informs me that this application should not be granted and it is your duty to serve the interests of everybody not just the business
- The noise from the Hot Tin of a weekend was barely tolerable and a nuisance for my children to sleep but we accepted it being a weekend. However the risk of that being every night, living a dozen doors away in concerning, especially having young children with bedtimes and school to attend in the morning
- Even after closing hours it needs to be taken into consideration the other noise disturbances that occur with drinking establishments, the drunken shouting and swearing which isn't fair on local residents
- I manage a retirement lodge 30 yards away and several of the elderly owners have asked me to object on their behalf. Without sound insulation the music at night will be heard by neighbours and cause distress
- I note the letters of support for the proposal that many people say they have enjoyed events and I am sure that's true for them, they choose an event, pay for it, enjoy it and go home. In my house we have no choice and are forced to listen to each and every performance of whatever nature

5.4 The applicant has submitted a response to the objections which can be summarised as follows:

- St Saviours is an excellent example of a Grade II listed Tin Tabernacle and is worthy of being restored as there are very few left in the country and as owners we are dedicated to raising funds to restore it as originally intended for community use
- Since moving here we proposed having an entre for the arts and crafts in the main hall to showcase local and global artisans, writers, performers and the wider community

- The café and bar employ and trains young people who have lived in Faversham since birth, encouraging their creative talents
- There seems to be a misconception that the current application is a new one that differs greatly from the 2018 application but the proposal is to carry on as before as a cultural community venue
- We have not seen any of the noise complaints and allegations substantiated with any evidence to demonstrate a sustained issue nor does the venue have a history of previous substantiated noise complaints
- We believe that any genuine concerns can be addressed with our noise management plan and with engagement of the residents and Swale Environmental Health team moving forward
- Sound pressure levels are checked and monitored in the immediate area surrounding St Saviours with traffic noise consistently reaching considerably higher sound pressure levels than those emitted from events
- We do always and will continue to be available to all our neighbours should there be any concerns
- One of the objectors letters states that they came to the venue to speak to us about sound levels and we immediately adjusted the sound which is verified in his letter. We have since had no further concerns from them
- We have a Noise Management Plan which was approved by Environmental Health in 2018. The Plan was not imposed by Swale but we adhere to it nonetheless
- The objectors at 1 Whitstable Road supported our Crowdfunder page in 2020 to keep our venue alive and open after lockdown by donating money to our cause. We are perplexed as to why they have decided to object to this application
- The issues experienced on 21/12 and 31/12 of 2019 came from a misunderstanding within the Licensing department and Planning Enforcement confirmed that we were mistakenly given permission for these events by the Licensing department
- Amplified music was granted until 10pm under the 2018 permission. Faversham Town Council and the other objectors are incorrect in stating that we were in breach of our planning application for amplified music
- Our customers are respectful regarding noise outside the venue. All events are ticketed and our door staff are fully SIA licensed and we do not allow drinks to be taken outside of our curtilage
- There are adequate toilets (including wheelchair accessible) for staff and customers and there are additional public toilets within 2 minute walk in the park opposite

6. CONSULTATIONS

6.1 Faversham Town Council has objected to the application and states:

“1) The building is not suitable to be used for amplified music. There is no sound insulation. It is situated in a residential area, with vulnerable people living to the rear.

2) The original application was not for amplified music, prior to lockdown the venue had been used for DJ nights. Local Residents have also reported that the venue has operated beyond its permitted hours on several occasions and the Town Council asks SBC to monitor regardless of the outcome of this application.”

- 6.2 The Environmental Health Manager has provided comments on the application as follows:

“Temporary permission for this use was granted 3 years ago. The building is of lightweight construction and as such offers little in respect of sound insulation. In this respect, the premises is unsuitable for regular amplified entertainment (live or recorded) and is more suited to acoustic/non-amplified music. I am aware that the previous planning permission permitted both amplified and non-amplified music until 10pm.

With regards to Condition 2, Environmental Protection does not have any objection to the permission being granted permanently. We have not received any complaints about the current use or about music or other noise emanating from the premises. However, I am aware that both Licensing and Planning Enforcement received complaints in January 2020 regarding loud music after 10pm on 2 occasions.

In order to demonstrate the impact a noise source can have on an area, the appropriate measurement is LA90. This is a measurement of the background noise level and can be used to demonstrate what the existing or current ambient noise level is like in an area before a noise source is introduced. Ideally, when a new noise source comes into an area, it shouldn't result in any obvious change to the existing background noise level. In terms of National Planning Policy Guidance, a hierarchy of the effects of noise exposure is provided. There should again ideally be 'No Observed Adverse Effect' (NOAEL). This means that although a new noise may be able to be heard, it does not result in any change in behaviour. It can slightly affect the acoustic character of an area but not such that there is a perceived change in quality of life. An example of this is that residents do not need to close windows, turn up the TV etc.

In this respect, the best way to address the music/entertainment noise is to ensure that noise emanating from the application site does not give rise to a change in background noise levels.

Regarding Condition 4 (external Lighting) – what has been suggested is minimal however, it is important to ensure that the lighting does not cause as adverse impact on local residents or the locality in general. Lighting details should be submitted for approval prior the lighting being installed. In addition, the light should be fitted with a timer to ensure it is not left on overnight after the premises has closed”

7. BACKGROUND PAPERS AND PLANS

- 7.1 All plans and documents relating to application 21/503772/FULL.

8. APPRAISAL

- 8.1 This application presents some unusual issues. The venue is popular and a logical use for this listed building, but there are clearly noise issues to be considered. The temporary planning permission was intended to allow a three year period of use in which the effectiveness of the original planning conditions, and any problems arising from the use could be assessed. However, due to the enforced closure of the venue since early 2020,

it has only operated for about half of the three year period, providing less time for this assessment to take place. One way to deal with this is to grant a further temporary planning permission with the same, or amended, conditions. However, the applicant is very keen to avoid that uncertainty again, and she is quite clearly seeking a permanent permission. This gives the Council one more chance to frame the planning conditions to ensure that the use can continue without causing unacceptable noise levels.

8.2 Breaking the application down into its component parts, I will deal with each in turn.

Variation of condition 2, the temporary permission.

8.3 I see no objection in principle to a permanent planning permission provided that the planning conditions can be framed appropriately, bearing in mind that if they are framed too tightly they may unduly restrict the business, although here the applicant can at any time seek to have the conditions relaxed. However, if the conditions are framed too loosely the Council will not have any opportunity to step in and tighten them up.

Variation of condition 4, lighting.

8.4 I see no objection to the installation of a traditional lantern over the main door to the building; and I have recommended suitable conditions restricting other lighting, and requiring details of the lantern to be approved by the Council.

Variation of condition 7, extending the hours of music.

8.5 This is by far the most difficult matter to consider. The current planning permission does (at condition 6) provide for opening hours until 11pm on any night of the week. No change is being sought to overall opening hours, although in renewing the permission the Council can alter or amend any of the original conditions. Condition (7) simply restricts singing or music after 10pm, and there are currently no noise limits on the use in the planning permission or in any other licensing or other controls that the Council operates. The applicant is seeking freedom that to be extended to 11pm on Fridays and Saturdays only. This is the only issue I really have concerns over.

8.6 If the music or singing were not audible outside the premises, I would see no objection to it carrying on throughout the entirety of the approved opening hours. However, local representations now suggest that during the 18 months that the venue has been open so far, noise has been audible in nearby homes on Fridays and Saturdays. Having spoken at length with the applicant I gather that she believes that the maximum noise levels generated by the music or singing within the building is no louder than the maximum noise levels from traffic passing by on Whitstable Road, even late at night. This may be so, but such noise is transient and may stand out from lower background noise levels, whilst noise from singing and music tends to be more constant and regular.

8.7 I also understand from the applicant that as the building features large single glazed windows and a lightweight form of construction, external noise (even with the use of sound deadening 'curtains') can be a nuisance inside the building, preventing recording activities. This is indicative of the delicacy of the problem here.

8.8 I have met with the applicant and discussed a possible way forward; that of allowing the requested extended hours for music and singing if these are limited in terms of noise

levels measurable at the property boundary, perhaps with different noise level allowed at different times of day, and she seemed keen to explore that option. This could be in terms of permanent maximum noise levels that could be independently, and if necessary covertly, measured to ensure that whoever ran the premises, and whatever activities took place within the building, that local amenity would be safeguarded.

- 8.9 My understanding at the moment is that average background noise levels here are likely to be fairly low, especially late in the evening. As such, I do not believe that it is appropriate to accept that the noise levels emanating from the building can be allowed to reach the levels of the highest noise source in the area. Rather, they should be set avoid any noticeable change on behaviour of others according to the NPPG advice referred to by the Environmental Health Manager. As such the Environmental Health Manager has agreed to assess the local background noise levels in the late evening period to inform a suggested noise level for the applicant to work to via planning condition. Once this work is done, I hope to be able to discuss the suggested noise levels with the applicant ahead of the meeting and report further at that time as this may help the Council to make a decision sooner rather than later in the light of the current closure of the business pending the decision (the original temporary planning permission having expired in July this year) and the business being very keen to re-open as soon as possible after the prolonged enforced closure period.

9. CONCLUSION

- 9.1 I am keen to explore a way to allow this popular use to continue, but I am aware that as currently framed the planning conditions do allow very considerable potential to create a significant local noise nuisance, even if it might not have done so far. As such, in contemplating a permanent planning permission here, the lesson that has been learnt over the last three years is that there should be a robust safeguard in place in the longer term to ensure that the use does not become a nuisance to residents, some of whom do live in homes that are extremely close to this unusual building. I hope to be able to report on a possible way forward at the meeting.

10. **RECOMMENDATION** - Grant subject to the following conditions:

CONDITIONS

- (1) Details of any mechanical ventilation system that is to be installed shall be submitted to and approved by the Local Planning Authority and upon approval shall be installed, maintained and operated in a manner that prevents the transmission of odours, fumes, noise and vibration to neighbouring premises.

Reason: In the interests of residential amenity.

- (2) No floodlighting, security lighting or other external lighting shall be installed or operated at the site without the prior written consent of the Local Planning Authority other than a traditional lantern over the main entrance door.

Reason: In the interests of residential amenity.

- (3) Prior to the installation of the lantern referred to in condition (2) above, manufacturers details of the proposed lantern shall be submitted to and approved

in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

- (4) The approved lantern hereby approved shall not be illuminated except during the hours that the premises to which it relates is open for business.

Reason: In the interests of residential amenity.

- (5) The premises shall be used only for the purpose of a community café and arts centre and for no other purpose, including any other purpose within Classes E, F.1 or F.2 of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

- (6) The use of the premises hereby permitted shall be restricted to the hours of 8 am to 11pm, seven days a week.

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

- (7) No recorded or live music or singing shall be permitted on the premises after 10pm on any Sunday to Thursday and after 11pm on any Friday and Saturday.

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

The following condition is to be confirmed after a site visit by the Environmental Health Manager to measure background noise levels:

- (8) Music or entertainment noise emanating from the premises shall not cause any increase in the pre-existing background noise level of xx LA90(5mins) at the site boundary at the specified location(s).

Reason: In the interests of residential amenity.

The Council's approach to the application

The Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

