

From: Paul Stanley
Sent: 07 February 2019 15:29
To: Lorraine Neale
Subject: Fwd: objection

①

My objections to
19/00380 LAPRE

I can supply the emails to back up my comments if it is necessary

I have recently noticed that the marquee is extremely close to the winery's own pond which has recently been enlarged and there doesn't appear to be any life saving equipment or any form of barrier

Surely as it appears the owner will be using the marquee for events there is a very large risk of drunken revellers stumbling into this pond

AT LEAST THIS WILL STOP THEM GOING OUT ON THE COUNTRY ROADS IN THERE CARS
AND KILLING SOME INNOCENT MEMBER OF THE PUBLIC

please add these comments to your website in full

Because they are all completely relevant objections on all criteria

Begin forwarded message:

From: Paul Stanley

The winery owner is giving false information on his application for this variation when he says that they have had no issues with anyone.

The winery HAS had issues with polluting the next door neighbours pond caused by inadequate drainage systems this has been proven by the national environment agency I have emails to prove this because I was the one who reported it and received updates on their progress.

The situation now is that all grey water and surface water has to be stored in holding tanks and removed by a registered waste removal company by tanker lorry,

because of this the drainage system at the winery is insufficient to cope with the volume of people expected to attend the winery events especially in wet weather conditions.

Another issue the winery has had with the local residents is that the electrical supply to the winery was and to some extent still is supplied via the the supply to the local residents property's and causes disruption to the residents supply this was proven to be the case when UK Power carried out tests on owner supply.

This resulted in the winery having to have their own substation installed ,we are still uncertain if this has stopped the problem it is still in doubt until UK Power have removed the wires from our supply cables completely.

There has been other issues concerning alarms going off all night and when I reported this to the owner I received unnecessary abuse, also when I reported machinery making a lot of noise over night I was told that they would look at the problem but hinted that only if I withdrew my objection to their license application I also have emails to prove this.

On another occasion the owner offered to buy us out of our tenancy presumably to stop my entirely valid complaints to him and the council.

We also object to the position of the marquee and the mobile toilets that are specifically for events as stated on the plans it is in a very obtrusive position as it over looks the neighbours garden and is in front of our windows and is only 10 metres from the neighbours fence and 30 metres from our houses there is absolutely no reason why it can't be the other side of the winery adjacent to the car park where it would not cause so many noise issues to the local residents,

presumably they will class it as an indoor facility for music, drinking alcohol and entertainment which we all know ends up leading to drunken behaviour, I have already seen very unsavoury behaviour taking place behind the marquee during a previous event.

On 24th January 2019 another event had approximately 300 people attending unless they were only drinking their tastings someone must have paid for alcohol to be consumed on the premises surely if that was the case

they were braking the licensing law.

If the winery is allowed to sell alcohol to be consumed on the premises the local roads will not be a safe place to be for the local residents, the Staplehurst running club, horse riders, cyclists, walkers and motorists taking their children home from Bethany school.

As the owner has stated in his application the winery is in a very rural and remote position which means that all visitors must travel to the winery by motor vehicle or bicycle and leave after consuming any amount of alcohol instead of a small amount issued for tastings surely in these times of awareness about drinking alcohol and driving it would be considered completely insane for any responsible council to grant this application to send drunken drivers onto the narrow roads surrounding the winery as the blood would be on their hands in the event of any accident caused by drunken drivers,

Surely it is better to avoid the risk by not allowing the winery this variation and it's obvious as you can see from my comments that the winery owner and his staff are not compliant to any conditions I would like to make it completely clear that we are entirely happy for the winery to continue as a WINERY not a pub with events after hours as this is what it will become with all the associated issues of noise, drunken behaviour danger to the general public

P Stanley

From: Paul Stanley

Sent: 21 February 2019 10:30

To: Lorraine Neale

Subject: Fwd: Hush Heath Winery

Regards from Paul Stanley
P Stanley Property Services

Begin forwarded message:

From: Paul Stanley

Objection to the license to sell alcohol for consumption on the premises at Hush Heath Winery

Please confirm recipient

The issue I am concerned with is public safety on the lanes around the winery as there is very little or to put it bluntly no police presents in this area which will give people who will be drinking at the winery the impression that they can drink more alcohol than they would in a more urban area this in turn will cause a danger to other road users surely that would be considered a crime and a public nuisance including a danger to children .

Regards from Paul Stanley

From: Paul Stanley

Sent: 25 February 2019 13:18

To: Lorraine Neale

Subject: Hush Heath Winery

I would like to draw your attention to the national rural crime network 2018 survey

It highlights the fears of the residents of rural areas and I feel this is very representative of the way us local residents who live near the winery and use the lanes every day feel.

It also points out that

The local authorities are not doing enough to address these fears so I would think this is a very good opportunity to prove that this council is trying to address the fear that we have over the risk of drivers committing the crime of driving while under the influence of alcohol which creates a danger to other road users of all types.

If the winery gets this license it will obviously mean that the council would undoubtedly consider it more important for someone to make more profit out of selling wine to the people who visit the winery regardless of the undoubted massive increase in danger to the general public.

IF THAT'S THE CASE YOU JUST AS WELL HAND OUT LICENSES TO THE DRUG DEALERS IN MAIDSTONE TOWN CENTRE

Please add these comments to your website

and please confirm that you have

Regards from Paul Stanley

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From: Natasha Wyeth
Sent: 14 February 2019 12:51
To: licensing@sevenoaks.gov.uk
Cc: Lorraine Neale
Subject: Objection to Hush Heath Winery application: 19/00380/LAPRE

Please find attached my letter objecting to the above application.

Regards
Natasha Davidson-Houston

Ms Lorraine Neale
Case Officer
Licensing Authority
Sevenoaks District Council
Argyle Road, Sevenoaks
TN13 1HG

14 February 2019

Dear Ms Neale

Objection to application to vary premises licence

Hush Heath Winery – Ref: 19/00380/LAPRE

I write to object to the above application to vary the premises licence (18/02446/LAPRE). The application seeks to remove a condition limiting the supply of alcohol at the premises to tasting samples only and to permit the sale of alcohol for consumption (rather than just tasting).

I object on the following grounds:

- 1) Public nuisance
- 2) Risk to public safety
- 3) Unclear and inaccurate information provided by the applicant
- 4) Breach of planning conditions

We live in close proximity to the winery and there are other residential households living close to the site. Key to my objection is the location of the winery in a peaceful, rural area on a narrow country road. The variation to the licence would enable the winery to expand operations and change the use of the winery - from a visitor experience based on tours and tastings to become one based on consumption of alcohol on site and a more attractive venue for corporate / public events.

Whilst I understand that Hush Heath Winery is not responsible for the actions of those driving on the roads once they have left the site, the increase in traffic will stem directly from the expanded visitor experience proposed in this application. It is therefore vital that proper consideration be given to both the nuisance and safety implications of the increased traffic on the roads leading directly to / from Hush Heath Winery and the effect of this on local residents.

Further information on the reasons for my objection is given below.

1. Public nuisance

Hush Heath Winery is situated some distance from the main road and only accessible by narrow, rural roads. These are bordered by deep ditches on both sides. There are no pavements. There is no street lighting. The road is narrow and limited to single lane in many places, including the stretch between my home and the winery. My family walk on these roads to enjoy the countryside and walk our dog. My children enjoy cycling on these roads and my husband cycles to and from home to reach Staplehurst village and the train station for work. The lanes are also used by children riding ponies and those using pony traps. This is a quiet peaceful area in a remote, rural setting with much local wildlife, including bats (a protected species), breeding owls and deer.

The proposed variation would cause a nuisance to residents in the local area because:

- a) The change in visitor experience proposed in this application will lead to an increase in cars, coaches and delivery vehicles. The winery has already erected signage on the premises for "Coach Parking", an advert has been placed in the local press to recruit a full time Events Manager, and the Winery is promoting the premises as a venue for corporate and public events on their website. This demonstrates the intention of the winery to expand the business on a much more ambitious scale than is reflected in the notes to this application. The narrow roads leading directly to the premises are wholly unsuitable to support any increase of traffic. The noise of the increased traffic, likely congestion from the increase in vehicles, and particularly the demonstrated intention of the winery to attract visitors arriving as part of an organised party on larger coaches will cause noise and congestion on the narrow rural roads which are the only access routes to the site.
- b) It is impossible for larger vehicles to pass oncoming traffic without driving up onto the verges in many places on Five Oak Lane and the other lanes nearby. Large vehicles using the lanes in this way churn up the verges and put pressure on the sides of the ditches leading to collapse in places. This blocks the waterways and increases the risk of flooding on the roads and to surrounding properties. This area is known to flood and clear waterways are essential for protecting our homes from flood and for maintaining clear access on the roads. Recently substantial work was undertaken by the Highways Department to repair these ditches but there were no reinforcing or further measures taken to support an expansion in traffic that will follow granting this application, particularly of larger vehicles which cause greater damage.
- c) The extended opening hours requested in the application will mean that increased traffic to and from the Winery will be using the narrow roads leading to the site during peak time in the afternoon – between 4pm and 7pm is when many local residents are returning home from school and work by car but also walking on foot from the bus stop on the main road (A229) or cycling back from Staplehurst train station. Additional traffic on the narrow lanes at this time will cause significant disruption to local residents trying to get home.
- d) The surface of the road is very uneven and often requires surface repairs. The road is built on unstable, heavy clay that is prone to sinking. It is not a high-quality road surface suitable for larger traffic volumes. Heavy traffic, especially from larger vehicles such as coaches, is likely to cause further damage to the road surface creating more nuisance for local residents that rely on these roads to access their homes, and more potholes risking damage to local cars.
- e) If successful, the application would enable the operation of the winery to be expanded and lead to an increased number of visitors to the site and for longer operating hours. This would increase noise levels and increase the periods of noise, disturbing local residents. The application submitted is unclear about the operations carried out on site for the online retail purposes stated. If the hours of operation are permitted to be extended until midnight the premises could be used for warehousing operations which will generate noise into the night and may necessitate late night delivery vehicles arriving/departing the site. In a rural area close to residential properties such wide-ranging permission to operate until midnight seven days a week is unreasonable.
- f) Visitors will be encouraged to stay for longer periods as they will be able to drink alcohol on site which will further increase the scale of operations and generate increased noise. More noise will be generated in open air areas through the increased use of the extensive outside seating areas, visitors congregating outside for smoking breaks, visitors arriving/departing through the outdoor car park areas, and use of the large "Hush Heath Winery" branded marquee structure that has been present on site for many months. These activities will generate noise that cannot be contained so will travel further. This will cause increased nuisance to residents in a wider area as well as those in the immediate vicinity of the winery.

- g) The consumption of alcohol on site will encourage a wholly different type of visitor experience and facilitate different social activities which are likely to generate more noise and high spirits than the sample tasting, tours and retail activities currently on site. This will damage the peaceful character of this quiet rural setting and will be much more likely to disturb the quiet enjoyment of local residents.
- h) It is likely that there will be greater noise from machinery such as heating / air conditioning units in the visitor areas in order to support the expanded operations. This will further spoil the quiet rural nature of the location. Noise from existing machinery can already be heard along the lanes surrounding the winery premises.

2) Risk to public safety

As described above, we live close to the winery and these roads are not suitable for a substantial increase in car traffic and certainly not for higher volumes of larger vehicles transporting coach parties or making deliveries. The only roads leading to / from the site are the winding, narrow, country lanes with deep ditches on each side of the road as described above. A change in visitor experience facilitated by granting this application would directly lead to an increase in traffic on local roads that are not suitable for this purpose. Therefore, the proposals in this application directly pose an increased risk to pedestrians and cyclists, and drivers of vehicles using the roads.

These highway safety risks were expressly recognised by the Council as part of the planning application process. The Council imposed conditions to limit opening hours and limit the supply of alcohol to tasting samples only to specifically address the risks to highway safety.

The application poses a risk to public safety because:

- a) The proposals made by the applicant are to enable expanded operations that would increase the number of vehicles and attract larger vehicles such as coaches to the site. There is not sufficient space for vehicles to pass oncoming traffic safely in several areas of the roads leading directly to the winery from the main road and the winding nature of the roads restrict visibility of oncoming traffic.
- b) The lack of pavements and safe crossing places, and narrow roads place pedestrians at greater risk if traffic is increased directly as a result of expanded visitor activities at the Winery. Where verges are present these are very muddy and slippery and close to overhanging branches from hedges and trees. This means that when vehicles approach from each direction and try to pass on single lane and narrow stretches of the road there is little safe space available by the road for pedestrians. I have personally experienced this when pushing my pushchair on the road, with cars not leaving enough room for pedestrians or nearly hitting us with their wing mirrors as they squeeze past. This risk will be increased with an increased number of visitors to the winery who are unlikely to be familiar with these road conditions.
- c) As a rural area, this location is unsuitable for street lighting. The increased volume of traffic generated by expanding the activities at the premises poses greater risks to the public using the roads around the Winery, especially in the winter months when the Winery is open to the public but daylight is restricted. This is particularly the case in the weeks leading up to Christmas when the Winery operates extended opening hours (which were not acknowledged in this application) later into the dark evenings.
- d) The extended opening hours requested in the application coincide with the peak travel time on Five Oak Lane (4pm-7pm Mon-Fri). This is the time when most local residents return home from school and work and will travel home along Five Oak Lane from the main road (A229). The extended opening hours proposed would mean that traffic to and from the Winery would also be using Five Oak Lane and the surrounding narrow roads during this time. The variation to allow consumption of alcohol on the premises is requested to drive up visitor numbers so the volume of traffic will also be greater. This will increase the traffic on the narrow roads at the busiest time increasing the risk of traffic accidents. At peak time (4pm-7pm Monday – Friday) the volume of cars on Five Oak Lane and other surrounding local roads is highest, but there are also children and other

residents walking home on foot from the bus stops on the A229 at the bottom of Pinnock Lane (which becomes Five Oak Lane) and cycling back from Staplehurst train station. The extra traffic generated particularly during the extended opening hours of the Winery would immediately put these local residents at substantial risk of harm, particularly during the darker winter months.

- e) The planning conditions prohibit external lighting at the site. Permitting the extension of operating hours as requested in this application would mean the site will be at times open to the public after daylight hours, particularly during the winter months. As external lighting is prohibited this will prevent the winery from operating safely outside of daylight hours, particularly if visitors are moving around the site under the influence of alcohol consumed on site.

3) Unclear and inaccurate information provided by the applicant

a) Unclear and inaccurate information on operating times

The information on operating times provided by the applicant is vague and inaccurate. The application states that the hours of opening to the public during the winter will be limited to the existing hours and states these as 10am-5pm. This is not the case. The Winery already opens for extended hours for many weeks leading up to Christmas, remaining open for sales to the public until 6pm. Allowing the applicant to have wide-ranging permission to supply alcohol on the terms requested will permit the winery to incrementally extend their operations. The notes in the application are not accurate and will not provide any kind of safety net to limit the operations of the Winery. Whilst I object fully to granting permission to supply alcohol for consumption on site at any time, should the Council decide to grant permission conditions should clearly restrict the opening hours to 10am-5pm during the winter months.

The current application does not give sufficient information about what the late-night online retail activities would involve on the site during the hours of 10am-midnight. The application does not give information about the level of staff / deliveries / machinery operation that would be present during this time. Without this information we cannot assess the potential level of public nuisance. The variation should not be granted without providing this information and giving local residents the opportunity to consider and comment on it.

b) Insufficient information on mitigation of risks associated with the change of use

Hush Heath Winery currently only has permission to run an operation open to the public based on tours and tastings. However, the Winery is currently advertising for a full time Events Manager to be employed on the premises to manage substantial public and corporate events. Permitting the supply of alcohol for consumption on site will also change the nature of the Winery so that it becomes a destination venue for the public to enjoy drinking alcohol. This represents a wholly different commercial proposition and will appeal to a larger and broader customer base. Granting this variation will facilitate this change in operations. The limited information contained in the notes to this application does not address this change of use or the clear intention of the winery to operate on a much larger scale. The application fails to provide sufficient information about the management of nuisance and risks to public safety from larger-scale public and corporate events with alcohol permitted to be consumed on site. This change of use poses new risks which are substantially different to the risks posed by individual public visitors attending for tours and tastings, and these risks are not adequately addressed in the application.

4) Conflict with existing planning conditions for Hush Heath Winery

There are a number of conditions in place as part of the planning consent for the winery. This license application is in direct conflict with these existing planning conditions. The planning conditions were put in place by the Council to protect the safety of local residents and to protect us from public nuisance. These conditions include:

- a) Retail use must be secondary to the winery to protect the character of the local countryside and minimise nuisance to local residents
- b) No retail sales to the public after 6pm and no sales at all on Sundays or bank holidays to safeguard enjoyment by local residents of their homes and prevent harm to highway safety;
- c) Prohibited exterior lighting around the property to protect the visual character of the rural area.

The licence process and planning process must support each other and granting this application would undermine the planning consent and conditions already in place.

Yours sincerely

Natasha Davidson-Houston

From: Richard Davidson-Houston
Sent: 14 February 2019 14:07
To: Licensing
Cc: richard
Subject: Hush Heath Winery – Ref: 19/00380/LAPRE

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Dear Sir / Madam,

I attach a letter stipulating my objections in relation to applications submitted by Hush Heath Ref: 19/00380/LAPRE .

Yours faithfully,

Richard Davidson-Houston

Ms Lorraine Neale
Case Officer
Licensing Authority
Sevenoaks District Council
Argyle Road, Sevenoaks
TN13 1HG

14 February 2019

Dear Ms Neale

Objection to application to vary premises licence

Hush Heath Winery – Ref: 19/00380/LAPRE

I write to object to the above application to vary the premises licence (18/02446/LAPRE). The application seeks to remove a condition limiting the supply of alcohol at the premises to tasting samples only and to permit the sale of alcohol for consumption (rather than just tasting).

I object on the following grounds:

1. Public nuisance
2. Risk to public safety
3. Unclear and inaccurate information provided by the applicant
4. Breach of planning conditions

A detailed breakdown of the objections in each of these four is put by Mrs Natasha Davidson-Houston of Clarkes Farm in her letter dated 14/02/2019 with which I agree in its entirety.

Yours sincerely

Richard Davidson-Houston

From: Gillian Ewbank
Sent: 20 February 2019 18:03
To: Lorraine Neale
Subject: Re: Hush Heath Winery 19/00380/LAPRE

Dear Ms Neale

As stated the further traffic by selling wine by the glass and extended opening hours will result in more traffic on a road which would require drivers to drive off the road onto private drive ways and further damage to ditches is a clear result in public nuisance and as explained the threat to public safety to cyclists/runners and walkers.

Why is it that we have to fight to protect our property but Hush Heath Winery doesn't have to explain why they need this extra licensing?

With kind regards

Gill and David Ewbank

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From:
Sent: 21 February 2019 16:44
To: Licensing
Cc: Lorraine Neale
Subject: Hush Heath Winery 19/00380/LAPRE

I wish to raise an objection to HHW 19/00380/LAPRE –

With the removal of the condition limiting the sale of alcohol to tasting samples only and changing to selling by the glass, with longer opening hours, would indicate that 'visitors' to HHW would be able to make the Winery a destination drinking venue, rather than a 'place to visit'.

This would indicate that there will be far more traffic movements on the lanes around HHW.

Already, with the increase in traffic since the opening of HHW, access to and from properties in the area is already difficult – more traffic would put local residents in added danger and risk when entering and exiting their properties. The roads around HHW are habitually used by walkers/joggers/dog walkers as they are considered 'safe', these people would be in peril, given a further increase in traffic movements, whether it be delivery lorries, coaches or private cars visiting HHW.

An increase in traffic movements, would also generate public/environmental nuisance, such as air pollution from exhaust fumes. Longer opening hours would mean extra lighting during the winter months, leading to light pollution.

Recent advertising proclaims a '200 seater tasting area', also that HHW is the 'perfect wedding/corporate event venue'.

An indication that the application 19/00380/LAPRE would be the 'thin end of the wedge'.

A far cry from the original planning and licencing applications submitted to Maidstone Borough Council from an agricultural business, which essentially HHW is.

Richard Crumpling

From: Alison Clark
Sent: 21 February 2019 23:20
To: licensing@sevenoaks.gov.uk
Cc: Lorraine Neale
Subject: Hush Heath Winery - 19/00380/LAPRE

Regarding my concerns relating to the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

I am writing with regard to the application from Hush Heath Winery to vary its Premises Licence, 18/02446/LAPRE.

I live at , Five Oak Lane. I have lived here for 7 years and can say I have knowledge of where I live, including the area and its lanes and roads. **The roads and lanes are used by horse riders, pony traps, cyclists, hikers, dog walkers and running and cycling clubs, as well as usual road traffic, including farm machinery. We walk our dogs, have bicycles and my daughter has a horse. We use the farm shop on Pinnock Lane and the egg farm on Five Oak Lane.**

My family and I visited the winery at Christmas in response to the advertising of their "Christmas Shop". There were half a dozen or so people there. It was not a Christmas Shop but a bar offering wine tasting, mince pies and sales of their cider and wines. Not what we were expecting. The venue is vast and spectacular. The terrace is set up with tables and chairs as is the inside hall area. It is arranged to cater for hundreds of people. I asked the hostess about the kind of events they hold: imagining huge corporate conferences, weddings and parties with elaborate catering and entertainment. She said they organised tours of the vineyards at certain times of the year, wine tasting and a chance to buy their wines. She went on to tell me the owner of HHW had owned Libertys in London and has bought several restaurants in the area. We left confused and wondering why a vineyard was set up as an events venue.

It has now all become clear as it is reported that HHW intend to run events for thousands of people throughout the year. I am extremely **concerned for public safety and the environment.** The lanes and roads are not designed for heavy traffic, least of all HGV lorries and coaches. Potholes are a year long hazard. As soon as they are fixed, they open up again. Not being 'A' roads, they are not gritted during periods of snow and ice. **Consequently, there are accidents, injuries and damage to hedges and property.** I have seen cars in the ditches having come off the road, one of which outside my house. A car skidded on ice and knocked down several fence panels protecting my garden. I fear that should HHW be granted an extension to their license, the **increased danger on our lanes will be a worrying public safety issue.**

Certain times of the year during harvest, seed planting and muck spreading, the roads and lanes become hazardous. This winter, combined with rain, the roads were covered in thick wet mud, so much so, the road tarmac was not visible and walking was out of the question and driving slippery. We choose to live in a rural location and accept these inconveniences. However, the lanes are narrow and in places only wide enough for one car to pass. Certainly these roads and lanes are not suitable for buses and coaches. **The additional traffic, wear and tear to our roads would make them even more dangerous.**

I am concerned about the danger to both adults and children using the roads and lanes for leisure activities: **horse riding, walking, running and cycling as well as getting to work and for children walking to school and to the bus stop.** On weekends, especially during the spring and summer, these lanes are used for organised cycling and running races. On week days, I see **children get on and off school buses and walk along Pinnock Lane and further.** Running groups use the lanes on a daily basis. I often walk to the farm shop and the egg farm as do many of the local residents. There are several riding stables and farms and the lanes are used for hacking. **An increase in traffic, both cars, HGVs and coaches will make it very dangerous to carry out these every day activities.**

There is no street lighting beyond the entrance to Pinnock Lane from the main road. The entire length of Five Oak Lane and adjoining roads are in complete darkness on winter evenings and at night. **As well as the danger to the public, deer and other wildlife will be killed and injured due to increased road traffic.** If more lighting is planned, the consequential light pollution would too have an impact on the environment.

It is clear HHW have plans to further develop a sizeable events venue. The buildings are there ready to go. The car park area alone can cater for hundreds of vehicles. Why was planning permission granted for the event buildings and car park when HHW had conditions to their licence limiting the sale of alcohol and food. Was the removal of conditions expected to also be approved? **Public safety, prevention of public nuisance and the protection of children from harm, as well as the environment, must now take priority.**

I respectfully request that my concerns be considered and taken into account when reviewing Hush Heath Winery's application.

Yours sincerely,

Alison Martin-Clark and Jill Clark

From: Sally Humphrey
Sent: 23 February 2019 10:00
To: licensing@sevenoaks.gov.uk; Lorraine Neale
Subject: HHW

Could you please acknowledge safe delivery of this e mail thank you
Dear Ms Neale

Hush Heath Winery (HHW)
Objection to Licence Application: 19/00380/LAPRE
Grounds for objection: Public Nuisance and Public Safety

I live at _____, with my husband
Kim. _____ is only 250 metres from HHW and I have lived there since 1982. We were attracted to this because of its rural location, wanting to raise our family in the countryside and to enjoy a peaceful life. We would now like to continue to enjoy the same life style into our retirement and with our grandchildren and extended family. If HHW is successful in getting permission to sell wine by the glass the tranquil environment of our home will be shattered.

I am writing to object to the winery’s application to remove the condition on its licence that “the supply of alcohol on the premises will be limited to tasting samples only” and to extend its opening hours until 7pm. The notice on the winery gates says that the proposed variation will “enhance the visitor experience with the sale and supply of alcohol”. That does not make sense to me as, apart from agricultural use, the winery is supposed to be a “tours and tastings business”, and my understanding is that any tasting is ancillary to the main use as a winery.

I understand that I have to address my objections to the four licensing objectives. I think that the variation will result in public nuisance and a threat to public safety. This is because selling wine by the glass will be used to attract many more visitors into the winery, with many more vehicles on the lanes. I notice that the winery’s application says that, in relation to the prevention of public nuisance, the variation will have limited impact (if any). I completely disagree with this.

The winery is situated in a quiet, rural area of great natural beauty. It is also an area of low background noise. Selling wine by the glass is not acceptable in such an environment as it is a totally unsuitable area for this activity to take place, and attracting more visitors or tourists to this rural community will change it forever. We are all so used to being able to sit in our gardens and enjoy the bird song and relax. With all the extra influx of traffic, people and human noise this will no longer be possible. When people arrive in the car park and are drinking on the terraces outside the winery (which will be the case in the summer) during the day will make noise, we will be able to hear from our house.

The application does not mention how noise from visitors at the winery be prevented. All it says is that the roof and ground floor terrace areas face away from residential property located in Five Oak Lane. That does not help, given that these terraces are located in open countryside, as is the car park. For example, in the past scouts have camped once a year in Snoad Wood courtesy of the then owner. It is now part of HHW estate (and is further away from our house than the winery). When they camped you could clearly hear them having fun, but as it was once a year and such a good experience nobody complained. This was one scout pack comprising about 25 people in total. Sound travels a lot and the area appears to be in a bowl where even normal conversation resonates and carries.

All the advertising for HHW clearly states they are open 7 days a week. I had thought that the planning permission stated that it should be closed on Sundays. This has not happened. Particularly as there is a planning restriction which means that winery is not supposed to be selling any food. I understand from a letter I have read from another resident that there are already several potential breaches of planning.

The winery is open seven days a week and is visited by, not only small mini-buses, but also by large coaches which also contravene the original planning brief. I have seen a large coach from the continent struggling to get in the entrance to the winery. There is no public transport to the winery. If numbers of visitors going to the winery increases, those people will arrive by car or coach.

The lanes, are just that, lanes. They are unsuitable for more heavy traffic. Large vehicles which are unused to these lanes will be more and more frequent and these vehicles bringing visitors to the winery will be causing damage and danger in their wake. We drive, cycle and walk these lanes on a daily basis and know the pitfalls. Five Oak Lane is poorly maintained with deep ditches in places. Driving through lanes is completely different to driving on other types of road, involving pulling over onto verges and reversing up to allow larger vehicles to pass, trying to avoid the large pot holes and missing edges to the road. I have recently been made aware of advertisements for wine tasting tours that involve coaches from 28 to 53 seaters, this fills me with terror. Does there have to be an accident before anyone listens to reason?

The lanes are used for recreation by the local communities. Staplehurst has a thriving running club, they make full use of the roads round and about. You often pass groups of four or five people running. The area is also very popular with local cycling groups often 10 or more in the peloton.

Maintenance of these lanes is only done on a fire-fighting basis and as such in the 36 years I have lived here only a quick top layer or urgent filling of pot holes has occurred. These lanes were cart tracks and have no proper foundations. The ditches flow very fast in winter and subsidence is common, costing the rate-payer dearly for the comings and goings of these juggernauts. Their weight undermines the sides of the ditches which erode under the grass verges. From the driver's view all looks well until you pull over to let someone pass and the ditch collapses. This has happened.

In September 2017 shortly after the last licensing hearing I noticed direction signs on the verges and heard lots of cars arriving late afternoon early evening. When I investigated I found HHW were having an event. Their car park was overflowing and there were numerous people on the balcony. (I have send on another e mail a photo that I took that evening). That evening the hum of conversation and laughing was clearly audible from my garden and very intrusive in this normally tranquil location. I am really worried that this is what will be happening every day in the summer, particularly at the weekends. There will be nothing to stop that happening.

In conclusion

When the winery applied for planning permission 2017 the application did not include any details of the scale of increase in visitors, but said there would very little increase in traffic. This clearly is not the case. It was one of the reasons given by KCC highways that they had no objection. There was no mention of coach tours, just people arriving in individual cars and a small number maybe in small mini buses. These coaches are going to the winery. This is not by chance, but they are being actively encouraged to go there, and I think that is making the roads dangerous. The owners of the winery are now wanting to run the winery on a much larger scale than was set out in the 2017 planning application, and this is going beyond a tours and tastings business and it is moving into an events business. None of this was mentioned in the 2017 planning application.

Given the rural location of HHW, I firmly believe these matters are relevant to the licensing application, in order to protect the countryside and rural area around my home. It will create a public nuisance and public safety issue trying to drive up the number of visitors to 50,000 (which is what a press article has reported the owner as saying) as it will increase the number of vehicles using the lanes making them very dangerous, and HHW will be responsible for this as it increasing the traffic on our lanes. It will also increase the noise from people and traffic.

Perhaps selling wine by the glass will encourage drink driving as the nearest public transport is a bus 2 miles walk away and the railway station over 3 miles. People who have had a drink are also inclined to be louder in their general demeanour, which adds to my concerns about noise caused by people.

I also think that there is an increased risk of crime as a result of what is proposed. Perhaps with extra money from sales kept on site which will increase with sales of wine by the glass. With the potential of extra cash being around and transported this can only increase.

Waking up 7 days a week 364 days a year not knowing whether I am going to be able to enjoy the peace and quiet of my garden is not how I wish to live my life and seems totally unbalanced in favour of HHW. One company can surely not have priority over several residential properties in the very near locality. I feel so strongly about this application, and the effect it will have on my home, that I attended the Parish Council meeting on Monday 18th February and voiced my opposition, this was a very alien environment for me and a decision I did not make easily. I have never done anything like this before.

Finally, this continual process of responding to applications from HHW on licensing matters every few weeks is extremely stressful and as such has caused me many sleepless nights. This is the third one I have responded to. I hope you can give my objections your careful consideration, thank you.

Sally Humphrey
Sent from my iPad



From : shirley.stallman
Date : 22/02/2019 - 10:38 (GMTST)
To : licensing@sevenoaks.gov.uk
Subject : hush heath winery

8

I would like to put a objection in to the licensing application to sell by the glass and to extend winery opening hours. at hush heath winery; I live in in five oak lane Staplehurst.
,Since opening there doors a few years back the traffic has increased 10 fold, the kcc highways inproved the road a couple of years back and now has become a race track.
walking my dog I have ended up in the hedge and once in the ditch where traffic will not move over.
the amount of large lorries using the lane with no pull in places for traffic coming from the up the lane has cause problem with lorries either reversing back up the lane or cars having to reverse'
more traffic would cause road damage, danger to life because of deep ditches. is unsafe to walkers , unsafe for cyclist, motor cyclist, unsafe for horse riders and will in danger wild life which we have a lot of.
The lane is too narrow for heavy traffic. The bollards just passed my home have all being broken from lorries and cars trying to pass one another, the road edges have turned to mud also.
there is no street lighting or hardly any white lines marking the lane
please do not grant the license.thank you. Shirley Stallman
COPY OF LETTER SENT TO LIC
ENSING@ SEVEOAKS .GOV.UK

From: Andrea Hodgkiss
Sent: 24 February 2019 16:25
To: Lorraine Neale; licensing@sevenoaks.gov.uk
Cc: Angus Codd
Subject: Letter of Objection - 18/02446/LAPRE Hush Heath Winery



Dear Lorraine

Please find attached the our objection in relation to this application to vary the premises licence at Hush Heath Winery.

I would be grateful if you could confirm receipt.

Kind regards

Andrea Hodgkiss and Angus Codd

February 24th 2019

Lorraine Neale
Case Officer
Maidstone Borough Council
Licensing Department
lorraineneale@maidstone.gov.uk
licencing@sevenoaks.gov.uk

Dear Ms Neale

Premises Licence Number: 18/02446/LAPRE

Application: Variation to the Premises Licence dated 29th January 2019

My husband and I live with our three children, aged 13, 11 and 10 at

is located 200 metres from Hush Heath Winery (HHW). We have lived here since 2012 bringing our children up in an unspoilt, quiet, rural location. We use the lanes to commute to work, travel to school. Our children ride their bikes on the weekends. I run each weekend on the lanes surrounding the winery and my husband frequently runs to and from Marden station at 5.30am and 6pm. We enjoy the peace and tranquillity of our garden and woodlands during the evenings and at weekends. In the summer months our children camp in our woods and play. We relax in our garden and enjoy the peace and quiet. We chose to live in a rural environment and we would like this rural amenity to be protected.

We have always understood that HHW is, as its name suggests, a winery which also provides tours and tastings. This is an agricultural business with a wine tasting component that is strictly ancillary to the agricultural business of producing wine. In 2009 the Applicant was given permission to establish the winery on Five Oak Lane, and in 2017 it was granted permission to expand the winery. The application in 2017 was made on the basis that the winery needed a new processing hall, and the visitor facilities would include "a dedicated "tasting" room, shop and terrace". In allowing the establishment, and now expansion of the winery, the Council have imposed planning conditions on the building in order to protect the rural amenity of the open countryside around HHW, protect adjoin occupiers in relation to noise from plant and machinery, and also to safeguard highway safety on the roads to and around the winery.

The fact that the condition on the Premises Licence limits the supply of alcohol to tasting sample only directly corresponds with fact the visitors go to HHW for a tour of the winery and vineyards, and to taste the wine produced from the winery. We do not understand why this condition needs to be lifted in order to "enhance the visitor experience with the sale and supply of alcohol allowed up to 7pm (Monday to Sunday exclusive)...". This is because, if visitors are at the winery to have a tour and taste wine, it does not make any sense to say their experience will be enhanced if they can also purchase wine to drink at the winery.

mean that traffic to and from the Winery would also be using Five Oak Lane and the surrounding narrow roads during this time. The variation to allow consumption of alcohol on the premises is requested in order to drive up visitor numbers so the volume of traffic will also be greater. This will increase the traffic on the narrow roads at the busiest time increasing the risk of traffic accidents. At peak time (4pm-7pm Monday – Friday) the volume of cars on Five Oak Lane and other surrounding local roads is highest, but there are also children and other residents walking home on foot from the bus stops on the A229 at the bottom of Pinnock Lane (which becomes Five Oak Lane) and cycling back from Staplehurst train station. The extra traffic generated particularly during the extended opening hours of the Winery would immediately put these local residents at substantial risk of harm, particularly during the darker winter months.

This photo was taken just before the Winery closed at 5pm on 29th September from Tavern Farm. Visitors left on foot and by coach on Wilden Park Road heading towards Marden. Please note the width of the road. There is no room for two vehicles to pass. The passing points are narrower on Five Oak Lane – the advertised route to and from HHW.



3) Insufficient information provided in application regarding the promotion of licencing objectives.

The application should be rejected on the basis that there is insufficient evidence as to how the application will support the promotion of the 4 licencing objectives.

The applicant's response to section d) 'The prevention of public nuisance' is incomplete and does not allow us, or the licencing department to understand how the applicant will ensure 'limited impact (if any)' on public nuisance in relation to an increase in visitor numbers to 50,000 per annum, significant increase in coaches (as evidenced) , increase in number of people on site, increase in alcohol consumption (as applied for).

d) The prevention of public nuisance

All staff are well trained and follow the "Challenge 25" rules under the supervision of the Designated Premises Supervisor. In view of the very high standards set by the Applicant and the Hush Heath Estates and because the Winery is not a public house, night club or similar establishment the Variation will have limited impact (if any).

Further to a noise survey undertaken by Aria Acoustics Limited in January 2019 (Details submitted by Amanda Tipples as part of objection on behalf of her father Bernard Tipples). This area is rated as an area of 'low background sound area'. Tavern Farm is a few metres to the west of Forstal Farm, and is also in a low background sound area. Thus any noise generated at the boundary of any noise sensitive property shall not exceed a target Noise Rating of NR30. This application does not address at any level how the applicant will address noise generated from this newly advertised events/visitor experience and maintain a suitable level for a rural area with 'low background sound'.

Insufficient information – opening hours and public nuisance.

The application states that the hours of opening to the public during the winter will be limited to the existing hours and states these as 10am-5pm. This is not the case. The Winery already opens for extended hours for many weeks leading up to Christmas 2018, remaining open for sales to the public until 6pm. Allowing the applicant to have wide-ranging permission to supply alcohol on the terms requested will permit the winery to incrementally extend their operations. The notes in the application are not accurate and will not provide any kind of safety net to limit the operations of the Winery. Whilst I object fully to granting permission to supply alcohol for consumption on site at any time, should the Council decide to grant permission conditions should clearly restrict the opening hours to 10am-5pm during the winter months.

The current application does not give sufficient information about what the late-night online retail activities would involve on the site during the hours of 10am-midnight. The application does not give information about the level of staff / deliveries / machinery operation that would be present during this time. Without this information we cannot assess the potential level of public nuisance. The variation should not be granted without providing this information and sufficient time to allow local residents the opportunity to consider and comment on it.

The limited information contained in the notes to this application does not address this change of use or the clear intention of the winery to operate on a much larger scale. The application fails to provide sufficient information about the management of nuisance and risks to public safety from larger-scale public and corporate events with alcohol permitted to be consumed on site. This change of use poses new risks which are substantially different to the risks posed by individual public visitors attending for tours and tastings, and these risks are not adequately addressed in the application.

4) Public Nuisance and Safety in relation to conditions of planning permissions granted at the site

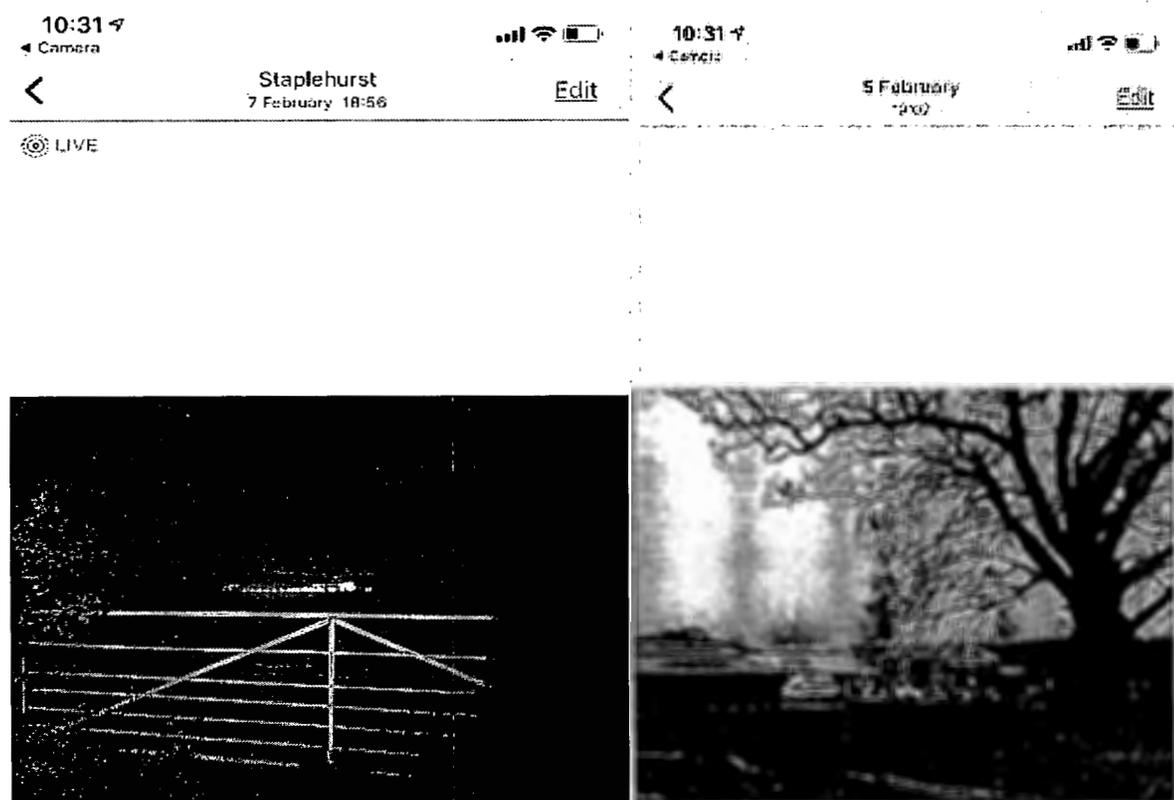
All planning and licensing applications that have been submitted to MBC to date in relation to HHW have proceeded on the basis that HHW is an **agricultural business**. It is rated as such. When HHW first opened a winery at its site in 2009, this was considered to be an acceptable agricultural use, because making wine is ancillary to the growing of grapes. After HHW was established as a winery, it was permitted to diversify, by adding controlled retail and wine tasting elements to its business. This expansion was permitted on the basis

that these functions were still ancillary to its primary function as a winery, and therefore as an agricultural business, and because they were therefore considered to be acceptable forms of agricultural diversification. It is highly concerning, however, how far the use of the premises at HHW has shifted away from being primarily used for the purposes of agriculture. It is clear from information available in the public domain (HHW website, Events Manager ad) that there are strong indications that the owners of HHW are seeking to transform the site into a large-scale hospitality and events venue, which could also operate as some form of eatery/restaurant and bar. Using the premises in this manner is wholly inappropriate for the rural location in which HHW is situated and will create a significant risk to public safety and a public nuisance for all the reasons listed in this letter.

HHW's website now refers to the existence of a "large roof - top terrace bar" on the site. Planning permission was only ever granted, however, for a tasting area, not for a rooftop bar. As illustrated, the noise generated from patrons drinking on a rooftop bar will be a significant nuisance to those living in proximity to HHW and beyond in what is recorded as a 'low level sound area'.

On 4 September 2013, HHW applied for planning permission to use part of its premises "for the general sale of wine and cider produced on the holding. Condition 1 of the 2013 Planning Permission said that: "The development hereby permitted shall only be used for the sale of wine produced by the Hush Heath Estate and the Hush Heath Winery ". The stated reasons were: " To ensure a sustainable development and prevent a general retail use from being established in an inappropriate location, to safeguard the rural amenity of the open countryside and the enjoyment of their properties by adjoining residential occupiers, and prevent harm to highway safety ". None of the planning applications that have been submitted to MBC by HHW to date contain any reference to food being served or sold at HHW. The only "produce" which has ever been referred to in planning applications as being consumed onsite is the wine which is produced at the onsite winery. It is highly concerning that HHW is developing a business selling food onsite when it has never been granted planning permission on the basis that it was to become a restaurant or eatery. The unauthorised sale of food at HHW will further drive up visitor numbers, and thereby increase the traffic and noise disturbance caused by HHW to the local area.

The planning conditions prohibit external lighting at the site. The site does however breach those planning conditions with extensive external lighting. This has been raised with MBC Planning department.



Permitting the extension of operating hours as requested in this application would mean the site will be at times open to the public after daylight hours, particularly during the winter months. As external lighting is prohibited this will prevent the winery from operating safely outside of daylight hours, particularly if visitors are moving around the site under the influence of alcohol consumed on site. Light pollution from the winery is a public nuisance in a rural, intrinsically dark area.

There are a number of conditions in place as part of the planning consent for the winery. This license application is in direct conflict with these existing planning conditions. The planning conditions were put in place by the Council to protect the safety of local residents and to protect us from public nuisance. These conditions include:

- Retail use must be secondary to the winery to protect the character of the local countryside and minimise nuisance to local residents
- No retail sales to the public after 6pm and no sales at all on Sundays or bank holidays to safeguard enjoyment by local residents of their homes and prevent harm to highway safety.
- That it was an actual condition of the 2017 Planning Permission that it proceed in accordance with the Design and Access Statement. That only permits tasting. Condition (15)

The Winery should therefore not be licenced to sell alcohol on Sundays or Bank holidays or after 6pm yet HHW is 'open all year including Sundays and Bank Holidays. This application requests to change the hours of opening in conflict with what was agreed by planning. To accept the application does not 'safeguard the enjoyment by local residents of their homes and prevent harm to highway safety'

Opening times below:



The licence process and planning process must support each other and granting this application would undermine the planning consent and conditions already in place and have a significant impact on the successful promotion of public safety and prevention of public nuisance. A very real concern for residents is to ensure we are fully protected by both licencing and planning especially as it is very clear that this site is growing without any consideration of what the real risks to public nuisance and safety are, what is currently licenced or in fact authorised via planning.

Yours sincerely

Andrea Hodgkiss & Angus Codd

Additional Information.

Below are the documents prepared for the Licensing Sub-Committee on 3 September 2018. My husband Angus Codd attended the hearing in person as a witness and spoke on behalf of the objectors. Please refer to this information – in particular Topography and maps of road network as evidence for the risk to public safety and nuisance in relation to this application:

In the matter of an Application under Section 34 of the Licensing Act 2003 (“the Act”) to vary the Premises License numbered 13/00231/LAPRE (“the Variation Application”)

Angus Codd attending on behalf of Andrea Hodgkiss

- - Distance from Hush Heath Winery: c 200m
 - Resident since September 2012
 - Married to Andrea Hodgkiss
 - 3 daughters (10,11 and 13) all residents
- 1) The current application should be rejected as it is not a valid process for variation – it should be a completely new application, as laid out in submissions.
 - 2) The application as it stands does not show due consideration of the promotion of the four licensing objectives. The applicant has not given consideration to the steps he will take to promote the four licensing objectives and in particular the prevention of public nuisance related to the following:
 - (i) Proximity of local residents to the premises
 - (ii) Licensable activities proposed and its customer base
 - (iii) Hours and nature of operation
 - (iv) Risk and Prevention of Noise Leakage from the premises from equipment
 - (v) Prevention of noise from customers leaving the premises and customer pick up points and from the Car Park
 - (vi) Availability of Public Transport to and from the premises
 - (vii) Delivery and collection times and locations

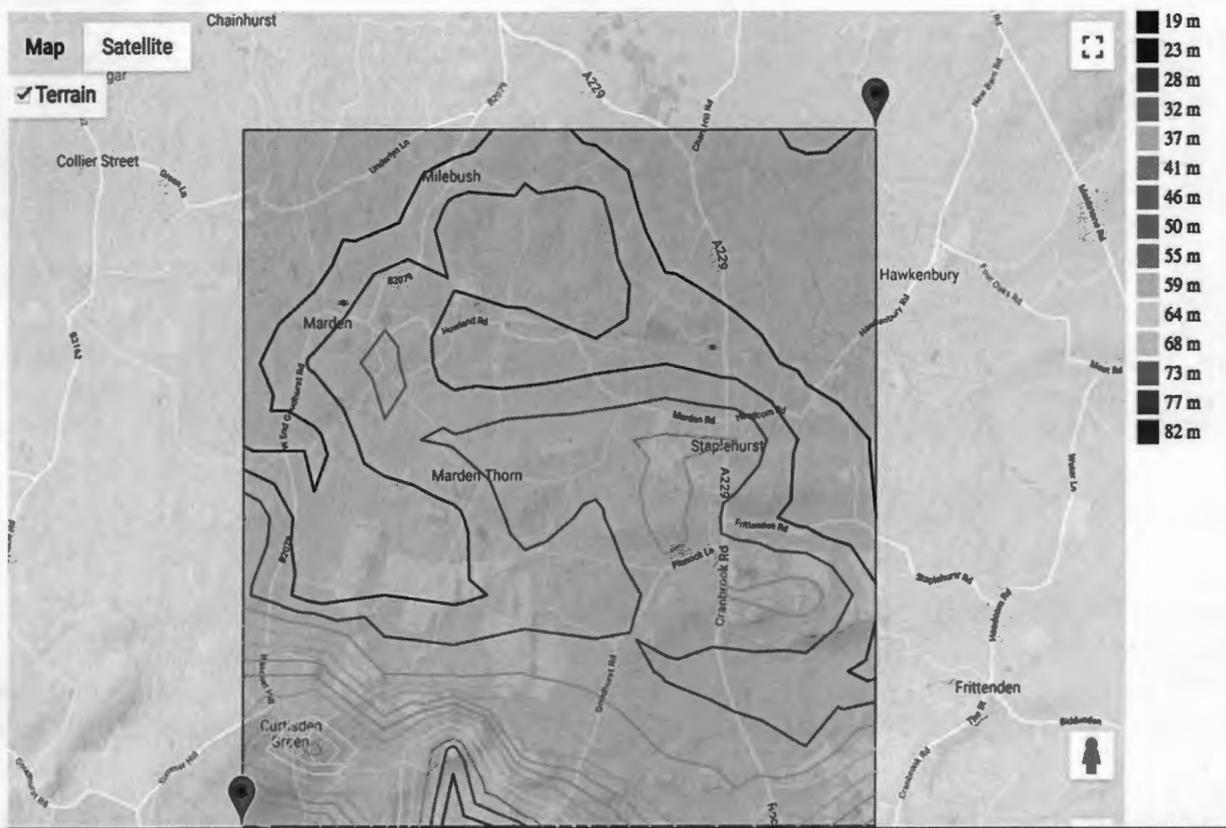
Topography

Hush Heath Winery is located in rural location. Mainly open farmland and some woodland.

It is flat - with only an 13 metre variation in the 2/3 mile area to the north of the Winery (map 1) , to the South elevation rises significantly to the boundary or the High Field Area of Outstanding Natural Beauty

Due to this topography the landscape is like a 'bowl' sound travels extensively. Patches of woodland between open farmland do not act as a barrier to sound but serve to reflect and echo the sounds in all directions.

Map 1 - Topography



Example 1: Train horns can be heard from the rail line between Staplehurst and Marden – over 2 miles away from Tavern Farm.

Example 2: Scout’s camping in the Hush Heath Woods

Example 3 – Wedding at Brattle Farm, Pinnock Lane June 2018. Noise kept children awake until midnight. 1.8 miles from Tavern Farm

Example 4 – Wedding at Hush Heath Winery August 4th 2018. Base from amplified music kept children awake until 11.20pm

Example 5 – Building re-development work to Hush Heath Winery 2018; heard across wide area of 1 mile radius

These examples highlight the unique nature of the land and the extent to which sound travels. Noise associated with 'one off' local events such as weddings and family parties are of course acceptable to reasonable residents. Fundamental potential changes to the ambient noise level of a rural area are of a significant concern.

What we've been up to...

Since October 2017, we have been carrying out a major expansion and development of our Winery and Visitor Centre at Hush Heath Estate. We are proud to now offer the following new facilities:

- A 200-seater tasting room
 - Cellar Door shop
- A commercial kitchen ideal for weddings and corporate events
- A large roof-top terrace bar overlooking newly planted vineyards
 - Viewing areas into the Winery
 - Extensive visitor parking

We are also incredibly excited to reveal that we have doubled the size of our state-of-the-art Winery itself. This, along with new vineyard plantings on the Estate (now 130 acres), will enable us to achieve our target of producing 500,000 bottles a year.



- **Public Nuisance Consideration : "Noise leakage of Customers"** using the new, elevated outdoor terrace and bar seating area has the potential to be heard by, and to disturb residents in the vicinity of Hush Heath Winery – within current opening hours of 11.00 – 17.00, 7 days per week, or within the new hours 10.00 - 24.00 . This fundamentally changes the nature of the ambient noise at this location. **No impact assessment is available**
- **Public Nuisance Consideration : Noise Live/Recorded music** using the new, elevated outdoor terrace and bar seating area has the potential to be heard by, and to disturb residents in the vicinity of Hush Heath Winery – within current opening hours of 10-5pm, 7 days per week, or within the new hours 10.00 - 24.00 .. This fundamentally changes the nature of the ambient noise at this location. **No impact assessment is available**
- **Public Nuisance Consideration : Live/Recorded music using the new building inside** has the potential to be heard by, and to disturb residents in the vicinity of Hush Heath Winery – within current opening hours of 10-5pm, 7 days per week, or within the new hours 10.00 - 24.00 .. This fundamentally changes the nature of the ambient noise at this location. **No impact assessment is available**
- **Public Nuisance Consideration:** The new building is double glazed There are large number of doors leading to the outdoor terrace. Music played at Hush Heath Winery has the potential, particularly, if played outdoors, or with doors open, to disturb 78 households in at least a 1 mile radius (see examples 1,2,3,4,5 and refer to maps 1 and table 1. **No impact assessment is available.**

- **Public Nuisance Consideration:** Informal and non-specific assurances have been given that events will be infrequent. The new building is advertised as having a commercial kitchen suitable for weddings and corporate events for up to 200 people. There therefore is the potential for up to 200 visitors to generate the following noise when leaving at the same time, be this during the existing hours of business (10.00 to 17.00) or those proposed (10.00 to 24.00)
 - Engines running from coaches cars and taxis.
 - Customers talking and saying goodbye after consuming alcohol
 - Suppliers to events delivering, setting up and dismantling
 - Vehicle doors closing
 - The noise of vehicles travelling on Five Oak Lane, Pinnock Lane, Wilden Park Road, Pristling Lane, Sherenden Lane

Transport Impact – the above Public Nuisance is exacerbated by a lack of public transport to and from Hush Heath Winery.

Road Access to Hush Heath Winery is via five routes (map 4)

- **Wilden Park Road/Five Oak Lane to the north – (approach from Marden)**
- **Five Oak Lane – Pinnock Lane to the east (approach from Staplehurst)**
- **Wilden park Road to the south**
- **Pristling Lane**
- **Sherenden Lane**

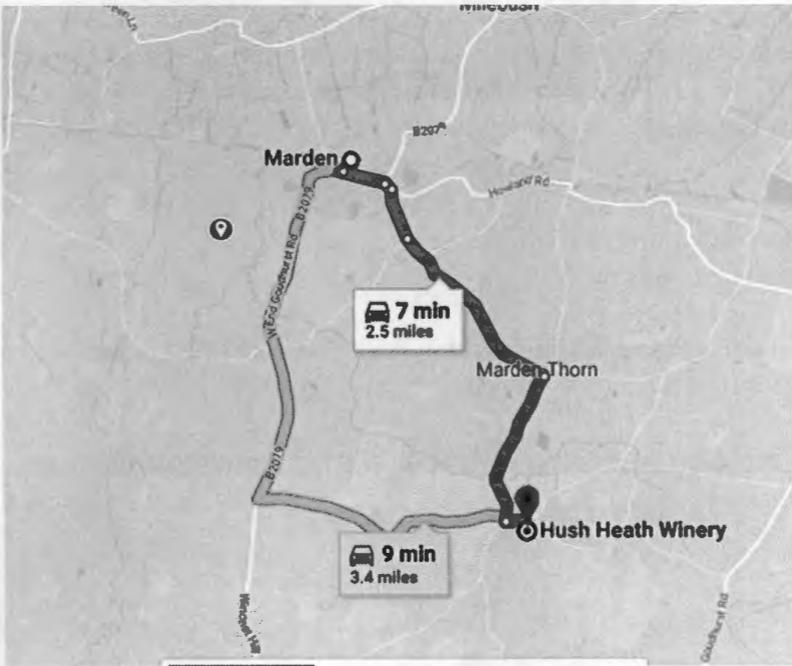
The common features are: Single track lanes, No pavements, Drainage ditches either side, No lighting – all make the roads unsuitable and increase public nuisance from large coaches or public buses

Transport Rail and Bus

Access to Hush Heath Winery is mainly via vehicle as Bus and Train Routes are located over 2.5 miles from site (map 2, 3)

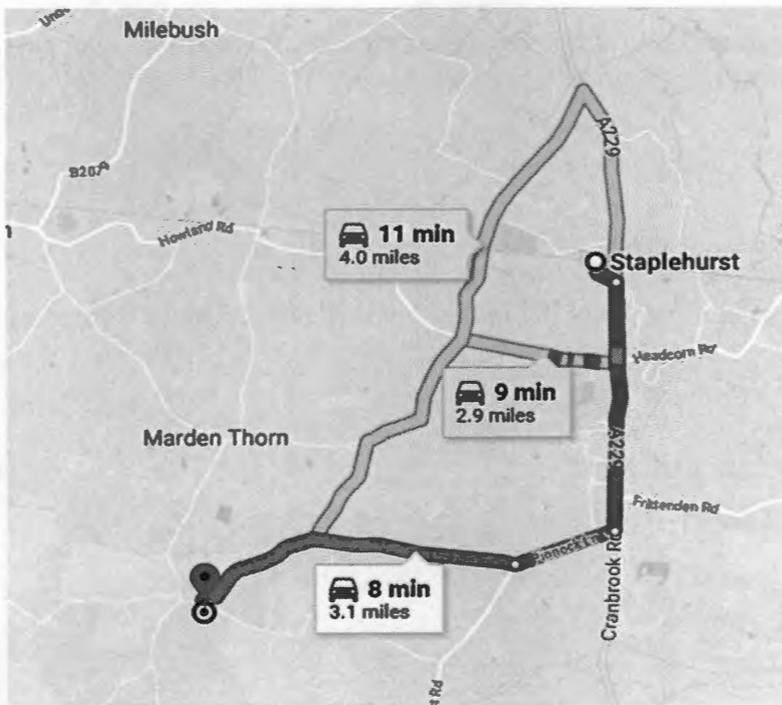
Marden Station – 2.5 miles via Marden Thorn & Wilden Park Road

Map 2



Staplehurst Station - 3.1 miles via A229, Pinnock lane , Five Oak Lane

Map 3

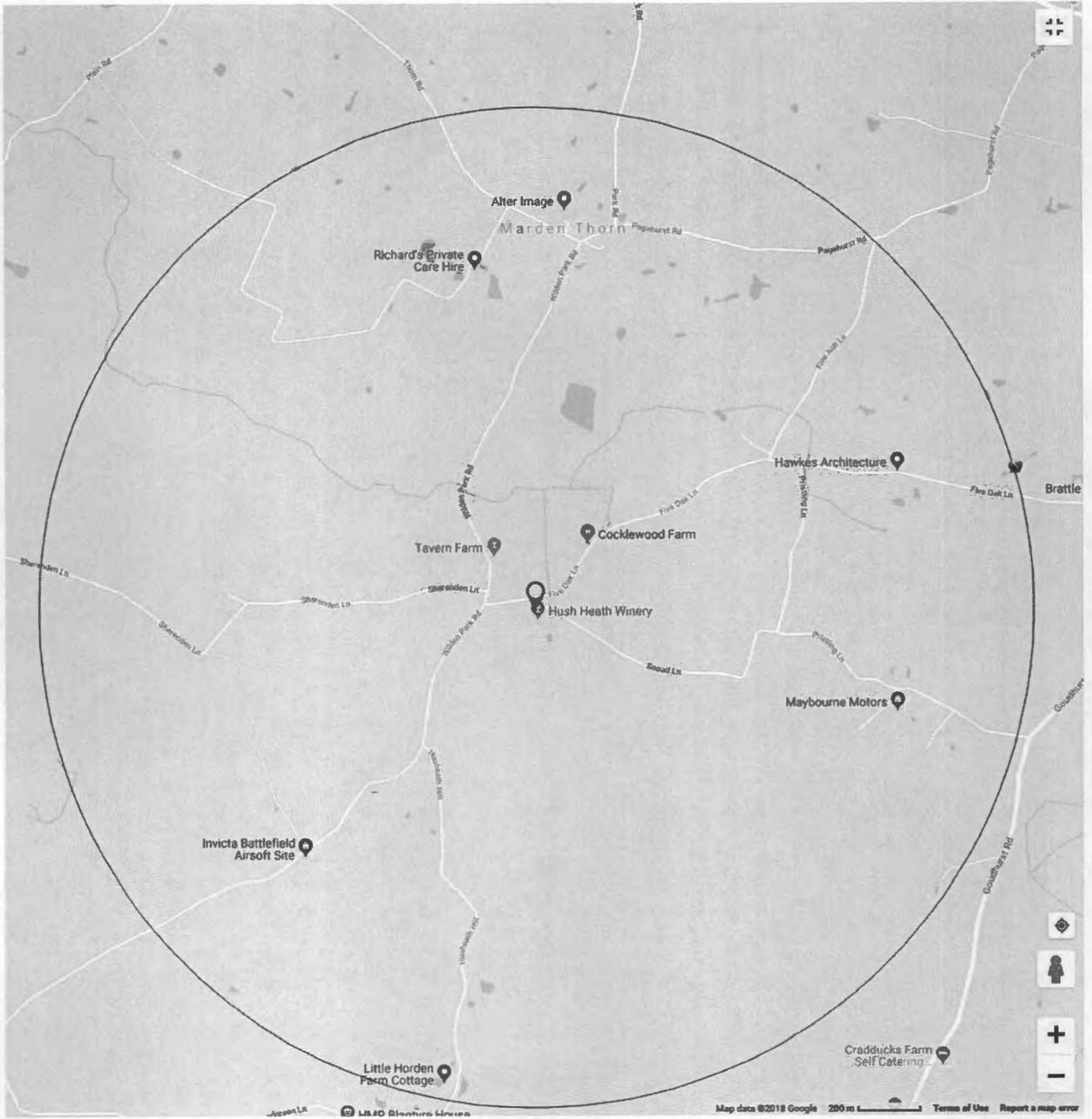


Closest Bus route is at A229 (1.9 miles)

Nearest Taxi firm is Maidstone Taxi Company – based at Staplehurst Rail Station (2.9 miles)

As such the majority of increased traffic to and from the winery will be private in nature and therefore of a higher volume, leading to a higher risk of public Nuisance.

Map 4 - 1 miles radius of HH Winery - Google



Map 5 - 2 miles radius of HH Winery - Google

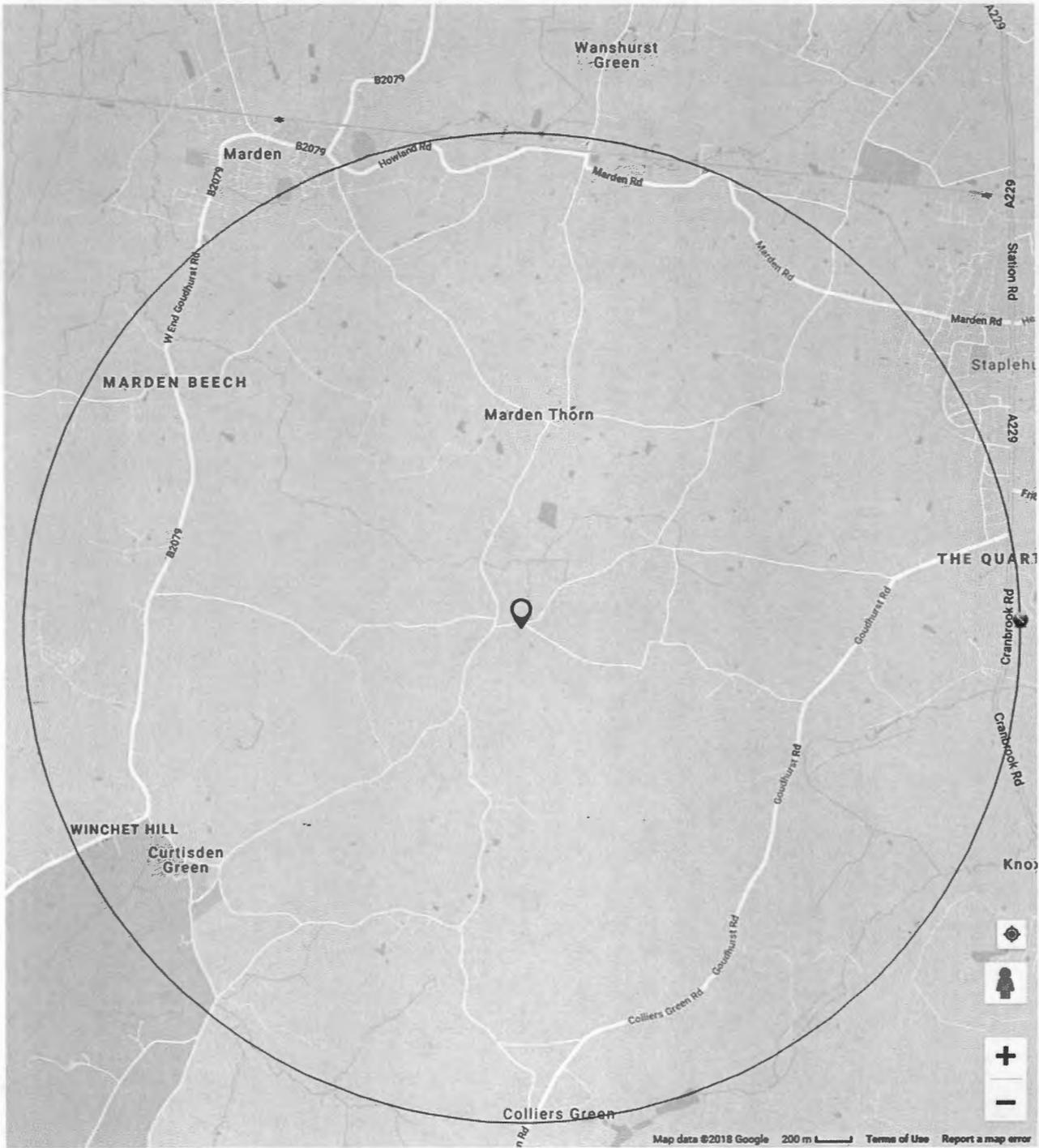


Table 1

Land Registry data: Properties within 1 mile radius of Hush Heath Winery. There are 78 households.

Postcode	Location	Titles	Dwellings
TN12 0HR	Wilden Park Road	Tavern Farm, Annexe Tavern Farm, Forstal Farm	3
TN12 0HN	Hush Heath Hill	Little Harts Heath	1
TN12 0HP	Wilden Park Road	Hop Villas, Harts Heath Farm, Brambley Cottage, Pook Hill Wood Farm	4
TN12 0HL	Wilden Park Road	Woodside	1
TN12 0HS	Sherenden Lane	Huggins Farm, The Smallholding, Jubilee Cottage	3
TN12 0HT	Five Oak Lane	Caine Grove, Cocklewood Farm, Hush Heath Winery, Laurel Barn, Laurel Cottage, The Laurels, West End Cottage	6
TN120HU	Five Oak Lane	1 Snapgate Cottages, 2 Snapgate Cottages	2
TN120HX	Five Oak Lane	Acorns, Clarkes Farm, Clarks Oast, Roundel, Saynden Barn, 1 Saynden Cottage, 2 Saynden Cottage, Oast House Sayden Farm, The Barn Sayden Farm, Saynden Farm, The Bull Pen, The Engine House,	12
TN120JA	Five Ash Lane	Little Pagehurst Cottage, Crossways	2
TN12 0JB	Pagehurst Road	Ducks Rest, Little Doorne Barn, Oakhurst, Annxe Oakhurst, Oakhurst Bungalow, Tudor Hurst	6
TN12 0HJ	Pristling Lane	1, 2, 3 Plain Cottages	3
TN120HH	Pristling Lane	Birchwood House, Bletchingley Farm, The Barn Bletchingly, Bletchingly Farm Cottage, 2 Bletchingly Farm Cottage, Chapmans Farm, Great Buttercup Barn, Hoppers Cottage, Kitarn, Meadowlark Cottage, The Oast House,	12
TN12 9LJ	Marden Thorn	Fresian Bungalow, Great Thorn Farm, Nash Cottage, Naah Oast, Susans Farm, The Clock House, The Round House, Thorn Cottage, Thorn Farm, The Granary, Thorn Oast, Thorn House,	12
TN129LH	Marden Thorn	1 Dourne Cottages, 2 Dourne Cottages, Dourne Farm,	3
TN12 9LG	Park Road	Thorn View, Plum Tree	2
TN129LL	Marden Thorn	1,2,3 Widehurst Cottages	3
TN172NE		Little Horden Farm Cottage, Hush Heath Manor, Hush Heath Cottages	3

Total **78**

Map 6

- blue line indicates border of High Weald Area of Outstanding Natural Beauty



From: Malcolm Buller [REDACTED] On Behalf Of Malcolm Buller
Sent: 24 February 2019 20:09
To: Licensing
Subject: *Possible SPAM* Hush Heath Winery

Dear Sirs,

I understand that there is an application to extend the workings of this industrial-scale enterprise in Staplehurst. As the webpage is unavailable via the MBC website I am unable to see the detailed application or quote references.

Beginning as a small-scale grape growing and processing site, Hush Heath Winery has expanded via numerous applications, to being able to import products from around the world and advertise for tourists to come and sample the numerous products.

My main areas of concern regard the rural location of this industry. The single-track lanes around this area are totally inadequate for large vehicles and in many places deep ditches lie in wait for unsuspecting drivers who are forced to evade other vehicles. There are many blind bends. The expansion has meant considerable lorry movements and advertising suggests that coaches will be welcomed.

These lanes are an integral part of the walking routes for residents and visitors to our village. Cyclists enjoy the relatively flat terrain too. However, strangers intent on the long walk to Hush Heath from the nearest train or bus stops will be in for a great shock as there are no paths or even verges for much of the route. Visitors will drive or be driven.

Any expansion of drinking alcohol on these premises must call into question the ability of drivers to meet minimum legal limits to be in charge of a motor vehicle. By offering the alcohol for consumption, Hush Heath cannot be blameless for any accidents that occur.

The scattered community in the rural parts of our village need protection. Vehicle movements have increased over the decades, but the roads have not widened. Noise and air pollution from large vehicles is another blight on rural life.

I ask the licensing authority to realise that this latest application is unacceptable. Thank you.

From: Polly Hardwick
Sent: 24 February 2019 21:32
To: Lorraine Neale
Subject: Premises License No. 18/02446/LAPRE

11

25 February 2019

Lorraine Neale
Case Officer
Maidstone Borough Council
Licensing Department
lorraineneale@maidstone.gov.uk

Dear Ms Neale

-
Premises Licence Number: 18/02446/LAPRE

Application: Variation to the Premises Licence dated 29th January 2019

-
I live with my 6 year old daughter at the _____, _____ and have done so for the last year. We are located 200 metres from the Winery and wish to object to this application on the grounds that it does not promote the licencing objectives – namely, public safety and the prevention of public nuisance.

My daughter and I use the roads surrounding the winery for travelling to and from school and work and for recreational use at the weekends, riding bikes, accompanying my daughter on her scooter, walking and running. We enjoy the peace, wildlife and tranquility of this unique area. I am very concerned that the above application will significantly increase the risk of public nuisance and the risk to public safety. Hush Heath Winery is rated an agricultural business, with wine tasting and sales as a secondary activity. This application seeks to change the basis of the business - to enable it to attract a wider clientele who wish to stay and drink wine by the glass. This will increase visitor numbers to the Winery significantly. I am unclear from this application how the applicant will be able to ensure he fulfils the licencing objectives, whilst increasing visitor numbers to the winery to 50,000 per year. This is of great concern. The infrastructure and road network we rely on are not suitable for an increase in cars and coaches drawn down narrow country lanes. We are three miles from a main road. What is being proposed is a wholly different proposition to other local wineries, such as Chapel Down in Tenterden, that are located on a B road. It will become dangerous for my daughter and I as we use the lanes on a daily basis and, for safety reasons, it will restrict the regular activities we enjoy as a part of family life. It will increase the noise and cause disturbance from the exponential rise in visitors, impacting on my daughter and my enjoyment of our home and garden.

If the Winery operates a tours and tasting business then there is no need to remove this 'tasting condition' from the current licencing arrangement. It is rated as an agricultural winery with a tasting room, but this application is a step toward turning the site into a business operation that is utterly unsuitable for a quiet, rural location and it will be a significant risk to the prevention of public nuisance and public safety. It concerns me greatly.

I am grateful to you for giving due consideration to my letter of objection to the application to vary the premises licence you have before you.

Yours sincerely,

Polly Hardwick

And on behalf of Miss Tess Lamming

From: Richard Edmondson
Sent: 25 February 2019 13:42
To: licensing@sevenoaks.gov.uk; Lorraine Neale
Subject: Hush Heath Winery 19/00380/LAPRE

12

Dear Ms Neale,

We are concerned at the possible change to the licensing conditions at Hush Heath Winery.

As a family we use the lanes on a regular basis between my home in Goudhurst road and Hush Heath Winery. We walk as a family and cycle on Five Oak lane and Pinnock Lane and have seen a considerable rise in activity.

We have attended events at Hush Heath and had a very nice three course dinner there on one occasion.

The enterprise has grown remarkably quickly and I was not really aware of anything holding this back. I was surprised by the new buildings which do not appear to be there for agricultural reasons and surprised by the signs which are pretty big and do not sit comfortably in the rural surroundings.

I cycle past on my tricycle on a regular basis and was stopped recently by a group of women in a large car seeking confirmation they were on the right road for Hush Heath Winery.

I believe it is highly unlikely that cyclists will attend Hush Heath in numbers that are of any interest and think this is a red herring. It is far more likely that traffic will substantially increase and this poses a considerable danger given the narrow nature of the roads leading to Hush Heath Winery.

I have not seen coaches at Hush Heath Winery but given the promotion of walking tours around the winery, coupled with food, coupled with the possibility of buying drinks there, it would seem a very likely outcome that coaches will become a problem for road users in the lanes surrounding Hush Heath Winery.

The additional concern we have is over the extension of the opening hours to 7.00pm. This just means more traffic and disturbance in what was a very quiet and peaceful bit of countryside. It will destroy the evenings for people who live next door. The percentage increase in arrivals and departures will be very high. In turn there will be a loss of amenity for anyone seeking to walk or cycle or ride in the surrounding area.

The reception and parking at Hush Heath speaks volumes about where it is anticipated this will lead and it is up to Maidstone Borough Council to restrain and control this development.

Yours sincerely

Richard Edmondson

13

From:
Sent: 25 February 2019 16:43
To: Lorraine Neale; licensing@sevenoaks.gov.uk
Subject: Hush Heath Winery Ref. 19/00380/LAPRE

Grounds for objection: Public Nuisance and Threat to Public Safety

Dear Ms Neale,

My name is Mr Kim Humphrey and I have lived at , , Staplehurst for over 36 years. In the past ten years or so this beautiful rural environment has changed, but not as yet significantly. Various developments have taken place opposite our dwelling which have transformed this area from solely agricultural to a more commercially based enterprise. I have objected previously in person with my neighbour Mr Angus Codd at the tribunal in September at The Town Hall, Maidstone which you chaired. I was somewhat surprised that another application from HHW appeared so quickly after this hearing, especially that of removing the condition that "the supply of alcohol on the premises will be limited to tasting samples only". Although the development at the winery at present (even though I suspect some of the changes may not have been approved) is tolerable, this latest application is a step to far. The prospect of HHW selling wine by the glass would transform the entire nature of the business to one that is totally unsuitable to this tranquil rural environ. I strongly object to the proposed change of use on the grounds of noise and safety. It has come to my attention that the winery, amongst other considerations has perhaps jumped the gun by assuming they would have permission, to, as announced in press statements on their behalf: build wine tourism, increase visitor numbers to 50,000 people over the next 5 years, seek a full-time events manager to substantially grow visitor numbers by holding events throughout the year which would fall way outside the MBC's supporting 'small scale' rural business development. As I have previously stated, we are happy with the current status quo with regard to HHW, but the noise generated by events proposed would be completely unacceptable, intrusive and a public nuisance to all in this vicinity. Sound carries in this topography and even normal conversation can be heard clearly over a considerable distance, the introduction of large-scale events, with music and people euphoric after taking alcohol would be dreadful for us and also drive away many species of wildlife which currently abound. At the moment there is also a plethora of signage, which I assume would increase, with the change in conditions, some of this stating the winery is open 7 days a week, which I think may be incorrect as I thought Sunday trading was not planned for! The lanes here are designated yellow, with some a little further away orange. They are entirely unsuitable for heavy volume of traffic on the grounds of safety, noise and pollution. The lanes are in constant need of repair and attention, indeed, currently 150 metres from our house in Wilden Park Road a bridge is being rebuilt because it has collapsed under the strain of heavy traffic. I understand that there is a drive by HHW to encourage coach tours of which at the moment there has been an increase, but not significantly so. If the change to the licensing application is successful I feel the traffic generated using these lanes, especially unlimited numbers of coaches on organised tours (some very large), mini-buses, commercial vehicles and cars will destroy the natural environment and endanger local people engaged in rural pursuits, i.e. cycling, running and horse-riding. It is on the grounds stated above that I would ask you not to allow alterations to the current licensing conditions.

With thanks, yours sincerely,
Mr K. F. Humphrey

14

From: David
Sent: 25 February 2019 18:23
To: Lorraine Neale
Subject: Hush Heath Winery Premises Licence 18/02446/LAPRE

Good morning

I write to object strongly against the application by Hush Heath Winery to change the use of their vineyard to include sale of alcohol and to increase dramatically the numbers of visitors.

The idea to increase the numbers of coaches going along our very narrow country lanes which are not able to take the large heavy vehicles is quite adsurb.

These narrow country lanes are now breaking up under the strain by local vehicles.

You need to travel these narrow lanes to be able to understand the concerns by all local people.

Apart from the traffic the idea to extend the licensing hours to finish at midnight will create a nuisance to all local people, plus the light and noice disturbance will be unbearable.

I ask you to decline this application based on the above grounds

David Twyman

15

From: Lynn Eccles
Sent: 25 February 2019 19:34
To: licensing@sevenoaks.gov.uk
Cc: Lorraine Neale
Subject: Hush Heath Winery - Objection to the Licensing Application

As residents on Five Oak Lane we agree that the lanes around the Winery are not suitable for the huge number of visitors envisaged in 5 years time and certainly not suitable for coaches and HGVs which we have had to tolerate during the building process. Having tolerated numerous potholes and deteriorating lethal edges that wreck wheels and tyres for some years and then the Lane was resurfaced (oh joy!!), the coaches and lorries have now destroyed them again. Try to make a claim for damage to our cars is almost impossible - the wording at the beginning of the form is threatening!

We agree that the increase in traffic will make the lanes dangerous for the local residents who like to walk their dogs, go for a bike ride etc and increase noise pollution.

Julian and Lynn Eccles

From: Home email
Sent: 25 February 2019 21:10
To: licensing@sevenoaks.gov.uk
Cc: Lorraine Neale
Subject: Hush Heath Winery - 19/00380/LAPRE

Dear Sirs,

We are writing to OBJECT to the Licensing Application from Hush Heath Winery (HHW) to sell wine by the glass and to extend the winery's opening hours to 7pm.

Our primary concern relates to the expected increase in visitor numbers and the impact this will have on the surrounding rural area. HHW have been very clear in their own press and local media that they wish to increase visitor numbers substantially. But the location of HHW does not support this. The site is only accessible down very narrow lanes - there are already issues with cars using these roads, particularly when meeting agricultural vehicles. Any increase in car numbers, or indeed coaches and mini buses, will further exacerbate this issue and make use of these roads dangerous.

Making it possible for HHW to sell wine by the glass will effectively turn the site into a glorified pub. There is a risk of drink-driving (the site is certainly not accessible by public transport) and increased numbers of road users who are not used to driving on narrow rural lanes, in addition to an increase in the numbers of coaches and mini buses, which the road infrastructure cannot support (these were seen many times when the new building opened in 2018).

Our house sits close to Pristling Lane. We are also concerned about potential impact on our own site. Although the official sign-posted route to HHW is down Pinnock Lane, we have already seen more traffic along Pristling Lane since the new building opened in the summer - this lane is completely unsuitable for large vehicles and does not support any increase in traffic volumes.

Not only do we use the roads and lanes around HHW regularly to travel to work, but we are also horse owners and riders who regularly ride our horses along Pristling Lane, Pinnock Lane and Five Oak Lane. The impact of increased traffic will make use of these roads very dangerous to us and severely restrict our options for riding out - which is our right to do, in a safe and secure manner (as stated in the Highway Code). As parents with a son who regularly enjoys riding his bicycle around these rural lanes, we would be concerned with his safety too.

HHW already owns several pubs in the local area - surely visitors can be directed to their own pubs if they wish to purchase wine by the glass? Those pubs are in villages and much more accessible - shouldn't they be used more rather than impact a very rural location in the ways this change in licensing application will surely drive?

We have already seen changes in traffic in the local lanes since the new building at HHW opened in 2018; this is particularly noticeable at the weekends. Further, we are frustrated to see the additional development on the site without the necessary planning permissions. The external lighting around the new car park is very visible and completely out of keeping with the local rural area.

Please note our objections to this application and confirm receipt of our email.

Kind regards

Nicola Feakin
David Taylor

From: Karl Vesma
Sent: 25 February 2019 23:47
To: licensing@sevenoaks.gov.uk; Lorraine Neale
Cc: [REDACTED]
Subject: RE: Hush Heath Winery – 19/00380/LAPRE

17

Dear Sir / Madam

We wish to object to the application for extended opening times and to sell alcohol by the glass for the following reasons:

Public Nuisance & Public Safety

If the winery intend to sell wine by the glass, use it as an events venue, and drive up visitor numbers (which is what has been interpreted in the job advertisement for an events manager) - that will have a major impact on the number and type of vehicles on the rural country lanes around on to the winery; including passenger coaches, large rigid-body heavy goods vehicles and large articulating heavy good vehicles.

Hush Heath Winery is approximately 1.8 miles from the A229 which is accessed via Pinnock Lane and Five Oak Lane, which are rural country lanes. These lanes do not qualify for broken white lines down the centre of the road, meaning that they are less than 5.5 metres in width. Pinnock Lane and Five Oak Lane are used on a daily basis by cycling enthusiasts, runners, ramblers and young family's participating in dog walking, cycling etc. A footpath only serves Pinnock Lane by the main housing estate, the remainder of the lane and Five Oak Lane have no other provision for pedestrians. A handful of village residents walk to Henhurst Farm Shop on a daily basis, which is situated 300 metres west of the village housing estate and this is risky enough with the current traffic flow down Pinnock Lane.

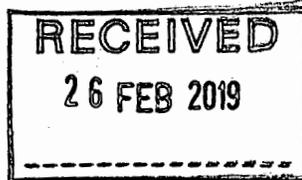
During the harvest period (July - November) the lanes are busy with agricultural vehicles and bulk lorries moving produce grown by the local farmers. To add additional traffic flow to the lanes will only increase the risk to public safety further. Passenger coaches are at least 2.5 metres wide, excluding wing mirrors. The width of Five Oak Lane, especially, cannot cope with the width of passenger coaches and heavy goods vehicles when met by normal passenger cars. The width of the average family car (Mark 7 Volkswagen Golf) is 1.8m wide. When a lorry or coach meets a car a minimum passing width of 4.8 metres is required. This issue is compounded further by agricultural vehicles which can be and often are up to 3 metres wide. Five Oak Lane only has one or two decent passing points where larger vehicles are able to pass each other safely. I use the lane on a daily basis when driving to my place of work and it's bad enough anticipating appropriate passing points with on-coming cars.

In the majority, Five Oak Lane is flanked by a mixture of deep ditches, large divots, tall hedges, woodland and rough verges. Other than using property entrances i.e. driveways, there are only a few suitable refuge spaces, to enable the public undertaking recreational purposes to safely move out the way of traffic. We regularly walk to the farm shop for our groceries with our 6-month-old son in a pushchair or cycle to visit family in the locality and it's very concerning when met by the large goods or agricultural machinery which use the lane on a constant basis. Any increase in larger vehicles using the lanes is unsustainable and will likely lead to injury or worse for those who use the lanes for recreational purposes, and this is the reason for our objection.

Kind Regards

Mr. & Mrs K Vesma

25-2-19.



3 ARBON COTTAGES
GOODHURST ROAD
SPADWORTH
TNR OTH.

(18)

Re: - Licensing application (Husk Heath Winery)

As this is a commercial enterprise and not an agricultural business in my opinion I would suspect there will be many, many more applications for alterations to existing laws.

Having travelled and walked these lanes for over 40 years I can say that the lanes are not suitable for increased traffic which will include coaches and lorries. In many places the lanes are not wide enough to accommodate these vehicles which will create a safety issue. The increased traffic will be detrimental to all people living within this area.

In the last week whilst travelling past the winery I was held up due to a very large lorry attempting to return to the lane from the winery. This took many attempts and immediately blocked the lane for on coming motorists.

With the increase to sell wine by the glass and extend hours this will inevitably become a pub/restaurant with increased commercial activity with more traffic and noise.

This cannot be allowed to happen in the countryside and I oppose these new application details.

Yours sincerely



ALAN BEEVOR.

1950

1951

1952

1953

From: Marcus Rennick
Sent: 26 February 2019 09:37
To: licensing@sevenoaks.gov.uk
Cc: Lorraine Neale;
Subject: Hush Heath Winery - 19/000380/LAPRE

19.

Dear Sirs,

I wish to voice my strong objections to the Licensing application made by the Hush Heath Winery to sell wine by the glass (and to extend the winery's opening hours to 7pm).

My Status

- I live, with my family , in , TN12 0HD and have owned this property since July 2003.
- My property is in relatively close proximity to the Hush Heath Winery (c. 1 mile away) and would undoubtedly be affected by an increase in traffic to and from the winery as well as the presence of heavy goods vehicles.
- I have chosen to live in Pinnock Lane due to the lack of traffic, rural nature of the locality and lack of commercial enterprises in the vicinity.
- I regard farms and the growing of produce to be in keeping with the surrounding countryside and a natural aspect of the locus.
- I am a frequent and enthusiastic cyclist, often cycling from my house along Five Oak Lane and past the Hush Heath Winery.
- I am also a car driver and am familiar with the constraints of my local roads and lanes which are:-
 - narrow in places making it difficult for vehicles to pass
 - generally lacking in central white lines
 - notwithstanding some recent re-surfacing work, potholed in places but more particularly have sharp and dangerous dropped edges which are a hazard to drivers and cyclists alike if needing to move over to avoid oncoming traffic
 - devoid of street lighting and pavements
- Given my profession (I am an FCII qualified insurance broker specialising in the insurance of landed estates, rural enterprises and farms) I have first-hand and practical awareness of the need for the use of land to be in sympathy with its rural surroundings as well as in compliance with Permissions which have been granted (both in accordance with the letter and spirit of the law).

My Understanding of the Situation

- All relevant Permissions were originally granted to the Hush Heath Winery on the basis that it was primarily an agricultural business (namely the cultivation of grapes) and that subsequent approval for the controlled retail and wine tasting elements was granted on the basis that such activity would be ancillary to the original agreed agricultural use.
- The Hush Heath Winery is in breach of numerous planning conditions which have been highlighted already by others with legitimate, understandable and shared concerns.
- It is clearly evident that the development of the winery site has taken it away from the basis upon which Permissions were originally granted namely, primarily an agricultural business) to a non-agricultural commercial concern which appears to be increasing in scale and in a manner which is at total odds with its rural surroundings.
- It is furthermore apparent that Hush Heath Winery have embarked upon a strategy of creating a commercial hospitality and events venue which includes the preparation and sale of food. This is significantly removed, one assumes, from the basis upon which Permissions were originally granted. Please see below an extract from the Hush Heath Winery website:-

Are you looking for a corporate venue to hire in Kent? Perhaps you want to get away from the hustle and bustle of the city. Hush Heath Estate is an alternative, interesting, beautiful and well hosted venue, perfect for any kind of corporate event or meeting you wish to hold.

Nestled in an area of outstanding natural beauty in the heart of The Garden of England, Hush Heath is a four hundred acre estate, with an award winning winery, vineyards, orchards, ancient woodland and a Manor which dates back to 1503.

With ample entertaining space and a secluded location, we offer bespoke events tailored to your individual requirements. We have hosted successful events for car clubs, banking societies and personal occasions, and provide a dedicated member of staff to plan each event with attention and knowledge.

Our corporate venue hire packages are available for companies and individuals hosting between 25 and 200 guests. Requests are considered independently.

There can be no doubt from the above that the Hush Heath Winery is promoting itself as a "corporate venue" which is in no way comparable to being an agricultural business.

- The Hush Heath Winery is selling alcohol in a manner which is far removed from tasting designed to assist in the purchase of wine to be consumed in the homes of customers.
- The Hush Heath Winery site is not served by any means of public transport and thus, it is reasonable to presume, that the majority of visitors to the site will travel by car.
- With a growing commercial enterprise, it follows that a greater number of lorries and heavy good vehicles will visit the site.

My Objections

- The Hush Heath Winery is operating and developing its business in flagrant contravention of Permissions that have been granted.
- The development of this site with associated increase in traffic, is not in keeping or sympathy with its rural surroundings.
- The local roads and lanes are not appropriate, in all senses, for a significant increase in traffic flows nor use by heavy goods vehicles.
- Given the lack of supporting public transport, there is a very real possibility that visitors will consume alcohol in excess of legally permitted limits, thus creating a danger to themselves and other road users including cyclists and pedestrians. Arguably, the consumption of any alcohol should preclude an individual from taking charge of a motor vehicle.
- The increase in traffic will have an adverse impact on my quiet enjoyment of my home as well as my cycle rides in the surrounding area.
- The possibility that the Winery business will reduce the value of my property.

I harbour the deepest of concerns about what the Hush Heath Winery is doing now and what it proposes to do in the future, possibly by covert means.

Kind regards.

Marcus Rennick

20

From: Amanda Tipples
Sent: 26 February 2019 12:20
To: Lorraine Neale
Cc: Licensing; licensing@sevenoaks.gov.uk
Subject: Representation - 19/00380/LAPRE - Hush Heath Winery

Dear Lorraine

Please find attached my representation with Annex A (Part I, pp 1-80; Part II, pp 81-108). I will send Annexes B, C and D in my next email, in order not to overload the attachments. I would be grateful if you could acknowledge safe receipt.

Thank you very much.

Kind regards

Amanda Tipples

From: Amanda Tipples
Sent: 26 February 2019 12:24
To: Lorraine Neale
Cc: Licensing; licensing@sevenoaks.gov.uk
Subject: Email (2) - Representation - 19/00380/LAPRE - Hush Heath Winery

Please find attached Annexes B, C and D to my representation. Again I would be grateful if you could acknowledge safe receipt. Thank you very much.

Kind regards

Amanda Tipples

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

26 February 2019

Lorraine Neale
Case Officer
Maidstone Borough Council
Licensing Department
lorraineneale@maidstone.gov.uk
licencing@sevenoaks.gov.uk

Dear Ms Neale

Premises Licence Number: 18/02446/LAPRE

Applicant: Mr Richard Balfour-Lynn ("the Applicant")

Premises: Hush Heath Winery, Five Oak Lane, Staplehurst, TN12 0HT

Application: To vary the Premises Licence dated 29 January 2019 ("the Variation Application") – Application 19/00380/LAPRE

REPRESENTATIONS BY RESIDENTS IN THE VICINITY

1. [REDACTED] is located 1 mile by road (less as the crow flies) from Hush Heath Winery ("HHW"). It formed part of my grandfather's farm, and was purchased by him in 1925. My parents acquired [REDACTED] in 1990, restored it and in 1994 it became our family home. Today my father, Mr Bernard Tipples, lives at [REDACTED] and I live there at the weekend, and sometimes during the week. This objection is written on my own behalf and on behalf of my father, Mr Bernard Tipples.
2. I object to the Applicant's application dated 29 January 2019 "to remove the condition on the existing Premises Licence "the supply of alcohol on the premises will be limited to tasting samples only" and to allow for the supply of alcohol (by way of on-sales) being

permitted on all other occasions Monday to Sunday inclusive between the hours of 10:00 and 19:00 hours”¹(“**the Variation Application**”).

3. This is because the variation proposed in the application will, if granted, have an adverse effect on the promotion of the licensing objectives, namely the prevention of public nuisance and public safety. The condition on the Premises Licence is properly justified and there is no basis to remove it. Likewise HHW’s closing time of 17:00 is properly justified, and there is no basis alter this. I therefore invite Maidstone Borough Council (“**MBC**”), as the Licensing Authority, to reject the whole application under section 35(4)(b) of the Licensing Act 2003 (“**the 2003 Act**”). The reasons for this are set out in detail below.

ANNEXES

4. There are annexed to these representations:
 - a. **Annex A:** A paginated bundle of documents referred to herein. The page references below are to Annex A, unless otherwise stated.
 - b. **Annex B:** The letter from residents who live near HHW to Mr Jarman, Head of Planning and Development, MBC dated 19 February 2019.
 - c. **Annex C:** The Exhibit to the letter to Mr Jarman, Part I (pages 1 to 153).
 - d. **Annex D:** The Exhibit to the letter to Mr Jarman, Part II (pages 154 to 187). Part II contains all the photographs of Five Oak Lane.
5. Annexes A to D form an integral part of these representations.

INTRODUCTION TO REPRESENTATIONS

(a) Licensing objectives

6. MBC must carry out its functions under the 2003 Act with a view to promoting the licensing objectives. The licensing objectives are (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm. In carrying out its licensing functions, MBC must also have regard to (a) its Licensing Act 2003 Policy (6 January 2016 until 5 January 2021) (“**the MBC Policy**”); and (b) the Revised Guidance issued under section 182 of the 2003 Act (“**the section 182 Guidance**”).

¹ I have read the Rider to Part 3 of the Variation Application to amend Annex 4. I may be missing something, but from the paperwork I have, I do not understand which condition is being varied, or which is Annex 4. Further, it is not clear how this relates to the condition imposed on the Premises Licence on 3 September 2018, namely “Recorded music, live music and late night refreshment will take place after 17:00 on not more than 12 occasions in any calendar year (“events”)”. It should not cut across, or undermine, this condition as there was no appeal against it.

(b) Public nuisance

7. Public nuisance is explained at paras 2.15-2.21 of the section 182 Guidance (pp. 33-34). In particular, the section 182 Guidance explains that:

“[2.15] The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

[2.16] Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.

[2.17] ... Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and specific characteristics of the specific premises and its licensable activities...

[2.18] As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of the licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.” (*underlining added*)”

8. A public nuisance is simply an unlawful act or omission which endangers the life, safety, health, property or comfort of the public: see *In re Corby Group Litigation* [2009] 2 WLR 609, per Dyson LJ at [27]². It is sufficient if it “materially affects the reasonable comfort and convenience of a class of Her Majesty’s subjects who come within the sphere or neighbourhood of its operation³; it may affect some to a greater extent than others; it is not necessary to prove that every member of the class has been injuriously affected and it is a question of fact whether the number of persons affected is sufficiently large to attract the

² See *Highway Law Savvin* (5th Edition; 2013) at pp. 246-7 (pp. 46 to 47).

³ *Att Gen v Keymer Brick and Tile Co. Ltd* (1903) 67 JP 434.

description “public” to the nuisance” (Clerk & Lindsell on Torts (22nd Edition; 2018) at para 20-03; p. 43).

9. The element which all public nuisances, whether at common law or by statute, have in common with private nuisances is that of annoyance or inconvenience (Clerk & Lindsell at para 20-05; p. 44). In the case of a highway, a public nuisance involves some act or omission which “prevents the convenient use of the way by passengers”. A public nuisance to a highway can be committed in two ways. First, an obstruction of the highway which is unreasonable in extent or duration will be a public nuisance. Secondly, an act which does not physically obstruct the highway but which renders the highway dangerous or less convenient for public passage may be a public nuisance, whether it arises on the highway or adjoining land (Highway Law (2013; 5th Edition) *Sauvin*, para 7-11 (p. 46). In relation to the second category, the editors of Highway Law explain (para 7-36; p. 52):

“A highway nuisance may also be created where there is a danger caused to highway users from the condition of adjoining land or from an activity on that land... the judicial approach to the question of highway nuisance caused by the creation of a danger to highway users has tended to concentrate on the source of the danger and the reasonableness of the use of the land which creates the danger.” (underlining added)

10. This passage is critical in the context of the Variation Application. It is unreasonable for the Applicant to use the tasting room and tasting terraces at HHW for the sale of glass by the wine, when he has no planning permission to do so. However, the reason he wishes to do is to hold events throughout the year and substantially grow the visitor numbers. The only means of access those visitors have to HHW is in vehicles along the narrow country lanes and the influx of visitors in coaches, mini-buses and cars to the extent intended by the Applicant will render those roads dangerous. That is a public nuisance for which HHW will be responsible⁴.
11. Further, refusal of planning permission may prevent many activities which would otherwise be a nuisance (Clerk & Lindsell at para 20-06; p. 44). That again is relevant in the present context because, if the Applicant had applied for planning permission to use the tasting room and tasting terraces as a restaurant/pub and/or events venue for large numbers of visitors, permission would have been refused. This is because such a proposal would have been in breach of a number of planning policies, which are set out in detail below. When the Applicant applied to extend HHW in 2017 he did not apply to build the tasting room and tasting terraces for use as a restaurant/bar and/or events venue. The Applicant cannot use the Variation Application to achieve that result by the back door.

⁴ Cf The reasons of the Licensing Committee on 3 September 2018 in relation the Applicant’s application dated 5 July 2018: “Members also considered the comments with regard to traffic and felt that traffic beyond the premises was a matter for the behaviour of visitors and beyond the control of the licence holder. It was not felt that further conditions would be appropriate in this regard” (p. 25).

(c) The Variation Application must be considered on its own merits

12. Paragraph 1.17 of the section 182 Guidance provides that:

“Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and the events concerned...”.

13. The MBC Policy states on its face that “all applications will be considered on their merits, as well as against the relevant policy and statutory framework”.

14. Having set out the relevant law on public nuisance, I will now turn to:

- a. The history of the applications made in relation to HHW’s Premises Licences.
- b. The basis of the Variation Application.
- c. Explaining “the individual type, location and characteristics of the premises and the events concerned”.
- d. The reasons why the removal of the condition, and the extension of the time for on-sales until 19:00, will be a public nuisance and threaten public safety.

HISTORY OF THE LICENSING APPLICATIONS

(a) 2013: Original Premises Licence

15. In 2013 HHW was granted a Premises Licence (13/00231/LAPRE) for the sale or supply of alcohol. It was a condition of that licence that “The supply of alcohol on the premises will be limited to tasting samples only”. In terms of preventing public nuisance the Applicant said: “the supply of alcohol will be restricted to members of the public as tasting samples” (p. 139 of Annex C).

(b) July 2018: Application to vary

16. On 5 July 2018 the Applicant applied to vary the Premises Licence in order to cover the new tasting room and tasting terraces and, amongst other things, to play live and recorded music indoors and outdoors from 10:00 to 24:00 (Mon to Sun).

17. The brief nature of the proposed variation was described by the Applicant on page 3 of the application form in these terms (p. 10):

“Hush Heath have had a substantial extension to our current tasting room and visitor facilities. We anticipate the same activities that we have currently been carrying out, customer tastings of wine and cider, occasional event always finishing by 24.00.

The new building is a double height tasting room with a roof top terrace and outside terrace area. This will all be used for tasting wine and cider, serving by the glass and bottle and using for limited events in accordance with our licencing....” (underlining added)

18. The end of the application (p. 21) the Applicant stated that:

“the activities will not change from the original approved premises licence. The only difference being the new part of the building with improved visitor facilities” (underlining added).

19. Further, in terms of promoting the licensing objectives, the Applicant stated at Section M of the application (p. 19):

“(a) **General – all four licensing objectives** – Hush Heath Estate is a family owned farm and winery maintained to the highest of standards with limited access to the public, good security, good parking and in an extremely remote area⁵. The principals of security and safety will be extended in all dealings with the public....

(d) **The prevention of public nuisance** – The supply of alcohol will be restricted to members of the public as tasting samples. We follow “Challenge 25” rules and our staff are trained in the safe serving of alcohol and not to serve anyone who has had too much to drink.” (underlining added)”.

20. The Declaration in Part 5 of the application on page 13 was signed by the Applicant, the proprietor, on 5 July 2018.

(c) August 2018: Representations/objections

21. I (and a number of others) objected to the variation application as we were, in particular, very concerned about the impact that noise caused by music and events, such as weddings, at HHW would have on those who live nearby. We explained in detail why this was a breach of the licensing objectives and, in particular, the prevention of public nuisance.

22. On 16 August 2018 Ms Sarah Easton, HHW’s manager, emailed MBC in these terms (and which was forwarded to me and others who objected):

⁵ This is wrong, as set out at paragraphs 64 to 69. This was pointed out in the representations made in relation to this application. Nevertheless, the same wording appears in the Variation Application (Part M(a) at p. 109 of Annex C).

“Hush Heath Estate have been operating the winery since 2010, with the cellar door opening in 2013 for tastings and sales and have acted in a responsible manner throughout. Hush Heath Estate has and continues to bring employment to the area, also creating income for local hospitality venues and retail shops as tourism and footfall increase in the area.

In regard to concerns about recorded music, this will be played at a low level and will be mainly inside the building, which is fully double glazed to minimise noise externally. Furthermore, our opening times are 10.00 until 17.00, with tastings and tours taking place within these hours.

As stated in our application the only time that music would be played after 17.00 is for an event. We would expect to hold no more than 12 events per year and even then, it is extremely unlikely that we would ever use all 12 as we are a 10.00-17.00 business. This is purely so that it gives us the ability to be able to do so should be have an occasion, as stated this will happen very rarely. When events do occur, they would not go on for any longer than 00.00 with any music ceasing at 23.45, guests would leave by 00.00. We are not and will not be an outside event venue business, that is not what Hush Heath Estate is about. In respect of live music, again this will be on a very rare occasion during the day time and again if after the opening hours it would be included in one of our 12 events.

Our new building has been created to boost tourism in the local area and give our customers an exceptional experience whilst being respectful of our agricultural heritage and the beautiful environment around us. The rural location and tranquillity of this area is of the utmost importance to us and we are passionate about maintaining the beauty and rural character of Hush Heath. In respect of this and as responsible licence holders we would not and cannot play music every day for 12 hours a day, as explained the recorded music is very low level as background music. We have always been very sensitive to our neighbours and will continue to be so.

Regarding increased traffic at events, as previously explained we will have very few events and when an event does take place it will be heavily regulated with car parking staff ensuring that visitors leave in a timely and orderly manner before midnight. As a licence holder we actively promote responsible drinking and provide soft drinks to designated drivers, we also advise customers to pre- book taxi transport to minimise the number of cars in the local area and again promote responsible drinking.” (underlining added)

23. My clear understanding from that email was that: (i) HHW is a business which operates between 10am and 5pm, with tastings and tours taking place within those hours; (ii) bottles of wine are sold from the Cellar Door, which is the name of the shop at HHQ; (iii) events (which will relate to tasting wine) will happen very rarely at HHW, and it is extremely

unlikely there will be 12 events in any year as HHW is a 10am to 5pm business; (iv) HHW is not and will not be an outside events venue business.

24. I together with Mr Angus Codd and Ms Andrea Hodgkiss met with the Applicant and his wife, on 31 August 2018 at HHW. However, we were not satisfied that our concerns, in particular about noise in relation to events at HHW, had been met as a result of that meeting.

(d) 3 September 2018: Hearing before the Licensing Sub-Committee

25. This led to a contested hearing before the Licensing Sub-Committee on 3 September 2018. I made written representations to the Licensing Sub-Committee. That hearing proceeded on the basis that all the existing conditions of the Premises Licence would remain in place, including the condition that: “The supply of alcohol on the premises will be limited to tasting samples only”.
26. On 3 September 2018 the Licensing Sub-Committee granted the Applicant’s application, but subject to a number of important Additional Conditions.
27. The reasons for determination are set out in the Notice for Determination dated 3 September 2018 (pp. 24-25) and, in reaching its decision, the Licensing Sub-Committee:

“carefully balanced the requirements of the applicant in operating his business as a winery with some events in an extended space and the need for the promotion of the licensing objectives of prevention of public nuisance and protection of public safety to protect the concerns of neighbours likely to be caused by uncontrolled licensable activities.

Having considered the topography of the area, the close proximity of residents and the likely travel of sound and the concerns of residents regarding quiet use of their premises Members have provided conditions to ensure a reasonable balance.

The applicant indicated that he was content to notify residents of events, limited those to 12 a year and wished to be a responsible neighbour. Objectors present concerned that their concern was the potential for issues with an unrestricted licence

Members also considered the comments with regard to traffic and felt that traffic beyond the premises was a matter for the behaviour of visitors and beyond the control of the licence holder. It was not felt that further conditions would be appropriate in this regards.” (underlining added).

28. The Additional Conditions imposed by the Licensing Sub-Committee were (p. 26): Recorded music, live music and late night refreshment will take place after 17:00 hours on not more than 12 occasions in any calendar year (“events”); such event occasions will not occur on consecutive weekends; any event occasion will be notified to neighbours within

800m of the premises a minimum of 7 days before the event; after 23:00 hours live and recorded music and late night refreshments will be indoors only and windows and doors will be closed save for entry and exit; live and recorded music will end by 23:45 hours; all visitors to the premises will leave the premises and parking area by 00:00; on event occasions signage will be placed at the exits of the premises asking visitors to leave quietly and respect neighbours.

29. The reasons the Licensing Sub-Committee gave for these conditions were as follows (p. 26):

“These are considered by Members to be appropriate and proportionate to promote licensing objective of prevention of public nuisance and to balance the requirements of the applicant with a reasonable level of protection for neighbours in the vicinity from public nuisance from noise of music, clientele in outside space and leaving the premises”.

30. There was no appeal against that decision.

(e) November 2018: Application for a minor variation

31. On 22 November 2018 the Applicant applied for a minor variation “to remove a condition on the licence which states “the supply of alcohol on the premises will be limited to tasting samples only”” under section 41A of the 2003 Act (p. 26). The premises were described in the application as “Winery and visitor experience”.

32. The details of the proposed variation were (p. 29):

“This is an application for a minor variation, to remove a condition on the licence which states “The supply of alcohol on the premises will be limited to tasting samples only”.

It is a variation to remove the condition that hampers our operation and is only required to be for the operational hours and 12 events agreed by the licencing sub-committee hearing on 03/09/2018” (underlining added).

33. I objected to that application. First, it was asserted that “it [was] a variation to remove the condition that hampers our operation”. The Applicant did not explain anywhere in his application why the condition he was seeking to remove was hampering “our operation” at HHW. Second, the application identified that, if permitted, the Operating Schedule will be changed to permit “sale by retail of alcohol”. However, aside from that, there was no explanation at all of the licensable activities proposed at HHW as a result of the removal of the condition, and the proposed customer base resulting therefrom was not identified.

34. That application was refused by MBC. On 4 February 2019 Ms Lorraine Neale, the Senior Licensing Officer at MBC, informed me that she had emailed the Applicant in these terms:

“the reason for refusal was that objections have been received from local residents around public nuisance and public safety issues, the objections are that the removal of the condition “the supply of alcohol on the premises will be limited to tasting samples only” is to encourage the number of visitors to the premises which will increase traffic in the area. The public nuisance issue is a relevant factor in that removal of the condition will change the daytime operation from a winery with tasting options only, to potentially a pub/restaurant. There are no conditions in place on the current licence that reflect that kind of establishment, the conditions imposed at the September hearing were really aimed at the 12 events for the year and not a change to the daytime operation.” (underlining added)

35. It was the refusal of that application that has given rise to the Variation Application.

THE VARIATION APPLICATION

36. The Applicant is making the same request to remove the condition from his Premises Licence, but this time under section 34 of the 2003 Act.

37. This is because, as Ms Neale has explained, the removal of the condition will change the daytime operation of a winery with tasting options only, to potentially a pub/restaurant. In the present context, such an operation will be unlawful as it will be in breach of the planning restrictions in relation to the use of the site. Those restrictions are therefore to protect the rural amenity of the open countryside, the adjoining residential properties and highway safety. If the Applicant had sought planning permission in 2017 on the basis that the tasting room and tasting terraces were to be used as a pub/restaurant or an events venue, such a request for planning permission would have been refused. This is because the proposals would have breached the relevant policies in the Local Plan, and which are set out below. The condition on the Premises Licence limiting the supply of alcohol to tasting samples only must remain in place as it is the obvious (and proportionate) way to prevent public nuisance in the context of the location of HHW, the authorised use of the site, the road access to it, and all those who live near to it. Likewise there should be no change to HHW’s opening hours.

(a) Section 182 Guidance: promotion of the licensing objectives

38. The section 182 Guidance provides applicants with detailed guidance of the points they need to consider in identifying the steps they need to take to promote the licensing objectives. This is set out in the following paragraphs:

“8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected

to publish information about what is meant by the promotion of the licensing objectives and to ensure that applications can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks ...

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of the information which applicants will require should be available in the licensing policy statement in the area ...

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively ...” (underlining added).

(b) MBC's policy: promotion of the licensing objectives

39. Paragraph 17.19 of MBC's Policy provides that in relation to “Conditions to promote the prevention of public nuisance”:

“[17.19] The Applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

[17.20] The Applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises;
- (ii) Licensable activities proposed and customer base;
- (iii) Hours and nature of operation;
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery;
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises from Car Park;
- (vi) Availability of public transport to and from the premises;
- (vii) Delivery and collection times and locations;
- (viii) Impact of external security or general lighting on residents;
- (ix) History of management of and complaints about the premises;
- (x) Applicant’s previous success in preventing Public Nuisance;
- (xi) Outcomes of discussions with the relevant Responsible Authorities;
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers;
- (xiii) Collection of litter arising from the premises.”

(c) The nature of the Applicant’s proposed variation

40. The nature of the proposed variation is set out in the Rider to Part 3 of the Variation Application (p. 114 of Annex C). The explanation provided by the Applicant is as follows:

“The Licence was last varied in 2018 following a state of the art improvement and extension to the tasting room and visitor facilities at the Winery. Only Hush Heath alcoholic drinks will be sold at the premises (both on and off sales) and these comprise sparkling wine, still wine, cider and beer. The proposed variation will allow visitors to

purchase alcoholic drinks. Both the roof and ground floor terrace areas face away from residential property located in Five Oak Lane. The premises will continue to operate as currently permitted but the proposed Variation will enhance the visitor experience with the sale and supply of alcohol allowed up to 7pm (Monday to Sunday inclusive) although it has and will continue to be the Winery's general practice to close at 5pm⁶ (November – March inclusive) and 6pm⁷ (April – October inclusive). The proposed variation only applies to the day to day on-sales and is not applicable to the 12 events per year or off-sales allowed under the current licence. Consequently the premises will continue to be licensed until 12 midnight for off-sales (which is required for on-line orders that are processed⁸) and for a maximum of 12 events per year.”

41. On Monday 18 February 2019 I attended the meeting of the Full Council of Staplehurst Parish Council, when the Variation Application was on the agenda. I spoke at the meeting and explained why I opposed the application. I said that the purpose behind the Variation Application was to draw substantially more visitors to HHW in cars and coaches and that would make the road access to HHW dangerous and that in turn would affect the much wider community in Staplehurst who live on and use the roads around HHW, whether on foot, bicycle, horseback or in a vehicle. Ms Sarah Easton, the manager of HHW, then spoke and provided this explanation to Staplehurst Parish Council about the Variation Application:

“She said she lived just up the road from the winery and she had seen it grow from a tiny little winery to what it is now. She said they had no intention of endangering the community. She said it was inevitable that coaches would come to the winery. She said unfortunately they are public roads this is “not something we can do anything about”⁹. She said that they are very thoughtful about what they are doing. She said that the reason they want the condition removed from the Premises Licence is simple. It is “so that our visitors can enjoy a glass of wine”. She said they encourage their visitors to book taxis, and that they are responsible licence holders. She said she was “very shocked at what people think they are doing there”. She said people come to enjoy the beautiful estate. They are not a pub, they are not a bar. It is simple people come to enjoy the estate and at the moment they cannot enjoy a glass of wine, and they want them to be able to enjoy a glass of wine when they are there. She said there is no ulterior motive – it is to “help to build the business up”. She said she was not sure what

⁶ In 2018 from the end of November 2018 until 24 December 2018 HHW was open until 6pm for its “Christmas Shop”.

⁷ This is the first time this has been mentioned as HHW's “general practice”. In the Applicant's application to vary the Premises Licence the opening hours were 10am – 5pm (see pp. 17-18). Likewise in Ms Easton's email dated 16 August 2018 she said HHW “are a 10.00-17.00 business” (para. 22 above, p. 7).

⁸ This also has not been mentioned before and is subject to the planning restriction that “no retail sales to the public shall be carried out outside the hours of 08:00-18:00 Monday to Saturdays and at no time on Sundays or Bank and Public Holidays” (condition 4 of 2013 Planning Permission; p. 20 of Annex C).

⁹ This is not correct: see paragraph 119 below.

the motive was. She said they had certainly created something they were proud of, and nothing else.”¹⁰ (underlining added)

42. If the Applicant wants to sell wine by the glass in order to “help build the business up” the obvious inference is that he wants to do so in order to attract more visitors to HHW. Further, as Ms Neale has already informed me, the removal of the condition will change the daytime operation from a winery with tasting options only, to potentially a pub/restaurant and no doubt an events venue too.

(d) The steps the Applicant proposes to take to promote the licensing objectives

43. In relation to the promotion of the licensing objectives the Applicant has provided the following information in the Variation Application (p. 110 of Annex C):

“b) **The prevention of crime and disorder.** This will continue as it has since 2010 with limited opening hours, good security, alarms and CCTV cameras. There will be no unsupervised access. The typical visitor to the premises is 35 years plus and “sophisticated”. The main purpose of the Winery’s business is production of wine but the business wishes to enhance the visitor experience following significant investment into the 2018 extension. The high standards set by the Applicant and the Hush Heath Estate will continue. Visitors typically have tasted wine following a tour of the vineyards, taken in the beautiful views, and walked the stunning estate and this will continue, although visitors will be able to purchase alcohol which is Hush Heath Produce only. Hush Heath is not a public house or restaurant. It is a Winery producing its own alcoholic drinks and only these will be sold and supplied and comprise sparkling wine, still wine, cider and beer.

c) **Public safety.** The Winery which forms part of the Hush Heath Estate carries out HACCP which ensures public safety and the staff are well trained in this. Staff are also First Aid trained and have designated First Aid areas should any event occur. Additionally there is good security and CCTV cameras.

d) **The prevention of public nuisance.** All staff are well trained and follow the “Challenge 25” rules under the supervision of the Designated Premises Supervisor. In view of the very high standards set by the Applicant and the Hush Heath Estates the winery is not a public house, night club or similar establishment the Variation will have limited impact (if any)

e) **The protection of children from harm.** The typical visitor is 35 years of age plus ...”

¹⁰ This is typed up from the contemporaneous note I made of what Ms Easton said at the meeting.

(e) Failure to provide information

44. When the Variation Application is considered against MBC's policy, together with the section 182 Guidance, most of the relevant information the Applicant is required to produce is missing.
45. First, the Applicant says he now wishes "to enhance the visitor experience following significant investment into the 2018 extension". However, there is no explanation at all of the licensable activities proposed at HHW as a result of the removal of the condition, and the proposed customer base resulting therefrom is not properly identified. All that is said is that "the typical visitor is 35 years plus and "sophisticated"". The customer base appears to be tourists (see Ms Easton's email of 16 August 2018; para. 22 above). The reality is that the removal of the condition will change the daytime operation from a winery with tasting options only, to potentially a pub/restaurant and events venue and that will lead to a substantial increase in visitors, which is what the Applicant wants to happen: see the job description for Events Manager published in January 2019 (pp. 90-92 of Annex C).
46. Second, the Applicant does not mention that there is no public transport to HHW. There is also no information provided about how customers will get to HHW or the nature of the road access.
47. Third, given the rural location of HHW, it is essential to have the following information in relation to HHW's customer base: (a) how many visitors there are, or will be; (b) where they are coming from (ie locally, different parts of the country or abroad); or (c) how they will get to HHW (ie in their own vehicles, minibuses or coaches). This information is needed in order to understand the impact these visitors, and their mode of transport, will have on narrow lanes around HHW. If the customer base is tourists, then they will also be unfamiliar with the area and the local roads.
48. Fourth, the Applicant does not mention that the authorised planning use of the tasting room and tasting terraces is for tasting wine. There is no planning permission authorising the use of the tasting room and tasting terraces for drinking wine purchased by the glass (see para. 78 below).
49. Fifth, the Applicant does not mention that there is a planning restriction in place which prohibits the sale of food from HHW (see para. 79 below).
50. Sixth, the information provided about the authorised opening hours is wrong. HHW is only allowed to open Monday to Saturday, and is not allowed to make any retail sales to members of the public after 18:00 (see para. 80 below).
51. Seventh, it is proposed that "beer" will be sold. This is not wine produced at HHW, and sale of it is in breach of the planning restriction contained in the 2013 Planning Permission (see para. 79 below; p. 19 of Annex C).

52. Eighth, there is no reference to the fact that HHW is located in open countryside and the impact that will have on local residents.
53. Ninth, there is no reference to the fact that there are several homes within 250 metres of HHW. These include 2 and 3 Plain Cottages, Forstal Farm and Tavern Farm (p. 2). Mr and Mrs Stanley, who live at [REDACTED] have been there 50 years. Mr and Mrs Humphrey who live at [REDACTED] have been there 36 years.
54. Tenth, no consideration has been given to the impact noise from customers and vehicles will have on the surrounding area, and whether that can be addressed.
55. Eleventh, the external lighting in the car park is not addressed. This has been installed in breach of a planning restriction¹¹ (see para 82 below; p. 4 of Annex C). These lights are causing light pollution, and have ruined the otherwise intrinsically dark landscape around HHW.
56. Twelfth, HHW is in breach of numerous planning restrictions. These were reported to Mr Rob Jarman, the Head of Planning and Development at MBC, in a letter from residents dated 19 February 2019. The letter was supported by evidence contained in a 187 page exhibit. The letter is at Annex B. The exhibit is at Annexes C and D.
57. Thirteenth, there have been complaints about noise from HHW and the Applicant does not deal with them in an appropriate manner. For example:
- a. The Applicant was required to submit any details of any plant or ducting system to MBC and to have these details approved “Prior to the first use of the premises”: condition 13 of the 2017 Planning Permission (p. 62 of Annex C). This scheme was required in order to ensure that maximum noise limits at the boundaries of neighbouring properties were being complied with and were not being exceeded. The stated purpose of this condition was “to maintain the amenity of the locality and nearby properties”. The site officer’s report in respect of the 2017 Planning Application says “a condition has been placed in order to ensure no noise effects are caused to neighbouring properties” (p. 55 of Annex C). HHW has, however, failed to satisfy this condition to date despite the new processing hall having been in use since September 2018. The local residents have not, therefore, been able to benefit from the protection this condition was meant to give them against inappropriate noise levels being emitted from HHW at unsociable hours. There have been occasions on which residents living at 3 Plain Cottages, opposite HHW, have been disturbed by the noise of machinery operating at HHW. The disturbance has been, for example, because of the noise of the grape press operating at HHW and also noise emitting from the cooling plant operating at night.

¹¹ And ignoring the fact there are bats (a protected species) at the site.

- b. On 13 December 2018 Mr Paul Stanley emailed the Applicant in relation to the noise he was experiencing and which he identified as “most likely a cooling plant or fridge unit” which he said “must be on the side of the winery that is directly in front of our bedroom window if there is some way of making it quiet it would be much appreciated by us”. The Applicant responded by email later the same day and said this: “I am prepared to investigate what sound reducing we can apply to the cooling plant you refer to. I do not know exactly how and the cost involved. Perhaps in parallel you might consider writing to the Licensing Authority and withdrawing your objections to our application?” (p. 80). The application in question was the application to make a minor variation to the Premises Licence dated 22 November 2018 to sell wine by the glass (paras. 31-35 above). This is not an appropriate way to deal with a complaint, particularly when the Applicant is in breach of a planning condition to protect residents from noise intrusion.

58. The Variation Application does not begin to address the public nuisance issues which will inevitably arise if the condition is removed and the Applicant is allowed to (i) sell wine by the glass, and (ii) extend HHW’s opening hours until 19:00 all week (notwithstanding there is a planning condition which forbids this). The public nuisance issues are set out in detail in the next section below in the context of the type, location and character HHW.

HHW: TYPE OF PREMISES

59. The site is a winery which consists of processing and bottling areas, a shop and tasting area, bottle storage and other ancillary facilities, including car parking, and some 50 acres of vineyards and 10 acres of apple growing which are harvested to provide wines and ciders to the market including several major supermarket chains and export (see p. 69; Report of Jon Barnes dated 28.02.18).
60. On the west side of the processing hall is a tasting room. The tasting room is on two floors, the ground floor and an upper/mezzanine floor. There is an outside tasting terrace area on the ground floor and also on the upper floor. The outside tasting terrace on the upper floor has been named “The View”. It is the tasting room and tasting terraces that are covered by the existing Premises Licence 18/02446/LAPRE (see pp. 4 to 7).
61. The tasting room was constructed in 2018 as part of “the new processing hall, including visitor tasting room and administration office”, which the Applicant was given planning permission to build on 5 September 2017 (pp. 59-62C of Annex C).
62. The building, including the tasting room and terraces, is an agricultural building and is exempt from non-domestic rates (Part I of the Variation Application (Premises Details)).

HHW: LOCATION OF THE PREMISES

(a) Rural location

63. HHW is located in the open countryside to the south-west of Staplehurst. It is situated at the western end of Five Oak Lane (and to the south of it), close to the junction with Wilden Park Road. The location of HHW is shown on the map at (p.1). This map also shows the location of Little Harts Heath.

64. HHW is situated in what a planning case officer for MBC described as a “rural location in the open countryside beyond the bounds of any town or village”, where “development is tightly restricted”¹². The MBC Local Plan (“**the Local Plan**”) acknowledges that the countryside in which HHW is situated “has an intrinsic character and beauty that should be conserved and protected for its own sake”¹³.

(b) Noise travels and it is an area of low background noise

65. HHW is situated in an area of the Low Weald in which sound travels great distances, due to the topography of the local area. This is because it is like a bowl. There is Hush Heath Hill to the south, and the hill up to Marden Thorn to the north. In between Hush Heath Hill and Marden Thorn the area is flat, with only a 13 metre variation in the 2/3 mile area to the north of HHW.

66. HHW is also located in an area of low background noise: see paragraph 4.10 of the Acoustics Report dated February 2019, prepared on my instructions¹⁴ by Mr David Leversedge of Aria Acoustics (“**the Baseline Noise Survey**”; p. 93). Aria Acoustics are experts in acoustics and noise management: paragraph 1.5 of the Baseline Noise Survey (p. 85).

(c) Residential properties nearby

67. Although HHW is located in a rural area, there are a substantial number¹⁵ of residential properties located within one mile of HHW, including properties directly across the road from the site (2 and 3 Plain Cottages, Snoad Lane; pp. 1-2). The location of HHW is therefore not so remote that its operations do not impact local residents; on the contrary, local residents are greatly impacted by the manner in which the site operates.

¹² See Delegated Report by Catherine Slade dated 29.10.13 (p. 15 of Annex C). HHW is just to the north of the High Weald Area of Outstanding Natural Beauty. The closest point of this to the Borough of Maidstone is Winchet Hill in the southern part of Marden Parish (para 4.111 of the Local Plan).

¹³ See paragraph 4.95 of the Local Plan (p. 70 of Annex C).

¹⁴ But also for the benefit of Forstal Farm and Tavern Farm.

¹⁵ Information from the Land Registry shows there are 78 households within a one-mile radius of HHW (p. 3).

68. The Applicant is therefore wrong to describe HHW as being located in an “extremely remote area” (para M(a) of the Variation Application; p. 109 of Annex C).

(d) Highway access

69. HHW is situated two miles from a main road. There is the A229 to the east (which links Staplehurst and Cranbrook) and the B2079 to the west (which links Marden and Goudhurst). Once off the main road, the highway access to HHW is all along unclassified roads, which are country lanes¹⁶. These roads are all shown on the map at p. 1.

70. The main road access route to HHW is, as sign-posted from the A229, from the south of Staplehurst along Pinnock Lane (0.5 miles) and then Five Oak Lane (1.5 miles). In relation to this highway:

- a. Five Oak Lane is a narrow rural road limited to a single lane and in many places there are deep ditches either side of it. On the 1:25,000 Ordnance Survey map it is marked as a yellow road, which is defined as “road generally less than 4 m wide”. The narrowest section of this road is between (a) the junction of Five Ash Lane and Five Oak Lane, and (b) Wilden Park Road. This section of road is 0.7 miles long, and all vehicles accessing HHW from the east must pass along it. Labelled photographs showing this section of Five Oak Lane between Wilden Park Road (to the west of HHW) and Five Ash Lane (to the east of HHW) can be found at (pp. 153-187 of Annex D). There is a list identifying what each photograph shows at (p.154 of Annex D), together with a map identifying the location at which the photograph was taken at (p. 153 of Annex D). A detailed description of Five Oak Lane can be found in the letter of Natasha Davidson-Houston, who lives at [REDACTED] [REDACTED] on Five Oak Lane, dated 14 February 2019 (pp. 141-146 of Annex C).
- b. Pinnock Lane is also single lane rural road, apart from at the junction with the A229 where there are 5 white lines in the middle of the road marking two lanes. Pinnock Lane is shown on the 1:25,000 Ordnance Survey map as an orange road, which means “road generally more than 4 m wide”.
- c. My father and I use Five Oak Lane and Pinnock Lane to drive to Henhurst Farm Shop and to Staplehurst. I also run along it at the weekends.

71. In the context of the Variation Application, the nature of the road access to HHW along Pinnock Lane and Five Oak Lane was discussed at the Full Council meeting of Staplehurst Parish Council on 18 February 2019. In the course of that discussion the Councillors made the following points¹⁷:

¹⁶ These are all marked as yellow roads on the 1:25,000 High Weald Ordnance Survey which means they are roads “generally less than 4 m wide”, apart from Pinnock Lane, Marden Road, Pagehurst Road and Thorn Road. These are marked as orange roads, meaning they are “generally more than 4 m wide”.

¹⁷ These are typed up from my contemporaneous note of the discussion at the Parish Council meeting.

“Cllr Buller - The weight of coaches damages the highway. The amount of traffic going down there [ie to HHW] is a real issue. We have already reached tipping point.

Cllr Sharp – That road [ie Five Oak Lane] is appalling. It is seriously bad. You cannot get through. It is a one car track. There are ditches on the edge of the kerb. Run right up – you can end up in the ditch. I fear for people’s safety...

Cllr [?] – Drink-driving is an issue. Potential for concern – especially on those roads. There are no pubs left.”¹⁸

72. The other road access to HHW:

- a. From the north of Staplehurst is along the Marden Road, Pagehurst Road, Five Ash Lane and then Five Oak Lane (as described in paragraph 70 above).
- b. From the B2079 (which links Marden and Goudhurst) is along Sherenden Lane and then Five Oak Lane. Sherenden Lane is narrower than Five Oak Lane.
- c. From Marden (to the north-west) is along Thorn Road via Marden Thorn, then Wilden Park Road and Five Oak Lane.
- d. From Curtisden Green (to the south) is along Curtisden Green Lane, Wilden Park Road and Five Oak Lane.
- e. From Goudhurst (to the south) is through Curtisden Green (at (d) above), or via Blantyre House and Hush Heath Hill, Wilden Park Road and Five Oak Lane.

(e) No public transport

73. HHW is not accessible by public transport and there is no street-lighting on the surrounding highways. There are also no pavements.

HHW: CHARACTERISTICS OF PREMISES

(a) Authorised use and planning restrictions

74. HHW is an agricultural business. All planning and licensing applications that have been submitted to MBC to date in relation to HHW have proceeded on that basis.

¹⁸ The nature of the road access to HHW is relevant to the Variation Application and whether the removal of the condition, and consequent increase in numbers will be a public nuisance. It is concerning that some residents who have knowledge and experience of the road have had their representations rejected. It is respectfully suggested that, in determining whether there will be a public nuisance, all this evidence should be before the Licensing Committee, as it is not frivolous or vexatious under section 35(6)(c) of the 2003 Act.

75. When HHW first opened a winery at its site in 2009, this was considered to be an acceptable agricultural use, because making wine is ancillary to the growing of grapes. After HHW was established as a winery, it was permitted to diversify, by adding controlled retail and wine tasting elements to its business. This expansion was permitted on the basis that these functions were still ancillary to its primary function as a winery, and therefore as an agricultural business, and because they were therefore considered to be acceptable forms of agricultural diversification.

76. I understand the licensing and planning regimes are totally separate. However, I note that MBC's guidance notes on completing the application form for the grant of a Premises Licence say:

“Relationship between Licensing and Planning Legislation – it is your responsibility to check with the Authority’s Council Planning Department as to whether planning permission is in place for the type or hours of trading which you propose to engage in. Because the Licensing and Planning Regimes are totally separate, the grant of a Premises Licence will not give you any authorisation under the Planning Legislation. If you are unaware or not sure as to the terms of the planning permission currently in place for the premises you are strongly recommended to obtain this information from the Council’s Planning Department before submitting your application for your premises licence”.

77. There are a number of important planning controls in place in relation to HHW. Planning controls exist so as to strike a careful balance between promoting and encouraging suitable development in an area, whilst ensuring that the characteristics of the area and the needs of the people that live in it are taken into consideration. The individuals who are directly impacted by how HHW operates must be able to rely on MBC both to grant appropriate planning controls in relation to HHW, but also to ensure that those controls are properly enforced, so as to maintain the integrity of the planning control system and the public's acceptance of the decision-making process that it involves. It is for this reason the residents wrote to Mr Jarman, the Head of Planning and Development on 19 February 2019: Annex B. In the present context it is necessary to explain the planning controls in place as they are relevant to the characteristics of the premises (and important aspects of the Variation Application conflict with them). Further, given the increase in the size of the tasting room in 2018, together with the addition of the tasting terraces, compliance with these planning controls is even more important in order to protect the rural amenity of the open countryside, to safeguard the properties of adjoining occupiers and highway safety.

78. First, the authorised use of all the buildings at HHW is agricultural use, namely as a winery. The authorised use of the tasting room and tasting terraces is to taste wine. It does not extend to, and does not include, drinking wine by the glass. There is no planning permission for the Applicant to sell wine by the glass. The retail element is, and shall remain, strictly ancillary. This is because condition 16 of the 2017 Planning Permission

requires that: “The retail element approved by this application shall remain strictly ancillary to the primary use of the site as a winery” (p. 62A of Annex C). The express purpose of this condition was “To ensure an appropriate scale of retail use having regard to its countryside location”. This is important as HHW does not have planning permission to operate as an events venue, a restaurant, a pub or as any sort of eatery.

79. Second, the sale of food is prohibited. This is because in September 2013, HHW applied for planning permission to use part of its premises “for the general sale of wine and cider produced on the holding”. A copy of the 2013 Planning Permission can be found at (pp.19-22 of Annex C). Condition 1 of the 2013 Planning Permission said that: “The development hereby permitted shall only be used for the sale of wine produced by the Hush Heath Estate and the Hush Heath Winery”. The stated reasons were: “To ensure a sustainable development and prevent a general retail use from being established in an inappropriate location, to safeguard the rural amenity of the open countryside and the enjoyment of their properties by adjoining residential occupiers, and prevent harm to highway safety”.
80. Third, there is a restriction on opening hours. Condition 4 of the 2013 Planning Permission (p. 20 of Annex C) stated that: “No retail sales to the public shall be carried out outside of the hours of 08:00 – 18:00 Mondays to Saturdays and at no time on Sundays or Bank or Public Holidays”. The reasons stated for this condition were: “In the interests of rural amenity of the open countryside, to safeguard the enjoyment of their properties by adjoining residential occupiers and prevent harm to highway safety”.
81. Fourth, external lighting is prohibited without the consent of MBC. HHW was first granted planning permission to erect a winery on the site in June 2009 – including associated works, hard standing, and parking – pursuant to Planning Permission MA/02/0127 (pp. 2-13 of Annex C). Condition 9 of that planning permission stated that, once the development for which planning permission had been granted had been built, “No further external lighting shall be installed without the prior consent of the Local Planning Authority” (p. 4 of Annex C). The reasons stated for this condition were: “To safeguard visual amenity in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and QL1 of the Kent and Medway Structure Plan (2006)”.
82. Fifth, HHW is required to produce a Sustainable Travel Statement. Condition 11 of the 2017 Planning Permission (p. 62 of Annex C) said that: “No part of the development shall be occupied until a Sustainable Travel Statement, providing measures and incentives to encourage trips by alternative means to the private car has been submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be carried out in full”. The reason stated for this was “in the interests of sustainable transport use”. Further, the site officer’s report in respect of the 2017 Planning Application recorded: “KCC Highways submitted that they do request that the applicant maintain a register of visitor numbers for information and it is recommended this is encapsulated in a travel plan which can monitor visitor numbers and encourage sustainable travel where possible”.

83. Although HHW was required to have an approved plan in place before the new building was occupied, it has been open since September 2018. There is no approved Sustainable Travel Statement in place. There is therefore no information about the actual visitor or customer numbers attending the premises.

(b) 2017 Planning Application

(i) Reason this is important

84. It is also critical to understand, and look at with some care, the nature of the proposals the Applicant made for planning permission in 2017. This is because it was based on this information that the Applicant was granted planning permission to build the new tasting room and tasting terraces as part of the extension constructed in 2018. The reason this is so important is because what the Applicant wants to do now, is very different to what he told the planners, and members of the public, in 2017 about the use of the tasting room and tasting terraces, the number of visitors he intended to attract, and the number and type of vehicles that would be using the road access to HHW. If what the Applicant wants to do now in relation to the tasting room and tasting terraces had been put to the planners in 2017, he would not have got planning permission to build or use them for the purposes he now wants. That is because of all the adverse consequences which flow from such proposals, and it is those adverse consequences which now give rise to the public nuisance and threat to public safety in the context of the Variation Application.

(ii) Representations made by the Applicant

85. As set out above, MBC granted planning permission to build “a new processing hall, including visitor tasting room” in 2017. This was the result of the Applicant’s application for planning permission dated 16 May 2017 (“**the 2017 Planning Application**”; pp. 23-28 of Annex C) and, amongst other things, the Amended Design & Access Statement (“**the DAS**”; pp. 30-46 of Annex C). Condition 15 of the 2017 Planning Permission provided that “the development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan HH/P/01; Proposed Site Plan HH/P/10A; Proposed Winery Elevations HH/P/07A; Proposed Bottle Store Elevations and floorplans HH/P/09A; Proposed winery floorplans HH/P/06A; Proposed Mezzanine Floor Plan HH/P/06A; Design and Access Statement; Drainage Strategy Attridge. Reason: To clarify which plans have been approved” (underlining added; p. 62a of Annex C; the plans are at pp. 58 to 63)¹⁹.

86. These documents are important. They contain a number of key representations made by the Applicant as to the use of the tasting room, the anticipated number of visitors and traffic to the site, both in terms of number and type of vehicles. These representations were relied

¹⁹ All the documents in relation to the 2017 Planning Application are at: <https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OQ39SHTYKLV00>.

on by the planners at MBC, Highways Department of Kent County Council (“KCC”), Staplehurst Parish Council, and members of the public who were all consulted in relation to the Applicant’s planning application. There were no objections to the application and planning permission was granted by MBC on 5 September 2017.

87. This is significant because, as explained below, the present situation is very different. This is because the Applicant wishes to use the tasting room as an events venue and as a restaurant and bar and, in doing so, “substantially grow our visitor numbers by holding events throughout the year. This will include private, corporate and public events” (p. 90 of Annex C).

88. At paragraph M(b) of the Variation Application the Applicant says this “the main purpose of the Winery’s business is production of wine but the business wishes to enhance the visitor experience following significant investment into the 2018 extension” (underlining added). If the ancillary business for visitors is “tours and tastings” there is no need for visitors to be able to buy a glass of wine. So, it must be that the Applicant wishes to do something else. The obvious inference, particularly in the light of HHW’s advertisement for a full-time Events Manager, is that he wishes to shift the use of the tasting room and tasting terraces into an events venue, restaurant, bar or some form of eatery and, on that basis, attract substantially more visitors to HHW. There is no mention in the 2017 Planning Application that the tasting room and tasting terraces will be used for any of these purposes and, if this had been explained, that application would have been opposed. It is because the Applicant now has very different intentions in relation to the use of the tasting room and tasting terraces, together with the number of visitors he intends to draw into HHW, that many of those who live near to HHW are opposing the Variation Application. They did not have the opportunity to oppose these points in relation to the 2017 Planning Application, as there was no mention of them whatsoever.

(iii) 2017 Planning Application – the form

89. The 2017 Planning Application describes the development as “proposed new Processing Hall, including visitor tasting room and administration offices” (p. 23 of Annex C). The existing use of the site was described as “Wine production and Visitor Tasting Room” (p. 26 of Annex C). It was stated there was parking for 75 cars, and the total proposed (including spaces retained) was 75. There is no increase in car parking identified as a result of the development (p. 25 of Annex C). The opening hours were stated to be Monday to Saturday, 11am to 5pm (p. 28 of Annex C).

90. The plans provided with the 2017 Planning Application show:

- a. HH/P/10A (May 17) – Proposed Site Plan – shows a “Tour/Tasting Venue” (p. 59)²⁰.
 - b. HH/P/06A (May 17) – Proposed Winery Plan – shows “Shop/Tasting Room” and a “Tasting Terrace” (p. 62).
 - c. H/P/06A (May 17) – Proposed Winery Mezzanine Plan – shows a “Tasting Terrace” (p. 63).
91. These plans do not show the capacity of the “Tour/Tasting Venue” or the “Shop/Tasting Room”. Further, there is no mention anywhere in the 2017 Planning Application, and the information supporting it, that tasting room is, or will be, a “200-seater tasting room, one of kind in the UK”²¹ and it is very difficult to see how a lay person could work this out. Further, there is no mention anywhere that the purpose of this new building is to boost tourism in the local area²².
92. The 2017 Planning Application was signed electronically by Mr Nick Mumby on 16 May 2017 and, as the Applicant’s agent, and he ticked the Box 26 Declaration that: “I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them” (p. 29 of Annex C).

(iv) Design & Access Statement

93. In the DAS, under the heading “Use”, the Applicant explained (pp. 32-33 of Annex C):

“Hush Heath Winery is not only passionate about its produce but also active in show casing the ‘methodology’ of producing high class wines. Hush Heath provide a very popular Wine tasting tour around the estate, educating visitors to the whole process of running a vineyard right through to the final process of ‘Tasting’ which is encouraged back at the Winery ‘terrace’ following the tour where visitors are able to purchase produce from the Estate.

Therefore, coupled with its own success and ever growing increase of tourists and visitors, Hush Heath Winery has outgrown its humble beginnings. This is not necessarily due to an increase in production, but with the collaboration of the major super markets and the rigorous requirements that they apply, a separate bottling/labelling hall is required. With this in mind Hush Heath wish to take this

²⁰ The Amended Plans were put on MBC’s planning website on 25 August 2017, although the amended plans are dated May 2017.

²¹ See the job description for the Events Manager in January 2019 at p. 90 of Annex C.

²² This is a point that the winery manger, Sarah Easton, made to Lorraine Neale in an email dated 16 August 2018: see para 22 above.

opportunity to re-plan the whole processing procedure allowing easier access during harvesting times and allowing for greater storage of bottles of wine awaiting distribution. At the same time, to accommodate for increasing visitors, a dedicated ‘tasting’ room, shop and terrace would be linked to the new expansion.” (underlining added)

94. In terms of access, the Transport Statement (pp. 44-45 of Annex C) said this:

“As explained through this D&A statement, the expansion of Hush Heath is driven mainly by the need to create a well organised efficient award winning Winery not simply due to an increase in production or turn-over. This is highlighted effectively in the insignificant increase of vehicular movement to and from the winery...

- Vineyard Staff at present total 16 full-time and all live locally, 4 of who walk to work daily. This is expected to increase to 20+ staff following the new expansion.
- Refuse collection is once a week by a licensed commercial contractor, if waste is to increase then visits would remain the same but additional waste storage adopted.
- At present, Wine dispatch is via 2 no. HGV’s per week. This is estimated to possibly increase to 3 no. per week.
- The increase in Car Park size (60 No. Spaces proposed) is to allow for an increase in visitors, the majority of these will arrive in individual cars. A small number may be in small mini buses.
- A number of cycle hoops will be provided for those visiting (or staff) by bicycle.
- Dedicated drop-off area will also be provided for DDA provisions.” (underlining added).

(v) Compliance with the Local Plan

95. In the DAS the Applicant represented (whether expressly or by implication) to all those who considered it, namely the MBC (Planning Department), Staplehurst Parish Council, KCC (Highways and Transportation), and members of the public that, amongst other things:

- a. HHW had “outgrown its humble beginnings” and wanted to “re-plan its whole processing procedure” and build a new processing hall;
- b. the new building was for agricultural purposes, the majority of the floorspace being directly related to the agricultural use of the wider site;

- c. the increase in staff was for vineyard staff;
- d. HHW would continuing its popular wine tasting tour;
- e. the new development would have a dedicated “tasting” room, shop and terrace for visitors;
- f. the “tasting” room and terrace would, as the name suggests, be used for tasting wine;
- g. the “tasting” room and terrace would not be used for any purpose other than tasting wine;
- h. although it was anticipated there would be an increase in visitors, “there would be an insignificant increase of vehicular movement to and from the winery”;
- i. the majority of visitors would arrive individual cars,
- j. a small number of visitors “may be in small mini buses”;
- k. no visitors would be arriving in large minibuses or coaches; and
- l. it was possible there would be one extra HGV movement per week for wine dispatch.

96. This meant that the Applicant represented that his proposals, which were considered to be a new development to expand an existing business in a rural area (and outside the settlement boundaries),²³ complied with the following (amongst other) criteria in the Local Plan, namely:

- a. They were for “new agricultural buildings or structures on land in use for agricultural trade or business” which met the following criteria: “(i) the proposal is necessary for the purposes of agriculture; (ii) the proposal would not have an adverse impact on the amenity of existing residents; (iii) the building or structure would be located within or adjacent to an existing group of buildings, in order to mitigate against the visual impact of development ...” (Local Plan – **Policy DM36** (New agricultural buildings and structures), para 1 (p. 67); see case officer’s report dated 31 August 2017 at p. 53 of Annex C).
- b. That “the increase in floor space would not result in unacceptable traffic levels on nearby roads or a significant increase in use of an existing substandard access”

²³ P. 53 of Annex C.

(Local Plan – **Policy DM37** (Expansion of existing businesses in rural areas), para 1(ii) (p. 68); see case officer’s report dated 31 August 2017 at p. 53 of Annex C):

- c. They “would not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation ... or the erosion of roadside verges” (Local Plan – **Policy DM30** (Design principles in the countryside), para (iii); p. 64).
- d. They “would not result in unacceptable traffic levels on nearby roads or a significant increase in use of an existing substandard access” (Local Plan - **Policy DM1** (Principles of good design), para 1(ii); p. [...]);
- e. They could “safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network” and “respect the amenities of occupiers of neighbouring properties ... by ensuring that development does not result in, or is exposed to excessive noise, activity or vehicular movements ...” (Local Plan - **Policy DM1(ix)** and **(iv)** (p. 66 of Annex C)).
- f. They could not “potentially generate volumes or types of traffic unsuited to the local area” (Local Plan - **Policy DM7** (Non-conforming uses); p. 68 of Annex C). This is because, if that was to happen, such proposals “will only be permitted where they do not, by way of their operation, cause nuisance to residents or users in the vicinity, and where anticipated adverse impacts on the local road network can be mitigated in accordance with Policy DM21”.
- g. They “would not result in an unacceptable loss of amenity of the area” (Local Plan – **Policy DM1**, para 1(iii); p. 66 of Annex C);
- h. They would not have “significant adverse effects on the rural environment and amenity”, such that it should look to relocate to one of the Economic Development Areas identified in policy SP22 (Local Plan – **Policy DM1**, para 2; p. 66 of Annex C).

97. By making these representations, the Applicant also represented that his proposals complied with Policy PW2 of the Staplehurst Neighbourhood Plan²⁴ which provides:

“Proposals for new development in the countryside beyond the extended village envelope will be assessed in terms of potential impact of the development upon the visual setting and landscape features of the site and its surroundings, the potential impact upon the biodiversity of the area and other relevant planning considerations, such as the impact of traffic and noise. Proposals which fail to demonstrate these impacts can be satisfactorily be addressed will not be supported” (p. 73 of Annex C).

²⁴ Referendum Plan 2016-2031 (September 2016): p. 73 of Annex C.

(vi) Response from KCC Highways & Transportation

98. The DAS was sent to KCC's Highways and Transportation Department for comments. It was considered by Mr Terry Drury, a Senior Development Planner. Mr Drury responded on 27 June 2017 to MBC with the following comments (p. 46 of Annex C):

“... I note the low level of goods vehicle movements associated, given in the Design and Access Statement. I note the car park is to increase to 60 spaces for visitors. No indication is current or forecast visitor attractions is given. Whilst mini-buses are mentioned I note that coaches are not. However, it is not considered that this operation conflicts with peak time movements and the route to the Winery from Staplehurst (Five Oak Lane) is not considered to be experiencing undue traffic pressures. A low residential density is noted on Five Oak Lane I note that there is a low incidence of injury crash records on this road. The proposal is essentially to improve its operation and given the modest scale I consider on behalf of this authority that I have no objection to this application. If it is possible going forward to require the applicant to monitor visitor attraction numbers, made available for the planning authority, I consider that would be useful.” (underlining added).

(vii) Response from Staplehurst Parish Council

99. On 3 July 2017 the Planning Committee of Staplehurst Parish Council considered the 2017 Planning Application as an urgent item. They had agreed to support the proposals at an earlier meeting, but had not been provided with the Transport Statement in the DAS. On 3 July 2017 they had before them the Transport Statement, together with KCC's letter dated 27 June 2017. Based on that information the Councillors “RESOLVED to NOTE the new information, maintain SPC's SUPPORT of the proposal and AGREE with Kent Highway's recommendation that visitor numbers be recorded” (p. 49 of Annex C).

(viii) Response from members of the public

100. Two members of the public commented on the 2017 Planning Application.

101. First, Mr Paul Stanley [REDACTED] said this:

“We live very close to Hush Heath Winery and have no concerns over the new plans but for 3 point that I would like to point out No. 1 The roads from Goudhurst Staplehurst and Marden are all too narrow to take lorries and coaches of the size that already visit at the rate of two or three a week this number is bound to rise as time goes by. My suggestion is for a width and weight limit on these roads or a major road widening program needs to be carried out before there is a major incident. [No. 2 related to the marquee; No. 3 related to the land drains at HHW and the pollution it was causing in the pond]” (17 July 2017).

102. Second, Mrs Dawn Iye ([REDACTED] Five Oak Lane) said this:

“Although I have no objection to this planning, I do think that the size of Five Oak Lane should be taken into account. We have seen an increase in the amount of very large articulated lorries using the lane. Very frequently we have lorries reversing back as they cannot get through. Many of the trees in peoples gardens have had branches ripped off as the lorries go by. A restriction on the size of delivery vehicles is a must” (1 August 2017).

(ix) Case officer’s report on 2017 Planning Application

103. On 31 August 2018 the case officer (Mr Ashley Wynn) wrote his report on the 2017 Planning Application for MBC’s planning committee (pp. 51 to 58 of Annex C). He did so based on, and in reliance upon the information provided by the Applicant with the 2017 Planning Application. He recommended the application be permitted.

104. At the start of the report the case officer records the local representations and consultation responses that were received. The response from Staplehurst Parish Council is set out, together with the fact there were 2 residential objections. In relation to these he said “no concerns over plans themselves but raised issues over marquee, highway improvements and drainage”. His response to this was “not strictly objections but covered in the report”. In relation to KCC Highways he recorded: “No objections and advise recording of vehicle numbers would be useful”.

105. The main body of the case officer’s report (pp. 51-58 of Annex C) says this:

“Principle

... The applicant explains that with this growth and growing client base, there is a need for additional storage and processing floor space along with a need to update its visitor facilities to reflect its growing reputation. The winery processes produce which is derived from the wider estate and therefore the processing and storage of the grapes and apples to create food and drink is akin to an agricultural process albeit with additional facilities relating to visitors and ancillary office facilities which are solely dependent on this primary use.

Thus, whilst the development does not neatly fall within a use class, it can be considered to represented the expansion of an existing business within the wider countryside and one which is closely related to agriculture and countryside diversification. Policy DM37 of the emerging plan (as modified, previously DM41) states permission would be granted for the sustainable grown of businesses and that development will be permitted subject to landscape and highway considerations and only if development has a significant impact on the environment should the business be encouraged to relocate to an Economic Development Area. Policy DM40 (DM36 as modified) encourages

agricultural development within the countryside subject to a criteria regarding need and impact on amenity and that new buildings are located adjacent to the existing buildings. As set out above, the vast majority of the proposed floorspace includes processing and storage directly assessed with the wine making, a use which could be considered an agricultural use and therefore it is also reasonable to assess the proposal under the policy. The scheme will follow this approach as the extensions will be located within the existing area of built form and there will be limited landscape or amenity impacts as set out below.

Having regard to the hybrid character of the application, whereby the majority of the floor space is directly related to the agricultural use of the wider site and the element of retail and wine tasting (uses that could be considered to be ancillary to the primary use in any case) is small in scale in comparison, it is considered the scheme be considered to meet the policies in question.

Highways

Whilst the application could be seen in part as a consolidation and reorganisation of existing uses and additional ancillary facilities such as storage, it is logical to consider that the scheme will through the provision of enhanced visitor facilities and processing space that there will be an increase in vehicle numbers to the site. The applicant has forecast new staff to increase by around 5 staff and an additional HGV movement per week although it is acknowledged by the applicant that visitor movements may increase as a result of the development. This potential increase has been reviewed by KCC Highways and they have no objections to the scheme having regard to the quality of the approach roads and the likely increase in traffic. It is also notable that the level of HGV traffic is not expected to increase significantly. KCC Highways submitted that they do request that the applicant maintain a register of visitor numbers for information and it is recommended this is encapsulated in a travel plan which can monitor visitor numbers and encourage sustainable travel where possible...

Other matters

The site is considered to have sufficient separation distances from adjacent properties and having regard to the existing use, it is not considered the additional development would cause harm to the amenity of neighbouring properties. Due to the potential for the new plant, notwithstanding the aforementioned separation distance, a condition has been placed in order to ensure no noise effects are caused to neighbouring properties.

Conclusion

The proposed extension to the existing winery and storage buildings are considered to be well designed additions to the site which will support the growth of this important local business. Its association with agriculture which is undertaken on the wider site

and its acceptable impacts on landscape and rural character means that in this instance the scheme can be supported in principle in relation to the relevant policies. The matters of design, landscape impact, ecology and highways are acceptable or can be made acceptable through use of appropriate planning conditions. The development can therefore be considered to accord with the relevant policies and those of the NPPF and thus it is recommended planning permission is granted accordingly.”

106. In the light of the recommendations contained in the case officer’s report on 5 September 2017 MBC granted the 2017 Planning Permission, which was subject to 15 conditions. MBC did so in reliance on the information provided by the Applicant in the 2017 Planning Application as being “true and accurate” and “any opinions given” being “the genuine opinions of the persons giving them” (see Box 26 Declaration at p. 29 of Annex C).

HHW: WHAT IS NOW HAPPENING – PUBLIC NUISANCE

(a) The scale of the increase in visitor numbers

107. The 2017 Planning Application did not include any details about the scale of the increase in visitor numbers that it was envisaged the development to HHW could or would bring. Rather, it suggested that the additional number of visitors would be insignificant. The DAS referred to the “insignificant increase of vehicular movement to and from the Winery” that would result from the construction of the new building, and referred to visitors arriving in “individual cars” and “a small number maybe in small mini buses”.

108. This differs greatly, however, from the statement the Applicant has made in the press regarding the new building and tasting room at HHW. On top of that, it is impossible to know how many visitors there are, as that information is not publicly available and has not been provided with the Variation Application.

109. The owner of HHW has stated in the press that HHW are seeking to build a “wine tourism” destination; that it is seeking to increase visitor numbers to “50,000 per annum over the next five years”; and that it is seeking to increase the number of bottles of wine produced at the site “from 150,000 bottles per year up to 500,000 bottles”. A copy of this press report is at pp. 93-96 of Annex C. The scale of the planned increase of visitor numbers is such that HHW has placed an advertisement online in January 2019 for a full-time Events Manager. The advertisement says that HHW is seeking to “substantially grow its visitor numbers by holding events throughout the year. This will include private, corporate and public events”, and the job description includes, amongst other things, “organis[ing] facilities for car parking, traffic control” (pp. 90-92 of Annex C).

110. On 24 January 2019 a wake was held at HHW, which was a private event hosted by the Applicant. However, there were 300 people or thereabouts attending. The car park was

full, and cars were parked all round the buildings. The designated car park for 60 cars is not large enough to cope with this number of visitors.

111. On 5 March 2019 the staff/volunteers from Sissinghurst Castle are having their annual pre-meeting at HHW. I was informed of this date by one of the volunteers at Sissinghurst, who I know. The volunteer told me there are 300 or so staff & volunteers at Sissinghurst, although they may not all attend. She observed to me in passing that “there will not be a disturbance, but there will be a lot of traffic”.
112. There is no Sustainable Travel Statement in place (see para. 83 above) and, as a result, there does not appear to be any information about visitor numbers. In relation to this:
 - a. On 1 March 2018 the Applicant’s application to discharge condition 11 of the 2017 Planning Permission was refused by the council (17/505447/SUB) because “No sustainable Travel Statement has been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.”
 - b. On 9 May 2018 the Applicant re-applied to discharge a number of outstanding conditions in relation to the 2017 planning permission. This application has not yet been determined by MBC and, in any event, there is no application to discharge condition 11. It is just not mentioned.

(b) The provision and sale of food at HHW

113. None of the planning applications that have been submitted to MBC by HHW to date contain any reference to food being served or sold at HHW. The only “produce” which has ever been referred to in planning applications as being consumed onsite is the wine which is produced at the onsite winery. MBC has not, therefore, in its assessment of the various planning applications that have been submitted to date by HHW, had the opportunity to consider the possibility that food was to be sold at the premises, nor has it had the opportunity to prevent or restrict the sale of food at the premises.
114. Although no reference to the onsite sale of food to the public has been made in any of the planning applications, HHW has provided and sold food on the premises on a number of occasions to date, in breach of condition 1 of the 2013 Planning Permission. As only apples and grapes are grown onsite at HHW, none of the foods that have been offered for consumption at the premises could have been produced onsite:
 - a. The website for HHW states that HHW now contains “A commercial kitchen ideal for weddings and corporate events”, and that it offers “corporate venue hire packages” for between “25 and 200 guests”. A screenshot of the website is at (p. 77A of Annex C). It is understood that holding these type of events would require planning permission, which HHW does not have.

- b. The HHW website is currently advertising a “summer evening cocktail party” with “canapes” and an Annual Winemaker’s Dinner in autumn 2019 to include a “four-course gourmet meal”. A screenshot of the website is at (p.78 of Annex C).
- c. A vacancy for an Events Manager at HHW has been advertised online, which states that part of the role will include “liaising with our executive chef” requiring the food requirements for events, and managing the “catering” for events (pp. 90-92 of Annex C).
- d. HHW currently sells sharing platters for two to be eaten onsite at HHW, seven days per week. A copy of HHW’s menu offering these platters can be found at (p. 75 of Annex C).
- e. HHW offered mince pies for consumption onsite while its “Christmas Shop” was open in 2018. The advertisement can be found at (p.76 of Annex C).
- f. A website named “Produced in Kent” has advertised tours of the winery at HHW, including the option to purchase a lunch picnic box for two for £25 for consumption onsite. The advertisement, including the food contained in the boxes, can be found at (p. 97 of Annex C).
- g. Foreman & Field, a smoked salmon producer located in London, has advertised a tour during which guests can taste wine at HHW which has been paired with smoked salmon produced by Foreman & Field, and at which salmon will be available for purchase.

115. By selling food on the premises, HHW has contravened condition 1 of the 2013 Planning Permission (p. 19 of Annex C), which restricts the use of the premises only to selling wine which is produced on the premises. As the sale of food has not been disclosed to MBC, HHW is not currently subject to any of the planning controls which a restaurant or eatery would be expected to be subject to. Furthermore, MBC, Staplehurst Parish Council and local residents were not given the opportunity to object to such a wholesale change in the nature of the use of the site into a commercial eatery.

116. It is highly concerning that HHW is developing a business selling food onsite when it has never been granted planning permission on the basis that it was to become a restaurant or eatery. The unauthorised sale of food at HHW will further drive up visitor numbers, and thereby increase the traffic and noise disturbance caused by HHW to the local area.

(c) Travel to HHW by coach

117. None of the planning applications submitted to MBC by HHW to date (including the 2017 Planning Application) have made any reference to coaches being used to transport

visitors to HHW. The only references in the 2017 Planning Application to vehicles were to propose that HHW's car park contain spaces for 75 cars (p. 25 of Annex C), as well as the statements made in the DAS (quoted in paragraph 94 above).

118. As a result, when KCC commented upon the 2017 Planning Application, KCC noted that the proposed car park was to increase to 60 car parking spaces for visitors, but commented that: "Whilst mini-buses are mentioned I note that coaches are not" (p. 47 of Annex C). This contributed towards the conclusion that KCC would not object to the proposal "given the modest scale". Staplehurst Parish Council relied on this letter from KCC as did the planning case officer and MBC. The 2017 Planning Permission was subsequently approved, and included an extension of the car park to include 60 car parking spaces, without any designated area for coach parking²⁵ (p. 59).
119. Since the opening of the new building, however, local residents have noticed an increase in the number of coaches using Pinnock Lane and Five Oak Lane, and it has become apparent that a number of visitors are being transported to HHW by coach. HHW is aware that coaches are being used to transport visitors to its premises, and is actively encouraging visits to the premises by coach:
- a. The HHW car park now contains a sign containing giving directions to onsite "coach parking". A photograph of this sign can be found at (p. 150 of Annex C).
 - b. A company named "English Wine Tasting Tours" is currently advertising tours to HHW, transporting visitors to HHW in "mini-coaches" containing between 15 and 28 seats (pp. 79-81 of Annex C).
 - c. Belmond British Pullman is currently advertising summer tours of HHW, which include a "coach transfer" to HHW. The advertisement can be found at (pp. 82-84 of Annex C).
 - d. Bakers Dolphin, a coach travel company, is currently advertising a coach tour which transports visitors by coach to HHW. The advertisement can be found at (pp. 85 of Annex C).
 - e. A company named "Elcock" is currently advertising a tour which visits HHW in which visitors are transported to HHW in a large 53-seater "executive coach". The relevant sections of the brochure can be found at (pp. 86-89 of Annex C).
120. The number of tours which are being advertised that involve visitors being transported to HHW by coach gives an indication of the potential scale of the number of coaches that

²⁵ The Proposed Site Plan HH P 10A (pp. 59) does not include a coach park. Condition 15 of the 2017 Planning Permission provided that "the development hereby permitted shall be carried out in accordance with the following approved plans ...", which included Plan HH P 10A.

could need to travel along the highways immediately surrounding HHW, in particular Pinnock Lane and Five Oak Lane, in order to reach HHW.

121. Policy DM7 in the Local Plan provides that “Proposals for development ... which could potentially generate volumes or types of traffic unsuitable to the local area, will only be permitted where they do not, by way of their operation, cause nuisance to residents or users in the vicinity, and where anticipated adverse impacts on the local road network can be mitigated” (p. 68 of Annex C).
122. As described further below, coach travel on this scale to HHW will cause a public nuisance to local residents and other road users. As HHW did not refer at all to coach visits to its site in the 2017 Planning Application, there are currently no planning controls or highways measures in place which restrict the operation of coach visits to HHW. MBC was not accurately informed of the volume or type of traffic that was envisaged at the time at which MBC granted the 2017 Planning Permission, so there are currently no controls in place to address the impact this has on the local road network.
123. HHW said in the DAS submitted in support of the 2017 Planning Application that the level of HGV traffic was expected to increase to the level of two to three HGV movements per week (p. 45 of Annex C). Residents living near HHW have, however, noticed a sizeable increase in the volume of HGV traffic, and have witnessed lorries reversing back along the narrow roads used to access HHW as they are unable to pass through. Residents have reported that branches of trees situated in gardens located adjacent to the highway have been ripped off by lorries driving along the roads immediately surrounding HHW.

(d) Impact on the surrounding highways

124. The removal of the condition will have a major impact on the surrounding highways:
- a. It is clear that an overall increase in visitor numbers to HHW will result in increased traffic volumes on the roads surrounding HHW. As set out above, MBC was not aware of the scale of the proposed increase to traffic volumes at the time it granted the 2017 Planning Permission. The highways surrounding HHW are small country lanes, and such increase in traffic volume will cause the highways to become dangerous (particularly Five Oak Lane) and will create a public nuisance. In some parts of the surrounding highways that are comprised of a single-track road, it is not possible to pass a vehicle in another vehicle without reversing. The deep ditches on either side of the track pose a danger to motorists manoeuvring vehicles to accommodate other motorists on the road. Manoeuvring vehicles will be extremely difficult without driving onto the grassy verges next to the ditches, and may cause traffic to become backed up along the highways, which will also create a public nuisance.

- b. Increasing the number of large vehicles (such as HGVs and coaches) travelling along the immediately surrounding highways, particularly Five Oak Lane, in order to reach HHW will greatly exacerbate these problems. These vehicles will have serious difficulties manoeuvring in the space available, and in avoiding the ditches when conducting manoeuvres. The presence of such large vehicles in such small roads poses a real danger to other road users, such as the walkers, runners, cyclists, horse-riders and ponies and traps, who frequently use the country lanes surrounding HHW. Increased numbers of large vehicles visiting HHW therefore poses a real risk to public safety.
 - c. There is insufficient local infrastructure to support an increase in visitor numbers, particularly if some of those visitors are visiting the site for purpose of having alcoholic drinks. There are no street lights during the hours of darkness to protect road users who may decide to leave HHW on foot because they have consumed alcohol. There is also no public transport to take visitors who wish to drink alcohol back from the site. This increases the risk of visitors who visit the site drink driving.
 - d. An increase in the number of vehicles on the road will also cause a public nuisance by causing a general increase in noise levels, disruption, and pollution. This will damage the rurality of the area in which HHW is located.
125. The impact of an increased number of vehicles on the surrounding highways, particularly Five Oak Lane, and the presence of an increasing number of large vehicles on the surrounding highways, is already being felt by local residents. These problems have been caused because the use of the premises has moved far away from operating primarily as a winery with an ancillary shop and tasting room, and is being transformed into something on a much larger scale. This situation will be made far worse in the event the condition on the Premises Licence restricting the supply of alcohol to tasting samples only is removed. There will be severe consequences for the highways surrounding HHW and the roads will be rendered dangerous.
126. Further, the situation will be compounded even further if HHW is permitted to sell alcohol (or provide tasting samples) until 7pm. This will just lead to further visitors and is in breach of condition of the 2013 Planning Permission (which is there to protect the rural amenity of the open countryside, safeguard the enjoyment of their properties by adjoining residential occupiers, and to prevent harm to highway safety).

(e) Impact on the ambient noise levels

127. The increase the number of visitors at HHW will inevitably have an adverse impact in terms of noise, particularly in the summer months with people eating and drinking outside (and there are numerous tables and chairs on the new terraces outside the winery), and increase in traffic on the narrow country lanes around HHW.

128. HHW is located in an exceptionally beautiful location, and the view from the tasting terraces is a stunning example of open Kent countryside. There is no dispute about this. However, it will inevitably attract numerous visitors and it is not difficult to envisage that in the summer visitors/tourists²⁶ will be sitting outside on the terraces enjoying the view, drinking and talking²⁷ without or without music, and with a holiday or perhaps party atmosphere. That would not be an issue as a one-off. However, for that to happen every day in the summer when there is fine weather, and particularly at weekends and in the evenings (which is what is now also proposed), would be very intrusive. It certainly would be a substantial and unreasonable interference in the amenity of those who live nearby, who would then be unable to enjoy the peace and quiet of their own gardens when they get home from work, or at the weekend, without hearing unwanted noise from those talking and drinking on the outside terraces of HHW.
129. If the condition is removed it is inevitable there will be an enormous increase in the number of visitors going to HHW as a destination to eat and drink, and that will mean there will be a very substantial increase in noise from people and traffic. This will be a public nuisance to those who live nearby. This is because HHW is located in open countryside and local residents will find the peace and quiet of their rural homes shattered by the expansion of a business of “tours and tasting” to much more extensive activities, such as a restaurant/canteen or pub (with outdoor eating, and now a request to extend the opening hours into the evening in the summer) and/or events venue, which are far beyond that of the agricultural business of a winery.
130. The risks posed to the local area by the removal of the condition, and the Applicant’s proposed licensable activities, have not been considered at all in the Variation Application. This is particularly important in the present context as there are a number of residential properties located very close to HHW. The fact that the roof and ground floor terrace areas face away from residential property located in Five Oak Lane is no answer. The tasting terraces face towards Little Harts Heath, and this is an area of low background noise and where noise travels. There are no steps identified to ensure that any noise from HHW will not alter the ambient noise levels at any of the neighbouring residential properties. This is of particular concern in relation to people talking and drinking outside, together with any music played outside.

CONCLUSION

131. All planning and licensing applications that have been submitted to MBC to date in relation to HHW have proceeded on the basis that HHW is an agricultural business. It is highly concerning, however, how far the use of the premises at HHW has shifted away

²⁶ It appears that tourists are identified as the customer base: see, for example, Ms Easton’s email to the Council dated 16 August 2018.

²⁷ The Council’s Policy at para 17.20(iv) specifically states that applicant is expected to have demonstrated that they have considered “risk and prevention of noise leakage from the premises from equipment, customers and machinery” (underlining added). It does not appear that the applicant has considered this point at all.

from being primarily used for the purposes of agriculture, and the number of signs there are that HHW intends to transform the nature of its premises even further away from being used for the purposes of agriculture. There are strong indications that the owners of HHW are seeking to transform the site into a large-scale hospitality and events venue, which could also operate as some form of eatery/restaurant and bar. Using the premises in this manner is wholly inappropriate for the rural location in which HHW is situated and is not authorised by planning permission.

132. HHW has not tried to follow the appropriate planning and licensing routes to seek to undertake such a wholesale transformation of the use of its premises. Such fundamental changes in use would be expected, in the ordinary course, to require both (a) new planning permission(s) (including consideration of whether the classification of the use class of HHW's premises as "agricultural" still held true); and (b) application(s) for new premises licences. Instead, HHW has sought to change its business by (a) failing to comply with many of the planning controls to which it is presently subject; and (b) applying for incremental increases in the licensed activities it is permitted to undertake on its premises, and the hours during which it can supply alcohol. By doing so, it has sought, via the back door, to change the very use for which development at HHW was authorised.

133. It is in these circumstances that the Variation Application must be refused. Although planning and licensing are dealt with in two separate departments at MBC, planning and licensing controls must ultimately go hand in hand in order to ensure that premises are not licensed in ways which fundamentally alter the terms of any planning controls to which they are subject. It is clear that enabling alcohol to be supplied at HHW without any restriction as to quantity (and for longer hours) will shift HHW towards operating as a hospitality and events venue, rather than as an agricultural premises with ancillary retail and tasting functions. This will constitute a wholesale change in the nature of the use of the premises, which will breach planning controls and therefore be unlawful. It is that unlawful operation of the very different business the Applicant is seeking run from HHW which will result in all the adverse consequences of those who live nearby and the much wider community who live on, and use, the highways around HHW and enjoy the rural amenity of all the surrounding countryside.

134. It is clear that the application does not support or promote the "licensing objectives". Permitting alcohol to be served freely at the premises will create a public nuisance and pose a risk to public safety, as the surrounding highways are simply not equipped to deal safely with the increased visitor numbers that would be drawn to HHW (and the risk that, in an area with no public transport, visitors might be tempted to drive under the influence of alcohol). It will also create a public nuisance in a number of other ways – including through the increased noise disturbance caused by visitors to the site (whether or not they are under the influence of alcohol), and the increased traffic (both in terms of number and type of vehicle) and pollution that unrestricted alcohol sales at the site will generate. All of this will have a significant adverse effect on all those who live near to HHW, together with all those who live on and use the lanes nearby. It is also inevitable that it will have an adverse

impact on the rural amenity of the open countryside around HHW, which has an intrinsic character and beauty that should be conserved and protected for its own sake.

135. In these circumstances:

- a. The condition on the Premises Licence limiting the supply of alcohol to tasting samples only is properly justified and should not be removed.
- b. The closing time of HHW to the public at 17:00 is also properly justified and should not be altered to allow the sale of alcohol until 19:00.

OTHER POINTS

(a) Request to add condition to the Premises Licence 18/02446/LAPRE

136. I ask that a further condition be added, namely that “for the period between 23:00 and 23:45 music noise should not be audible within noise sensitive premises with windows open in a typical manner for ventilation”. Little Harts Heath is a noise sensitive property and I refer to the Baseline Noise Survey at paras. 5.6 and 6.5 (pp. 96 and 97). (This request is made without prejudice to my contention that HHW is not entitled to make any retail sales to the public after 6pm: condition 4, 2013 Planning Permission.)

(b) Licensing Committee

137. If the matter proceeds to a hearing, I am not available to attend on 18-22 March 2019 (abroad) and 1-12 April 2019 (work commitment in St Albans).

Thank you.

Yours faithfully

Signed electronically: Amanda Tipples

Amanda Tipples

Enc.

Annexes A to D.

20A

INDEX TO ANNEX A

TO THE REPRESENTATIONS FROM AMANDA TIPPLES

DATED 26 FEBRUARY 2019

Maps and residential properties

1. Location map (showing HHW, residential properties and road access): **p. 1.**
2. Large scale map of HHW and adjoining residential properties (prepared by MBC for hearing on 3 September 2018): **p. 2.**
3. Information from HM Land Registry identifying the 78 properties within a one-mile radius of HHW: **p. 3.**

Licensing

4. Plans attached to Premises Licence 18/02446/LAPRE: **pp. 4-7.**
5. Application to vary the Premises Licence 13/00231/LAPRE dated 5 July 2018: **pp. 8-21.**
6. Notice of Determination of the Licensing Committee dated 3 September 2018 in relation to Premises Licence 18/02446/LAPRE: **pp. 22-26.**
7. Application for a minor variation of the Premises Licence 18/02446/LAPRE dated 22 November 2018: **pp. 27-32.**
8. Extracts from the Section 182 Guidance: **pp. 33-37.**
9. Extract from MBC's Licensing Policy: **p. 38.**
10. Clerk & Lindsell on Torts (22nd Edition; 2018), paras 20-01 to 20-06: **pp. 39-44.**
11. Highway Law (5th Edition; 2013) *Sauvin* at 7-11, 7-17 to 7-45: **pp. 45-57.**

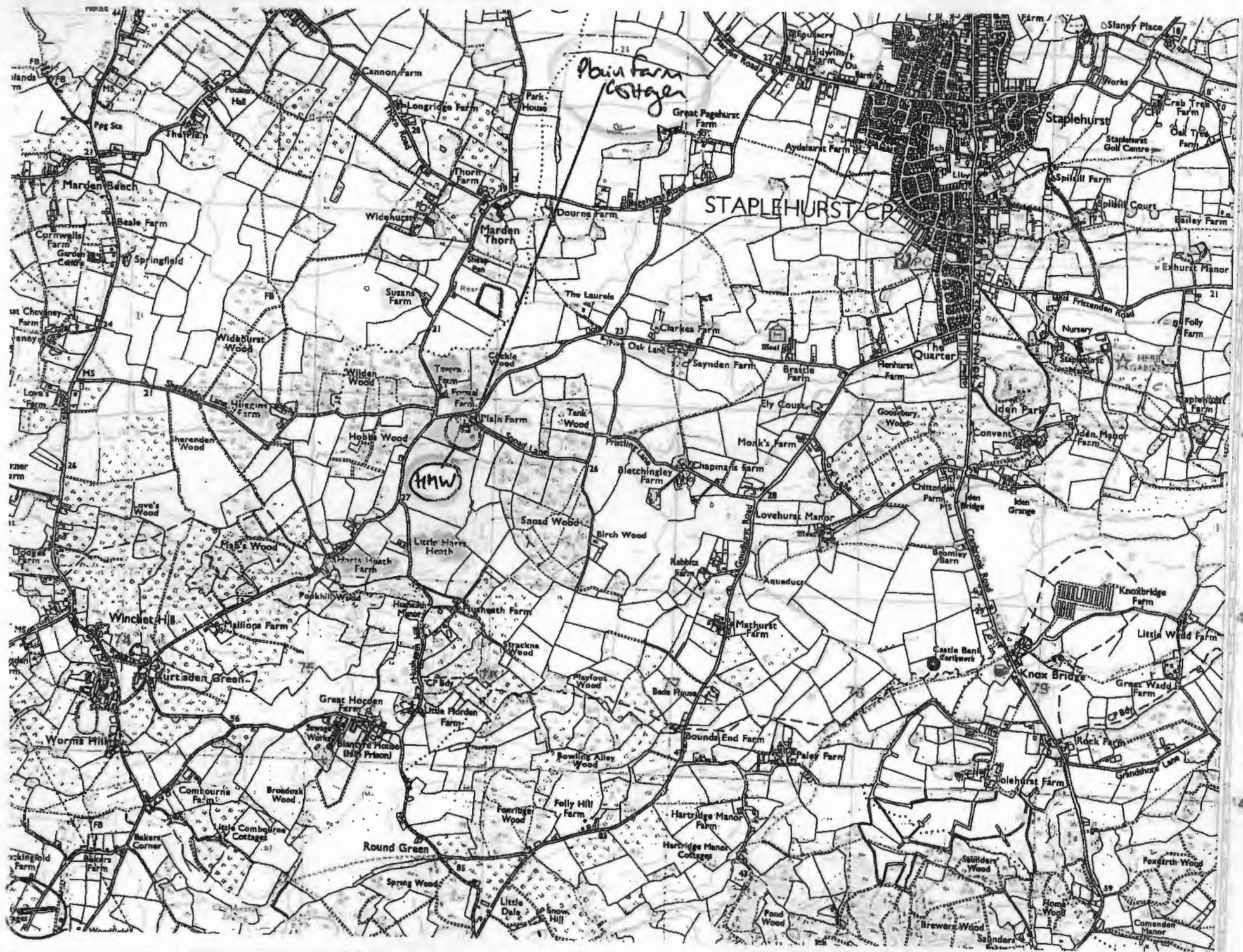
Planning

12. Plans of HHW approved by condition 15 of the 2017 Planning Permission: **pp. 58-63.**
13. Extracts from MBC's Local Plan. Policies DM30, DM31, DM36, DM37: **pp. 64-68.**

14. Planning Application to discharge conditions 2, 4, 6, 8, 9, 10, 11, 12 and 13 of the 2017 Planning Permission – case officer’s reported 28 February 2018: **pp. 69-75.**
15. Planning Decision Notice dated 1 March 2018. Discharge of conditions 4 and 6. Refusal to discharge all other conditions: **pp. 76-79.**
16. Email exchange between the Applicant and Mr Stanley (3 Plain Cottages): **p. 80.**

Baseline noise survey

17. Acoustics Report prepared by Aria Acoustics dated February 2019: **pp. 81-108.**



Plain Farm (Stage)

HW

STAPLEHURST CP

44

43

42

41

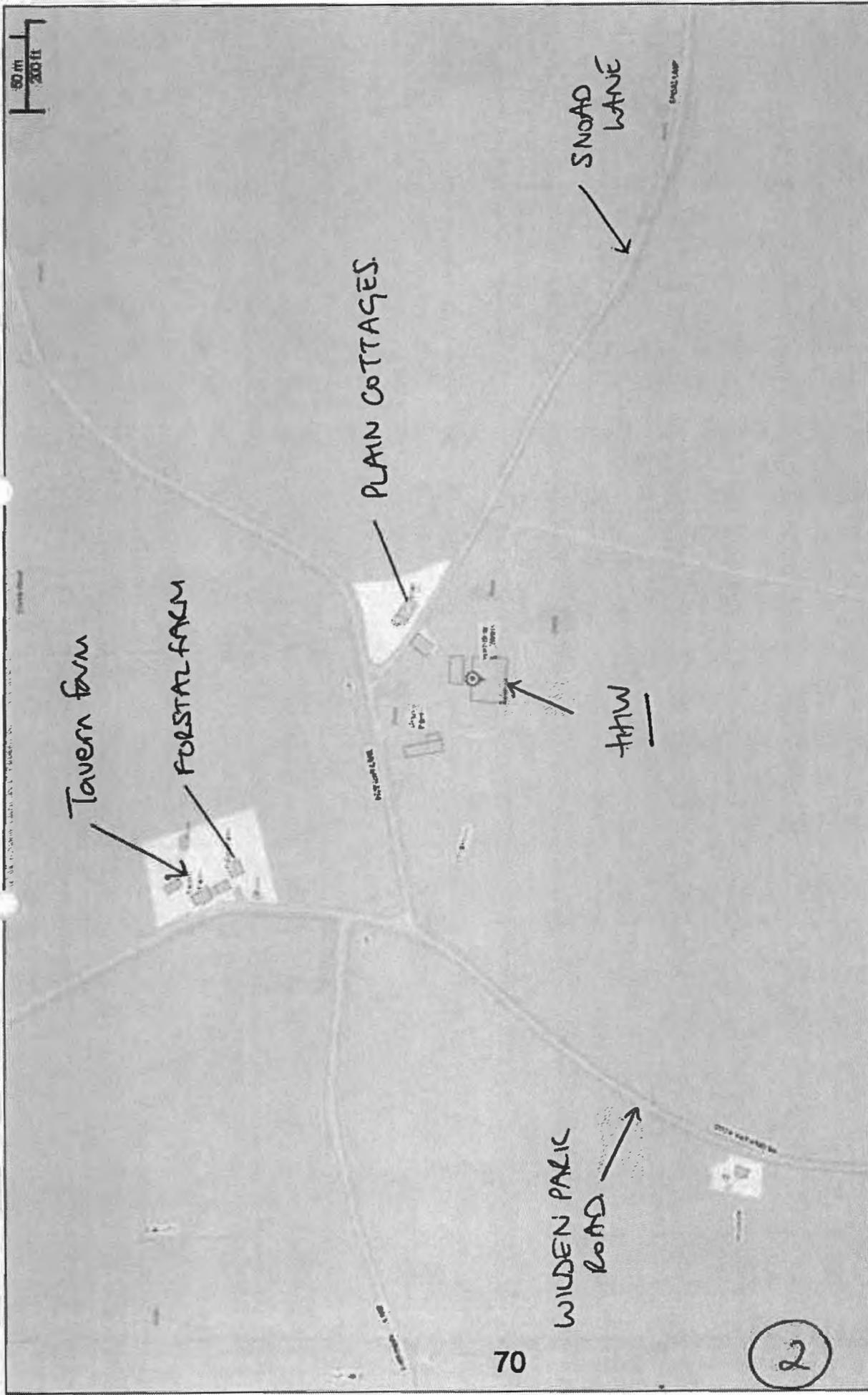
FRITENDEN CP

80

79

78

77



70

2

Hush Heath Winery

Scale: 1:3500

Printed on: 20/08/2018 at 15:28 PM by Lorna/nh

Table 1

Land Registry data: Properties within 1 mile radius of Hush Heath Winery. There are 78 households.

Postcode	Location	Titles	Dwellings
TN12 OHR	Wilden Park Road	Tavern Farm, Annexe Tavern Farm, Forstal Farm	3
TN12 OHN	Hush Heath Hill	Little Harts Heath	1
TN12 OHP	Wilden Park Road	Hop Villas, Harts Heath Farm, Brambley Cottage, Pook Hill Wood Farm	4
TN12 OHL	Wilden Park Road	Woodside	1
TN12 OHS	Sherenden Lane	Huggins Farm, The Smallholding, Jubilee Cottage	3
TN12 OHT	Five Oak Lane	Caine Grove, Cocklewood Farm, Hush Heath Winery, Laurel Barn, Laurel Cottage, The Laurels, West End Cottage	6
TN12OHU	Five Oak Lane	1 Snappgate Cottages, 2 Snappgate Cottages	2
TN12OHX	Five Oak Lane	Acorns, Clarkes Farm, Clarks Oast, Roundel, Saynden Barn, 1 Saynden Cottage, 2 Saynden Cottage, Oast House Sayden Farm, The Barn Sayden Farm, Saynden Farm, The Bull Pen, The Engine House,	12
TN12OJA	Five Ash Lane	Little Pagehurst Cottage, Crossways	2
TN12 OJB	Pagehurst Road	Ducks Rest, Little Doorne Barn, Oakhurst, Annxe Oakhurst, Oakhurst Bungalow, Tudor Hurst	6
TN12 OHJ	Pristling Lane	1, 2, 3 Plain Cottages	3
TN12OHH	Pristling Lane	Birchwood House, Bletchingley Farm, The Barn Bletchingley, Bletchingley Farm Cottage, 2 Bletchingley Farm Cottage, Chapmans Farm, Great Buttercup Barn, Hoppers Cottage, Kitarn, Meadowlark Cottage, The Oast House,	12
TN12 9LJ	Marden Thorn	Fresian Bungalow, Great Thorn Farm, Nash Cottage, Naah Oast, Susans Farm, The Clock House, The Round House, Thorn Cottage, Thorn Farm, The Granary, Thorn Oast, Thorn House,	12
TN129LH	Marden Thorn	1 Dourne Cottages, 2 Dourne Cottages, Dourne Farm,	3
TN12 9LG	Park Road	Thorn View, Plum Tree	2
TN129LL	Marden Thorn	1,2,3 Widehurst Cottages	3
TN172NE		Little Horden Farm Cottage, Hush Heath Manor, Hush Heath Cottages	3

Total 78

(3) 4

APPENDIX B

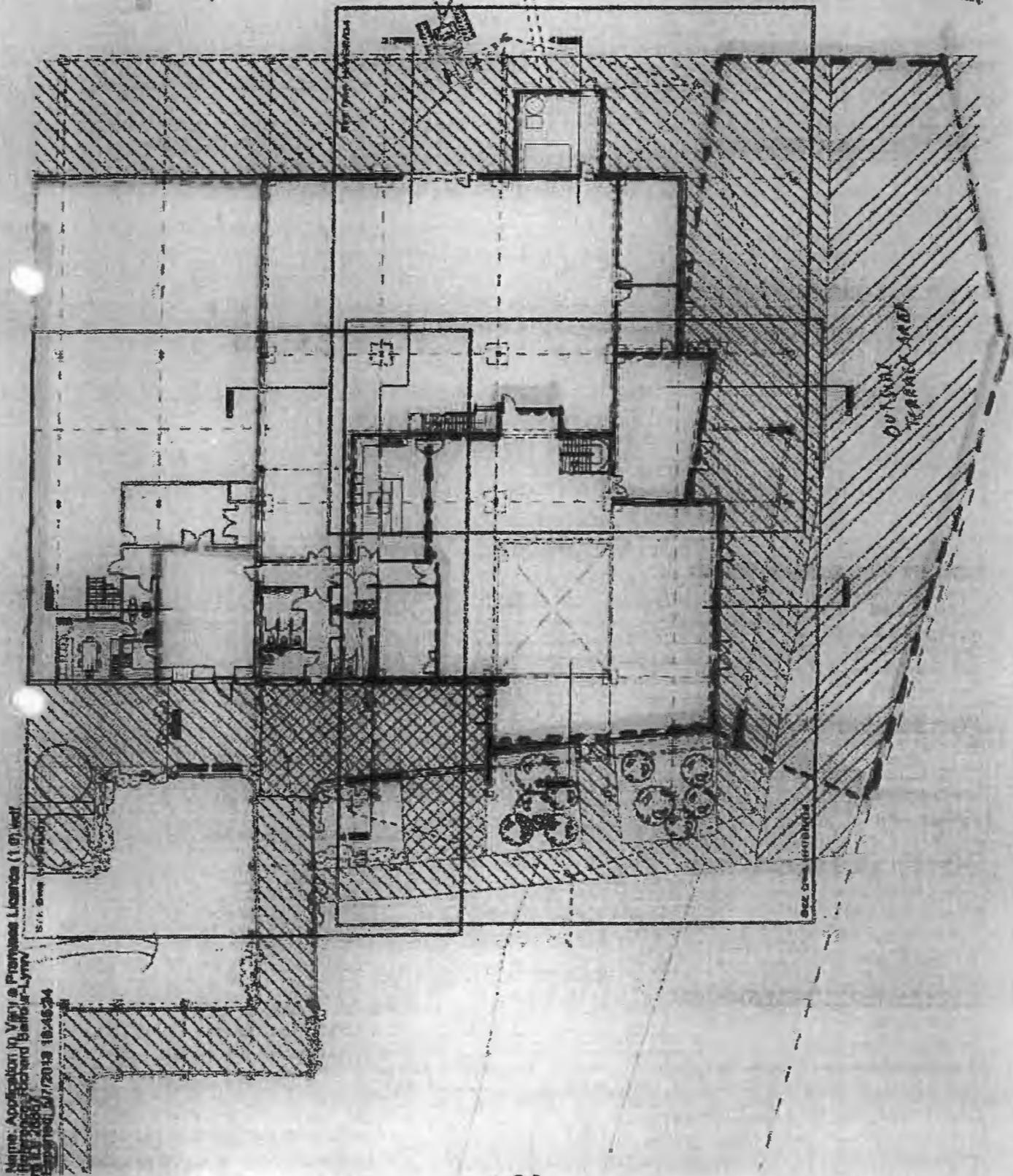
6
ALL DIMENSIONS ARE IN FEET AND INCHES
UNLESS OTHERWISE SPECIFIED
DIMENSIONS SHALL BE TO FACE UNLESS
OTHERWISE SPECIFIED

EXISTING
LICENSED ADD.
EXISTING BUILDING

PROPOSED BRIND
FLOOR PLAN
MUSH HEATH WINERY
FIVE OAK LAKE
STAPLEWIRE
TN 13 GHT
MUSH HEATH ESTATE



DATE: 06/19/2013
DRAWN BY: [Name]
CHECKED BY: [Name]
DATE: 06/19/2013

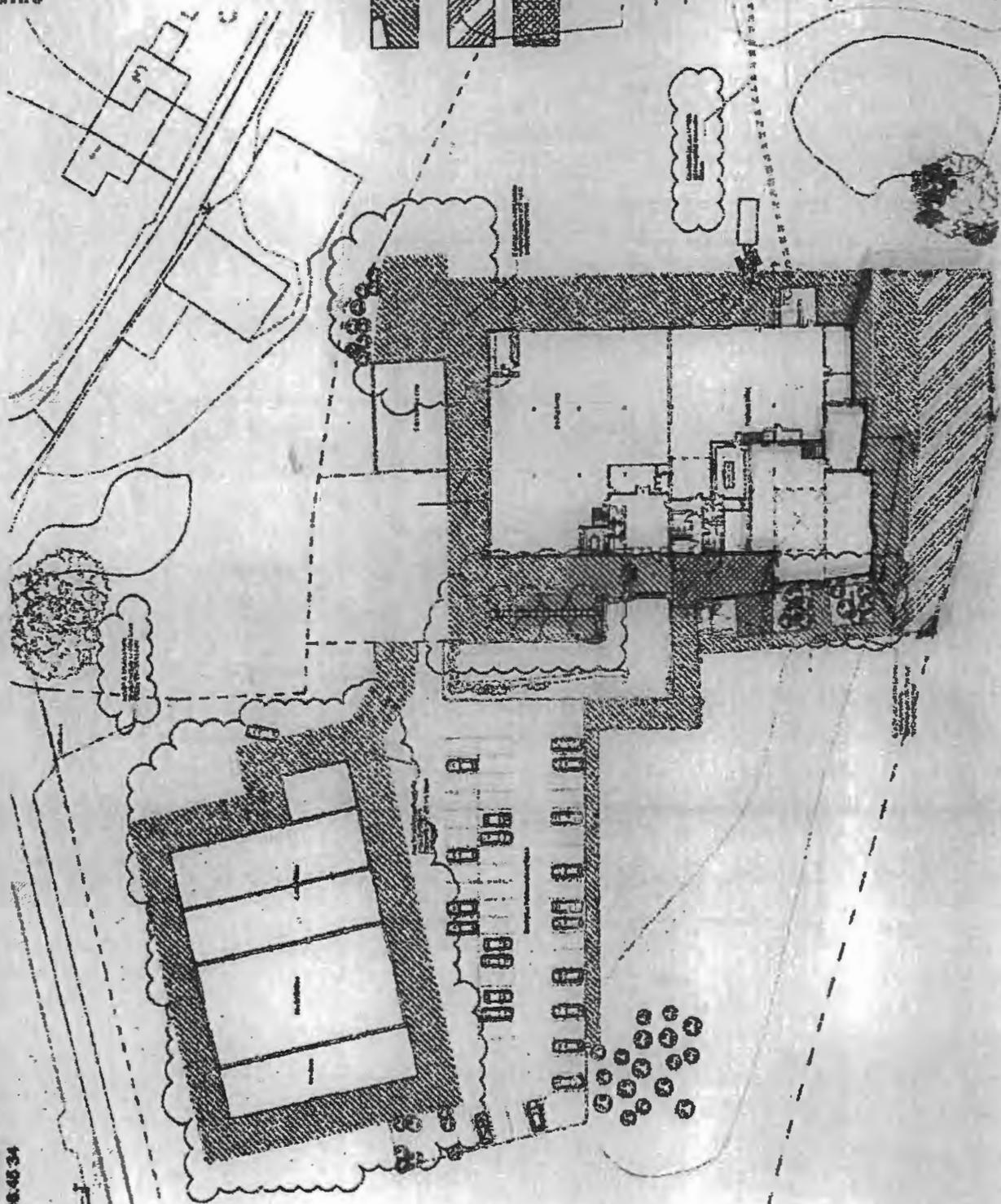


Form Name: Application in Year 6 Professional License (1.0).dwg
Form Number: 1000
Author: Richard Beard-Lynn
Date: 06/19/2013 10:45:34

4

Form Name: Application to Vary a Premises Licence (1.0).vdf
 Form No: 2004 Richard Beard & Lynn
 Date Expired: 5/7/2018 18:45:34

88079648
 2004/1/18/90



New Concrete Pathway for Foot & Animal and existing main path
 Overgrown Drapery Wood Effect
 Garden/Green with Multi-Block Street Lanes

PLANNING PERMISSION
 APPLICATION NO. 18/01002/FUL
 DATE OF DECISION: 12/11/2018
 REFERENCE: 18/01002/FUL

HUSH HEATH WINERY
 FIVE OAK LANE
 STAPLEHURST
 TN12 0HT

HUSH HEATH ESTATE

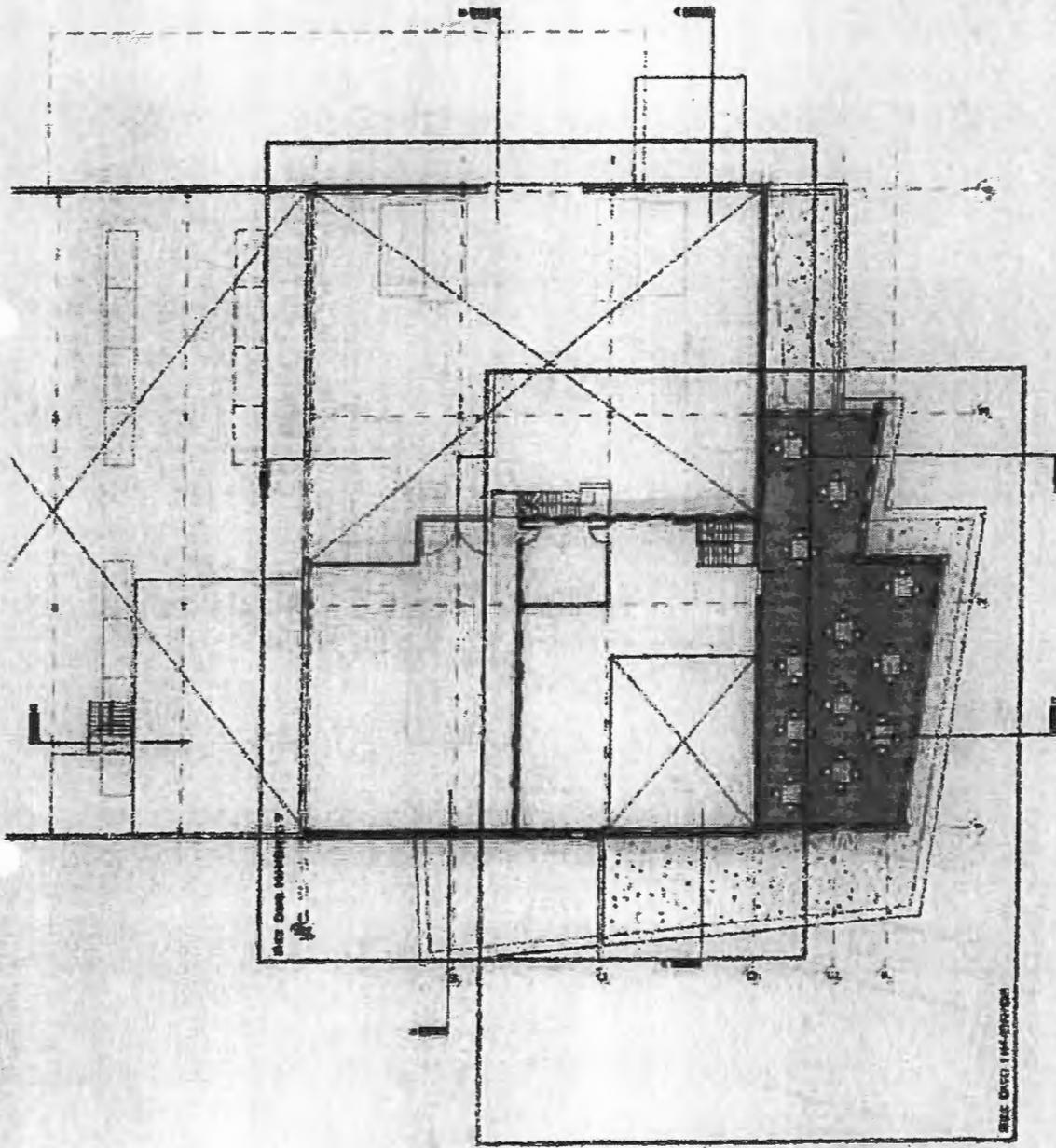


CRISTINA CALVERTON LUTLAND
 18/01002/FUL
 12/11/2018

18/01002/FUL
 12/11/2018

See also: 18/01002/FUL
 18/01002/FUL
 12/11/2018





• UPPER
FLOOR NEW
BUILDING TO BE
LICENSED.

PROPOSED MEZZANINE
FLOOR PLAN
HUSH HEATH WHIMERY
FIVE STAR LAKE
STAPLEHURST
TN12 0HT
HUSH HEATH ESTATE



DESIGNED BY
DRAWN BY
CHECKED BY
DATE



The Licensing Partnership Application to vary a Premises Licence

Sevenoaks District Council, Tunbridge Wells Borough Council, Maidstone Borough Council and London Borough of Bexley have a Licensing Partnership to process and issue licensing applications.

Licensing Officers are located at each local licensing authority, together with admin support to deal with people visiting the Gateways and Tunbridge Wells Town Hall.

Thank you for using the Licensing Partnership self service. Before completing the form, please be aware of the following information:

Form Submission:-

When you have completed the application form please submit it. When you submit the application, you will receive an electronic response which will be sent directly to the email address provided in the application.

Payment:-

If you are submitting an application which requires a payment, please have your credit or debit card to hand as payment can be made upon submitting your application form. Applications requiring a payment will only be validated once payment is confirmed.

General Information:-

If you have any problems with completing the form please contact licensing@sevenoaks.gov.uk

For Official Use Only

Title Customer Name	Form Filename
Richard Balfour-Lynn	Richard Balfour-Lynn
DOB	NINO
Notes	Form Reference
TEI: 01622 832794	Caps Reference
Email: sarah@hushheath.com	
Customer Address	
Hush Heath Winery Hush Heath Estate Five Oak Lane Staplehurst Tunbridge Kent TN12 0HX	
Date Form Started: 05/07/2018 14:30:07	
Date of E-signing	
Date Submitted	
Validation Po	
Occupancy type	
Advisor Name (who started form)	
Advisor Department	
Self Service	

Licensing Authority:

Ref:

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
Use the blank page at the end of the form to provide further details if necessary
When it is complete you can submit the form directly to us - click on the Submit Form button.
You may wish to print and keep a copy of the completed form for your records.
For help information about filling in this type of electronic form, click on the help information button.

I/We Richard Balfour-Lynn 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

Maidstone Borough Council

[Click here for licence lookup](#)

Premises licence number 13/00231/LAPRE

Part 1 - Premises Details

Postal address of premises or, if none, ordnance survey map reference or description	
Hush Heath Winery Hush Heath Estate Five Oak Lane Staplehurst Tonbridge Kent TN12 0HX	
	Post code

Telephone number at premises (if any) 01622 832794

Non-domestic rateable value of premises £ .00

Part 2 - Applicant Details

Title Mr

Surname BALFOUR-LYNN

Firstnames RICHARD

Daytime contact telephone number 01622 832794

Email address (optional) sarah@hushheath.com

Current postal address if different from premises address

Post Town Postcode

Part 3 - Variation

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

If not do you want the variation to take effect from

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

Please describe briefly the nature of the proposed variation (Please see guidance note 1)

HUSH HEATH HAVE HAD A SUBSTANTIAL EXTENSION TO OUR CURRENT TASTING ROOM AND VISITOR FACILITIES. WE ANTICIPATE THE SAME ACTIVITIES THAT WE HAVE CURRENTLY BEEN CARRYING OUT, CUSTOMER TASTINGS OF WINE AND CIDER, OCCASIONAL EVENING EVENTS, ALWAYS FINISHING BY 24.00.

THE NEW BUILDING IS A DOUBLE HEIGHT TASTING ROOM WITH A ROOF TOP TERRACE AND OUTSIDE TERRACE AREA. THIS WILL ALL BE USED FOR TASTING WINE AND CIDER, SERVING BY THE GLASS AND BOTTLE AND USING FOR LIMITED EVENTS IN ACCORDANCE WITH OUR LICENCING.

A FULL PLAN OF THE NEW BUILDING SHOWING AREAS THAT ALCOHOL WILL BE SUPPLIED TO AND CONSUMED BY THE PUBLIC.



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

- 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 late night refreshment (if ticking yes, fill in box I)

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

In all cases complete boxes K, L and M

To complete this part, choose this option on Page 4

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both - please make selection with an "x" (please read guidance note 2).	Indoors	
Day	Start	Finish		Outdoors	
Mon			Please give further details here (please read guidance note 3)	Both	
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both - please make selection with an "x" (please read guidance note 2).	Indoors	
Day	Start	Finish		Outdoors	
Mon			Please give further details here (please read guidance note 3)	Both	
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

To complete this part, choose this option on Page 4

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<p>Please give further details (please read guidance note 3)</p> <p>State any seasonal variations for indoor sporting events (please read guidance note 4)</p> <p>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 5)</p>
Day	Start	Finish	
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<p>Will the boxing or wrestling entertainment take place indoors or outdoors or both - please make selection with an "x" (please read guidance note 2)</p>	
Day	Start	Finish	Indoors	
			Outdoors	
			Both	
Mon			Please give further details here (please read guidance note 3)	
Tue				
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)	
Thur				
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)	
Sat				
Sun				

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place <u>indoors or outdoors</u> or both - please make selection with an "x" (please read guidance note 2).	Indoors	
Day	Start	Finish		Outdoors	
Mon	10:00	24:00	Both		X
Tue	10:00	24:00	Please give further details here (please read guidance note 3) THIS WILL ONLY BE FOR A VERY LIMITED AMOUNT OF EVENTS AND WILL BE INSIDE THE BUILDING		
Wed	10:00	24:00			
Thur	10:00	24:00	State any seasonal variations for performance of live music (please read guidance note 4)		
Fri	10:00	24:00	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	10:00	24:00			
Sun	10:00	24:00			

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place <u>indoors or outdoors</u> or both - please make selection with an "x" (please read guidance note 2).	Indoors	
Day	Start	Finish		Outdoors	
Mon	10:00	24:00	Both		X
Tue	10:00	24:00	Please give further details here (please read guidance note 3) THIS WILL BE FOR BACKGROUND MUSIC PLAYED AT A VERY LOW LEVEL		
Wed	10:00	24:00			
Thur	10:00	24:00	State any seasonal variations for playing recorded music (please read guidance note 4)		
Fri	10:00	24:00	Non standard timings. Where you intend to use the premises for the playing of recorded music entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	10:00	24:00			
Sun	10:00	24:00			

G

Performance of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both - please make selection with an "x" (please read guidance note 2).	Indoors	
Day	Start	Finish		Outdoors	
Mon			Please give further details here (please read guidance note 3)	Both	
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of dance entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	Will the entertainment take place indoors or outdoors or both - please make selection with an "x" (please read guidance note 2).	Indoors	
Mon				Please give further details here (please read guidance note 3)	Outdoors
Tue			Both		
Wed			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment be indoors or outdoors or both - please make selection with an "x" (please read guidance note 2):	Indoors	
Day	Start	Finish		Outdoors	
Mon	10:00	24:00	Please give further details here (please read guidance note 3) THIS WOULD ONLY BE FOR VERY LIMITED EVENTS.	Both	X
Tue	10:00	24:00			
Wed	10:00	24:00	State any seasonal variations for provision of late night refreshment (please read guidance note 4)		
Thur	10:00	24:00			
Fri	10:00	24:00	Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	10:00	24:00			
Sun	10:00	24:00			

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption please make selection with an "x" (please read guidance note 7)	On the premises	
Day	Start	Finish		Off the premises	
Mon	10:00	24:00		Both	X
Tue	10:00	24:00	<u>State any proposed seasonal variations for the supply of alcohol (please read guidance note 4)</u>		
Wed	10:00	24:00			
Thur	10:00	24:00			
Fri	10:00	24:00			
Sat	10:00	24:00	<u>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)</u>		
Sun	10:00	24:00			

K

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)

NONE

L

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	10:00	17:00	
Tue	10:00	17:00	

Wed	10:00	17:00	<p>Non standard timings. Where you intend to use the premises to be open to the public at different times to those listed in the column on the left, please list (please read guidance note 5)</p> <p style="text-align: center;">FOR A WEDDING OR AN EVENT</p>
Thur	10:00	17:00	
Fri	10:00	17:00	
Sat	10:00	17:00	
Sun	10:00	17:00	

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

Please make selection with an "x"

I will enclose the premises licence with the declaration

I will enclose the relevant part of the premises licence with the declaration

Neither of above

If checking this box please fill in reasons for not sending the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of premises licence

M 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)

Hush Heath Estate is a family owned farm and winery maintained to the highest of standards with limited access to the public, good security, good parking and in an extremely remote area. The principals of security and safety will be extended in all dealings with the public.

b) The prevention of crime and disorder

Limited opening hours. Good security, alarms and CCTV cameras. No unsupervised access.

c) Public safety

The Winery form part of Hush Heath Estate which carries out HACCP this ensures public safety and our staff are trained in this. Staff are also First Aid trained and we have designated first aid areas should an event occur.

d) The prevention of public nuisance

The supply of alcohol will be restricted to members of the public as tasting samples. We follow the "Challenge 25" rules and our staff are trained in the safe serving of alcohol and not to serve anyone who has had too much to drink.

e) The protection of children from harm

Only allowed on the estate/ tasting rooms and winery with parental or adult supervision. At all times they will be accompanied. All hazardous materials will be kept under child proof lock.

Please make selection with an "x"

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- 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 NOTIFICATION

Part 5 - Declaration (please read guidance note 10)

Confirmation of applicant or applicant's solicitor or other duly authorised agent. (See guidance note 11) If confirming on behalf of the applicant please state in what capacity.

Confirmation

Name Date

Capacity

For joint applications confirmation of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12) If confirming on behalf of the applicant please state in what capacity.

Confirmation

Name Date

Capacity

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

Name

Address

Post Town

Postcode

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

For Official Use Only

Form Filename:

Applicant Name: Richard Balfour-Lynn/

Submission Ref:

Date Submitted:

Use this page if there is any other information that you think we should know about.
Information entered on this page will be sent to us, along with the data on the rest of the form when you use the "Submit" option.

THE ACTIVITIES WILL NOT CHANGE FROM THE ORIGINAL APPROVED PREMISES LICENCE, THE ONLY DIFFERENCE BEING THE NEW PART OF THE BUILDING WITH IMPROVED VISITOR FACILITIES.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

NOTICE OF DETERMINATION

Application Ref No:

Applicant: Mr Richard Balfour-Lynn

(see minute for decision on applicant)

Regarding **Hush Heath Winery, Hush Heath Estate, Five Oak Lane,
Staplehurst**

Date of hearing: 3 September 2018

Date of determination: 3 September 2018

Committee Members: [Chairman]: Councillor Mrs Joy
Councillor Mrs Springett
Councillor Garten

Legal Advisor in attendance at hearing: Mrs Jayne Bolas

Democratic Services Officer in attendance at hearing: Mrs Caroline Matthews

This was an application for:

Variation

(see minute for decision on nature of application)

for a

Premises Licence

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

Name: Mr Richard Balfour-Lynn

Witnesses in support of Applicant: Ms S. Easton, Ms V Ash

Responsible Authorities

None

Other Persons

Name: Mr A Codd (on behalf of Ms A Hodgkiss and for Mrs A. Tipples, Mr B Tipples, Mrs A and Mr F Tipples and Spokesman for Mr & Mrs Humphrey Mr K Humphrey (and on behalf of Mrs Humphrey)

Witnesses in support of Other Persons N/A

Representations considered in the absence of a party to the hearing:

All representations referred to at Pages 3 and 4 of the agenda, additional letter from Ms Wyeth and two from Mr Stanley. Letter from Mrs Tipples and response (dated 23/8/18). All documents from Mrs Amanda Tipples submitted by Mr Codd at the hearing numbered 0-5.

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 4 which relates to the licensing objectives

Sections 34 and 35 which relate to the variation of a premises licence.

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapters 8 and 9 which relate to premises licences and determinations
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 17 which relates to the 4 licensing objectives;
17.16 –18 which relates to Public Safety
17.19 – 17.22 which relates to the Prevention of Public Nuisance

C: Determination:

The Committee has decided to:

Grant the variation to the premises licence for the area and activities applied for and additional hours subject to conditions.

Conditions:

All relevant mandatory conditions;
All conditions in the current licence and operating schedule at p20 of the agenda;
Additional conditions, see separate sheet

Reasons for determination:

Having heard Mr Balfour-Lynn and Ms Easton and Ms Ash (witnesses) and two other persons and representations and having read all papers on the agenda., Members of the Sub-Committee have taken account of the evidence relevant to promotion of the licensing objectives of public safety and to prevent public nuisance.

They have taken account that there have been no representations of concern from responsible authorities.

They have carefully balanced the requirements of the applicant in operating his business as a winery with some events in an extended space and the need for the promotion of the licensing objectives of prevention of public nuisance and protection of public safety to protect the concerns of neighbours likely to be caused nuisance by uncontrolled licensable activities.

Having considered the topography of the area, the close proximity of residents and the likely travel of sound and the concerns of residents regarding quiet use of their premises Members have provided conditions to ensure a reasonable balance.

The applicant indicated that he was content to notify residents of events, limit those to 12 a year and wished to be a responsible neighbour. Objectors present confirmed that their concern was the potential for issues with an unrestricted licence.

Members also considered the comments with regard to traffic and felt that traffic beyond the premises was a matter for the behaviour of visitors and beyond the control of the licence holder. It was not felt that further conditions would be appropriate in this regard.

Informative:

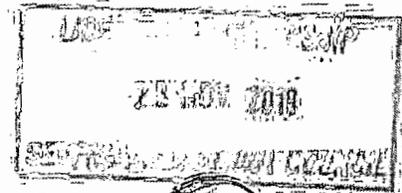
If issues should arise during the operation of a licence, which are related to licensable activity at the premises and promotion of the licensing objectives, application may be made for review of a premises licence in accordance with the Licensing Act 2003.

PRINT NAME (CHAIRMAN): Councillor Mrs Joy

Signed [Chairman]: A copy of the original document is held on file

Date: 3 September 2018

Licensing Partnership



Application for a minor variation to a premises licence or club premises certificate 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, especially Note 1.

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 in black ink. Use additional sheets if necessary.

Once completed please send your application to the relevant licensing authority. You may wish to keep a copy of the completed form for your records.

Richard Balfour-Lynn

(Insert name(s) of applicant)

being the premises licence holder(s)/club holding a club premises certificate, apply to vary a premises licence under section 41A/club premises certificate under section 86A of the Licensing Act 2003 for the premises described in Part 1 below.

Part 1 - Premises details

Postal address of premises (or, if none, ordnance survey map reference, or description)
Hush Heath Winery
Five Oak Lane
Staplehurst

Post town
Tonbridge

Postcode
TN12 0HT

Telephone number at premises (if any)

01622 832794

Premises licence number/club premises certificate number

18/02446/LAPRE

Brief description of premises (Please see Guidance Note 2)
Winery and Visitor experience

Part 2 - Applicant Details

I am/we are the premises licence holder/club premises certificate holder. (Please delete as appropriate)

Contact phone number in working hours (if any)

01622 832794

Applicant Postal address IF DIFFERENT FROM PREMISES ADDRESS Hush Heath Manor Hush Heath Hill Cranbrook	
Post town Cranbrook	Postcode TN17 2NG
Please provide email address if you would prefer us to contact you by email (optional) [REDACTED]	

Part 3 - Proposed variation(s)

Do you want the proposed variation to have effect as soon as possible? Yes No

Please tick

If not, from what date do you want the variation to take effect?

DDMM		YYYY	

Please describe the proposed variation(s) in detail in the box below and explain why you consider that they could not have an adverse effect on the promotion of any of the licensing objectives (See Guidance Note 1). This should include whether new or increased levels of licensable activities will be taking place indoors or outdoors (indoors may include a tent).

Details of proposed variations (Please see Guidance Note 3)

This is an application for a minor variation, to remove a condition on the licence which states " The supply of alcohol on the premises will be limited to tasting samples only".

It is a variation to remove the condition that hampers our operation and is only required to be for the operational hours and 12 events agreed by the licencing sub-committee hearing on 03/09/2018.



Details of proposed variations (Continued)

Part 4 – Operating Schedule

Please tick those parts of the Operating Schedule which would be subject to change if this application to vary was successful.

Provision of regulated entertainment

Please tick all that apply

- a. plays
- b. films
- c. indoor sporting events
- d. boxing or wrestling entertainment
- e. live music
- f. recorded music
- g. performances of dance

h. anything of a similar description to that falling within (e), (f) or (g)

Provision of late night refreshment

Sale by retail of alcohol

(Note that this can only relate to reducing licensed hours or moving them without any overall increase between 7am and 11pm)

I

Please tick to indicate you have enclosed the following:

I have enclosed the premises licence/club premises certificate

I have enclosed the relevant part of the premises licence/
club premises certificate

I have included a copy of the plan
(necessary if the proposed variation will affect the layout)

If you have not ticked one of the previous three boxes, please explain why in the box below.

Reasons why you have not enclosed the premises licence/club premises certificate or relevant parts.

Any further information to support your application. (See Guidance Note 4)

CHECKLIST:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have enclosed the plan, if appropriate, of the premises in scale [1mm to 100mm], unless otherwise agreed with the licensing authority.
- I have enclosed the premises licence/club premises certificate or relevant part of it or provided an explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

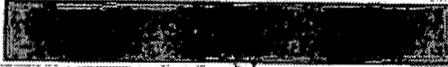
- I understand that I am required to advertise my application by posting a white notice at or on the premises for ten consecutive days commencing on, and including the day after the day when my application is given to the licensing authority.

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 and Contact Details
(See Guidance Note 5)

Premises Licence: Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (see Guidance Note 6). If signing on behalf of the applicant, please state your name and in what capacity you are authorised to sign:

Signature:



Date: 21 November 2018

Capacity: I/We (insert full name and capacity) RICHARD BALFOUR-WINDS. PROPRIETOR

sign on behalf of and have authority to bind the applicant.

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 (See Guidance Note 7). If signing on behalf of the applicant, please state in what capacity.

Signature:

Date:

Capacity: I/We (insert full name and capacity)

sign on behalf of and have authority to bind the applicant.

Where the premises is a club

I (insert full name) make this application on behalf of the club and have authority to bind the club,

Signature:

Date:

Capacity: I/We (insert full name and capacity)

sign on behalf of and have authority to bind the applicant.

Contact name (where not previously given) and address for correspondence associated with this application. (See Guidance Note 8)	
Post town	Postcode
Telephone number (if any)	If you would prefer us to correspond with you by email your email address (optional)

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the

early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of children from harm

2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible

application form requires the applicant to provide a description of where the place is and its proximity to the premises.

Entitlement to work in the UK

- 8.38 Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. From 6 April 2017 licensing authorities must be satisfied that an individual who applies for a premises licence is entitled to work in the UK. This includes applications made by more than one individual applicant. An application made by an individual without the entitlement to work in the UK must be rejected. This applies to applications which include the sale of alcohol and the provisions of late night refreshment, but does not include applications which apply to regulated entertainment only. For example, a person applying for a licence for a music venue who does not intend to sell alcohol or late night refreshment is not prohibited from applying for a licence on grounds of immigration status. However, they will commit a criminal offence if they work illegally.
- 8.39 The documents which may be relied on in support of an application demonstrating an entitlement to work in the UK are the same as for personal licence applicants see paragraph 4.8. Where there is sufficient evidence that the applicant is not resident in the UK there is no requirement that the applicant has an entitlement to work in the UK.
- 8.40 Where an applicant's permission to work in the UK is time-limited the licensing authority may issue a premises licence for an indefinite period, but the licence will become invalid when the immigration permission expires. The individual's entitlement to work in the UK may be extended or made permanent by the Home Office, and granting the licence for an indefinite period prevents the licensee from having to re-apply for a new licence. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as a curtailment or revocation), any licence issued on or after 6 April 2017 which authorises the sale of alcohol or provision of late night refreshment will automatically lapse. As with personal licences, the licensing authority is under no duty to carry out on going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end. For further details on entitlement to work see paragraphs 4.8 to 4.18.

Steps to promote the licensing objectives

- 8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.
- 8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- the Crime Mapping website;
- Neighbourhood Statistics websites;
- websites or publications by local responsible authorities;
- websites or publications by local voluntary schemes and initiatives; and
- on-line mapping tools.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached

to premises licences with the minimum of fuss.

- 8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Variations

Introduction

- 8.50 Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out in Chapter 8 above.

Simplified processes

- 8.51 There are simplified processes for making applications, or notifying changes, in the following cases:
- a change of the name or address of someone named in the licence (section 33);
 - an application to vary the licence to specify a new individual as the designated premises supervisor (DPS) (section 37);
 - a request to be removed as the designated premises supervisor (section 41);
 - an application by a licence holder in relation to community premises authorised to sell alcohol to remove the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act concerning the supervision of alcohol sales by a personal licence holder and the need for a DPS who holds a personal licence (sections 25A and 41D); and
 - an application for minor variation of a premises licence (sections 41A to 41C) or club premises certificate (sections 86A to 86C).
- 8.52 If an application to specify a new DPS or to remove the mandatory conditions concerning the supervision of alcohol sales is made electronically via GOV.UK or the licensing authority's own electronic facility, the authority must notify the police no later than the first working day after the application is given.
- 8.53 Where a simplified process requires the applicant (if they are not also the personal licence holder) to copy the application to the licence holder for information, this will apply regardless of whether the application is made in writing or electronically. Otherwise the general guidance set out above (paragraphs 8.21 to 8.28) on electronic applications applies.

Minor variations process

- 8.54 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display

17.19 CONDITIONS TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE.

The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

17.20 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations.
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

17.21 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

17.22 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

17.23 CONDITIONS TO PROMOTE THE PROTECTION OF CHILDREN FROM HARM.

Applicants will be expected to detail any appropriate and proportionate steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

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NUISANCE AND RYLANDS V FLETCHER

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1. THE NATURE OF NUISANCE

(a) Role of nuisance

20-01 Nuisance defined¹ The essence of nuisance is a condition or activity which unduly interferes with the use or enjoyment of land. In ordinary speech, smells and smoke and a variety of different things may amount to a nuisance in fact but whether they are actionable as the tort of nuisance will depend upon a variety of considerations and a balancing of conflicting interests. An actionable nuisance is incapable of exact definition,² and it may overlap with some other heading of liability in tort such as negligence.³ Furthermore, recent decisions of the House of

¹ See Murphy, *The Law of Nuisance*, (2010); Buckley, *The Law of Negligence and Nuisance*, 6th edn (2017); Beever, *The Law of Private Nuisance* (2013); Steele, "Private Law and the Environment Nuisance in Context" (1995) 15 L.S. 236; Gearty, "The Place of Private Nuisance in a Modern Law of Torts" [1989] C.L.J. 214; Lee, "What is Private Nuisance?" (2003) 119 L.Q.R. 298.

² *Banford v Turnley* (1860) 3 B. & S. 62 at 66, 79 and 83-88; *Harrison v Good* (1871) L.R. 11 Eq. 338 at 351; *Pwllbach Colliery Co Ltd v Woodman* [1915] A.C. 634 at 638-639.

³ See, e.g. *Graff Brothers Estates Ltd v Rimrose Brook Joint Sewerage Board* [1953] 2 Q.B. 318 (a claim for damages for wrongfully removing the support of land and houses may cover claims in negligence, trespass and nuisance); *Southport Corp v Esso Petroleum Co Ltd, Esso Petroleum Co Ltd v Southport Corp* [1956] A.C. 218 (relation between nuisance, negligence and trespass

Lords have confirmed that the rule in *Rylands v Fletcher*,⁴ sometimes treated as a separate head of liability, is to be regarded as coming under the nuisance umbrella.⁵ Nuisance is an act or omission which is an interference with, disturbance of or annoyance to, a person in the exercise or enjoyment of: (a) a right belonging to him as a member of the public, when it is a public nuisance; or (b) his ownership or occupation of land or of some easement, profit, or other right used or enjoyed in connection with land, when it is a private nuisance. The rights conferred by the law of nuisance arise by virtue of the general common law, and are therefore not dependent for their coming into existence on the terms of any conveyance of the land in question.⁶

Nuisance and trespass The distinction between trespass and nuisance is the old distinction between trespass and case. Trespass is a direct entry on the land of another, and is actionable per se, without proof of special damage, but nuisance is the infringement of the claimant's interest in property without direct entry by the defendant, and generally actionable only on proof of special damage. For example, to build a wall partly on someone else's is a trespass, but to build on one's own land a wall which, through disrepair, falls on to another's land is a nuisance.⁷ It is a trespass for A directly to discharge water on to B's land, but if water spills from A's land over intermediate land onto B's land this amounts to a nuisance.⁸ Such a distinction may be on certain facts an exceedingly fine one.⁹ But the distinction will not normally become vital to the claimant's claim where he can allege and prove special damage. If he cannot prove special damage, then he will have to show an entry by way of trespass. It is a nuisance and not a trespass if the branches of a tree, whether planted or self-sown, growing on the land of one man, overhang his neighbour's land,¹⁰ or if the roots burrow into his land and damage his buildings.¹¹

20-02

Public nuisance A public nuisance is a criminal offence:

20-03

"A person is guilty of a public nuisance ..., who (a) does an act not warranted by law, or (b) omits to discharge a legal duty, if the effect of the act or omission is to endanger the

discussed).

⁴ (1866) L.R. 1 Ex. 265; affirmed in (1886) L.R. 3 HL 330 HL.

⁵ Until the nineteenth edition of this book the rule in *Rylands v Fletcher* was the subject of a separate chapter, but see now paras 20-44 to 20-62.

⁶ See *Thornhill v Sita Metal Recycling Ltd* [2009] EWHC 2037 (QB); [2009] Env. L.R. 35.

⁷ *St Anne's Well Brewery Co v Roberts* (1928) 140 L.T. 1; [1928] All E.R. Rep. 28, per Scrutton LJ; see also *Lemmon v Webb* [1895] A.C. 1; *Kine v Jolly* [1905] 1 Ch. 480 at 487, per Vaughan Williams LJ; *Mann v Sautnier* (1959) 19 D.L.R. (2d) 130 (top of fence leaning over neighbouring land not trespass); Hudson, "Trespass or Nuisance" (1960) 19 M.L.R. 188 at 190.

⁸ *Nobilo v Waitemata Country* [1961] N.Z.L.R. 1064.

⁹ In *Southport Corp v Esso Petroleum Co Ltd* [1954] 2 Q.B. 182, where oil was discharged from a ship and carried by wind and water onto the claimant's foreshore, judicial opinion varied. See also, per Denning LJ at 195-196 (nuisance only); per Morris LJ at 204 (may be trespass). See [1956] A.C. 218 at 225, per Devlin J (both trespass and nuisance) and at 242 and 244, per Lords Radcliffe and Tucker (nuisance only). In *Home Brewery Plc v Davis & Co* [1987] Q.B. 339, it was held that the squeezing out of water from the defendants' land on to the claimant's was actionable and it made no difference in result whether the cause of action arose in trespass or in nuisance.

¹⁰ *Lemmon v Webb* [1895] A.C. 1; *Smith v Giddy* [1904] 2 K.B. 448.

¹¹ *Butler v Standard Telephones and Cables Ltd* [1940] 1 K.B. 399; *Davey v Harrow Corp* [1958] 1 Q.B. 60 CA at 71-73; [1957] C.L.J. 137 at 140 and [1958] C.L.J. 32 at 34; *McCombe v Reud* [1955] 2 Q.B. 429; *Mills v Smith (No. 2)* [1964] 1 Q.B. 30.

life, health, property, morals, or comfort of the public, or to obstruct the public in the exercise or enjoyment of rights common to all Her Majesty's subjects."¹²

It is sufficient if it materially affects the reasonable comfort and convenience of a class of Her Majesty's subjects who come within the sphere or neighbourhood of its operation; it may affect some to a greater extent than others; it is not necessary to prove that every member of the class has been injuriously affected, and it is a question of fact whether the number of persons affected is sufficiently large to attract the description "public" to the nuisance.¹³ It is only a civil wrong and actionable as such when a private individual has suffered particular damage over and above the general inconvenience and injury suffered by the public,¹⁴ for example through the obstruction of a highway. It is quite possible for the same act to constitute both a public and a private nuisance; the two causes of action are not mutually exclusive, nor is a cause of action in private nuisance subsumed in one for public nuisance. In *Colour Quest Ltd v Total Downstream UK Plc*¹⁵ a huge explosion for which the defendants were responsible endangered the health and comfort of the public over a wide area; a submission by the defendants that claimants who owned property within the affected area were confined to claims in private nuisance was rejected.

20-04 Examples In truth the concept of public nuisance is a historical survival which does not fit easily into modern law. As a crime it is unduly vague by contemporary standards, and as a tort it is apt to be a source of anomaly sitting, as it does, uneasily alongside the concepts of both negligence and private nuisance. Public nuisances at common law include such diverse activities as carrying on an offensive trade, exposing in the public streets a person suffering from an infectious disease,¹⁶ selling food unfit for human consumption, obstructing the highway by rendering it dangerous and inconvenient to pass, allowing a house near the highway to be ruinous, making or selling fireworks or throwing them about the street, holding an "acid house" party,¹⁷ keeping a disorderly house,¹⁸ motor-racing¹⁹ or obstructing a

¹² *Archbold: Criminal Pleading, Evidence and Practice*, (2017), para.31-40. See generally Spencer, "Public Nuisance—A Critical Examination" [1989] C.L.J. 55; Neyers, "Reconceptualising the Tort of Public Nuisance" [2017] C.L.J. 87. The proposition that a common law offence of public nuisance continues to exist was confirmed by the House of Lords in *R. v Goldstein* [2005] UKHL 63; [2006] 1 A.C. 459 (rejecting a submission that the concept was too vague and imprecise to provide a basis for criminal liability).

¹³ *Att Gen v PYA Quarries Ltd* [1957] 2 Q.B. 169 at 184, per Romer LJ; and at 190-191, per Denning LJ; *British Celanese Ltd v AH Hunt (Capacitors) Ltd* [1969] 1 W.L.R. 959 at 969, per Lawton J. See also *DPP v Fearon* [2010] EWHC 340 (Admin); [2010] 2 Cr. App. R. 22 at [8] per Elias LJ.

¹⁴ See para.20-181. On the nature of the particular damage, see Kodilnye, "Public Nuisance and Particular Damage in the Modern Law" (1986) 6 L.S. 182. In *The Claimants appearing on the Register of the Corby Group Litigation v Corby BC* [2008] EWCA Civ 463; [2009] Q.B. 335 the Court of Appeal held that, until the House of Lords rules otherwise, it is still the law that damages for personal injury are recoverable in *public* (as distinct from private) nuisance; and the Court therefore refused to strike out such a claim.

¹⁵ [2009] EWHC 540 (Comm); [2009] 2 Lloyd's Rep. 1; reversed in part, but not on this point: [2010] EWCA Civ 180; [2011] Q.B. 86.

¹⁶ *R. v Vautandillo* (1815) 4 M. & S. 73; *Metropolitan Asylum District v Hill* (1881) 6 App. Cas. 193 at 204.

¹⁷ *R. v Ruffell (David)* (1992) 13 Cr. App. R. (S.) 204 CA; *R. v Shorrock (Peter)* [1994] Q.B. 279 CA. Bl. Comm., iv. 167.

¹⁹ *East Dorset DC v Eaglebeam* [2006] EWHC 2378 (QB); [2007] Env. L.R. D9; *Croydon LBC v Persons Unknown* [2016] EWHC 3018 (QB).

navigable river by lowering its depth.²⁰ Various matters have been declared to be nuisances by statute, particularly by the Environmental Protection Act 1990 Pt III,²¹ and the Clean Air Act 1993.²² The Noise Act 1996 contains measures concerned with noise, including a new criminal offence relating to the emission of noise at night, subject to a resolution by the local authority adopting the Act's provisions. The Environmental Protection Act 1990 also contains wide-ranging provisions with respect to waste disposal and pollution control generally.²³

Relevance of common law The element which all public nuisances, whether at common law or by statute, have in common with private nuisances is that of annoyance or inconvenience. The wide range of modern statutory regulation of environmental conditions has made the common law remedies less useful than in earlier times, but though in many respects reduced to a supportive or supplemental role in this area the common law of nuisance remains of use where the injured party requires compensatory damages or where the public agency is not prepared to take action.²⁴ It may be noted that where the word "nuisance" occurs in a statute, then unless it is otherwise expressly defined, it will bear its common law meaning.²⁵ 20-05

(b) Scope of private nuisance

Private nuisance Just as in issues of public nuisance, modern statutory control has had an effect in diminishing the role of private nuisance as a regulation of duties between neighbours. Refusal of planning permission may prevent many activities which would otherwise be a nuisance, but the tort of nuisance still provides sanctions against excessive interferences from activities which are not in themselves unlawful or unpermitted by public control over the use of property. The acts which constitute public nuisances are all of them unlawful acts. In private nuisance, on the other hand, the conduct of the defendant which results in the nuisance is, of itself, not necessarily or usually unlawful. A private nuisance may be and usually is caused by a person doing, on his own land, something which he is lawfully entitled to do. 20-06

²⁰ *Tate & Lyle Industries Ltd v GLC* [1983] 2 A.C. 509. See also *Jan de Nul (UK) v NV Royal Belge* [2000] 2 Lloyd's Rep. 700; affirmed [2002] EWCA Civ 209; [2002] 1 Lloyd's Rep 583.

²¹ This restates the law relating to statutory nuisances, replacing Pt III of the Public Health Act 1936, and improves the summary procedures for dealing with them. Those procedures were considered by the House of Lords, in the context of the 1936 Act, in *Sandwell MBC v Bijok* [1990] 1 W.L.R. 1350. A conviction for statutory nuisance can, in appropriate cases, lead to a compensation order under the Powers of Criminal Courts (Sentencing) Act 2000 s.130: *Herbert v Lambeth LBC* (1991) 90 L.G.R. 310 DC. But an action for damages for breach of statutory duty is not available: *Issa v Hackney LBC* [1997] 1 W.L.R. 956.

²² Consolidating and amending the Clean Air Acts 1956 and 1968.

²³ See Purdue, "Integrated Pollution Control in the Environmental Protection Act 1990: A Coming of Age of Environmental Law?" (1991) 54 M.L.R. 534. The whole statutory regime of environmental health law falls outside the scope of a treatise on torts. See generally *Encyclopaedia of Environmental Law and Practice*.

²⁴ Enforcement of duties under relevant legislative provisions is, for the most part, the concern of local authorities and other public agencies, although occasionally provision may be made for private suit by a person aggrieved by the breach of a statutory duty. In certain cases the public authority may be under a duty compellable by mandatory order, e.g. *R. v Surrey CC Ex p. Send Parish Council* (1979) 40 P. & C.R. 390 (duty to prevent continued obstruction of public footpath).

²⁵ See *National Coal Board v Neath BC* [1976] 2 All E.R. 478 DC.

HIGHWAY LAW

Fifth Edition

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45

"A public nuisance is simply an unlawful act or omission which endangers the life, safety, health, property or comfort of the public."

In the case of a highway, a public nuisance involves some act or omission which "prevents the convenient use of the way by passengers".³¹ A public nuisance to a highway can be committed in two ways. First, an obstruction of the highway which is unreasonable in extent or duration will be a public nuisance. Secondly, an act which does not physically obstruct the highway but which renders the highway dangerous or less convenient for public passage may be a public nuisance, whether it arises on the highway or on adjoining land.³² Different principles may apply to these two categories of nuisance, but there are many elements common to both and it may not always be possible to draw clear lines of distinction between the two categories. Edmund Davies L.J. pointed out the difficulties in categorisation, in *Dymond v Pearce*³³:

"... it is by no means always possible to allocate the facts of a particular case to only one or other of these two categories. It is notorious that what obstructs a highway may also create great danger to those who travel along it, while, on the other hand, danger unaccompanied by obstruction or obstruction giving rise to no danger may occur."

To some extent, the principles which have evolved have been governed by the kind of loss alleged to have been occasioned by the nuisance. On the one hand, the classic case of obstruction might involve the unusual expense to which a member of the public has been put in overcoming the obstruction. On the other hand, the claim may arise from an injury suffered by a member of the public passing along the highway. In the latter situation, the issues which the courts have had to resolve have been whether, in the case of an obstruction, it is necessary to establish that the obstruction also constituted a danger, whether an element of negligence is required or, at least, whether the possibility of injury or damage must be reasonably foreseeable.

Element of unreasonableness in public nuisance

The law of nuisance depends upon the balancing of competing interests and upon the assessment of whether one of those interests is unreasonably interfering with another. In highway nuisance, the issue is whether there is an unreasonable interference with the rights of the public to pass and re-pass along, and to have access to and from, the highway. Such interference may arise from the acts or omissions of adjoining landowners or from other users of the highway. It is essentially a matter of degree—whether the act or user complained of is unreasonable in nature, or by reason of its effects. The courts may have regard to the manner of creation of the interference, the status of its creator, the degree of fault

³¹ Per Byles J. in *R. v Mathias* (1861) 2 F. & F. 570.

³² *R. v Train* (1862) 3 F. & F. 22; *Trevett v Lee* [1955] 1 W.L.R. 113; *Morton v Wheeler*, *The Times*, February 1, 1956; *Dymond v Pearce* [1972] 1 Q.B. 496; *Wandsworth LBC v Railtrack Plc* [2002] 2 W.L.R. 512.

³³ [1972] 1 Q.B. 496 at 505.

"Liability in public nuisance arises where the landowner has knowledge of the existence of a nuisance on or emanating from his land, where there are means reasonably open to him for preventing or abating it, and where he fails to take those means within a reasonable time . . . The three elements of knowledge, means to abate and failure to take those means are all present in the present case."

- 7-16 The classic discussion of the necessity for foreseeability as an element in the tort of public nuisance appears in *The Wagon Mound (No.2)*⁴⁵ where Lord Reid suggested that fault was an element in public nuisance and that fault generally involved foreseeability.⁴⁶

Obstruction of the highway

- 7-17 An obstruction of the highway has been defined as "something which permanently or temporarily removes the whole or part of a highway from the public use altogether".⁴⁷ However, use of the highway may itself involve occasional halts by one traveller, which obstruct the highway for another traveller. Equally, the highway may be used to service, or to deliver to, premises adjoining it—requiring vehicles to wait temporarily. It has become an urban habit to park private vehicles on the road outside residential properties. Whether or not a particular use of the highway is an obstruction ultimately merges with the question as to what is a reasonable use of the highway or of the land adjoining the highway. In *Harper v Haden & Sons Ltd*,⁴⁸ Romer L.J. indicated that a common-sense approach should be adopted to what is or is not a reasonable use of the highway:

"The law relating to the user of highways is in truth the law of give and take. Those who use them must in doing so have reasonable regard to the convenience and comfort of others, and must not themselves expect a degree of convenience and comfort only obtainable by disregarding that of other people. They must expect to be obstructed occasionally. It is the price they pay for the privilege of obstructing others."

An obstruction which is *de minimis* will not be actionable.⁴⁹ It is not, however, a defence to public nuisance proceedings that the obstruction, although substantial, itself confers a benefit upon the public.⁵⁰ Nor, in the absence of express statutory

⁴⁵ [1967] 1 A.C. 617.

⁴⁶ [1967] 1 A.C. 617 at 639.

⁴⁷ Per Lord Evershed in *Trevett v Lee* [1955] 1 W.L.R. 113 at 117.

⁴⁸ [1932] 1 Ch. 298 at 320. See also *Walke v Taylor* (1985) 149 J.P. 551, per May L.J. at 553; *Cooper v Metropolitan Police Commissioner* (1986) 82 Cr.App.R. 238, per Tudor Evans, L.J. at 242.

⁴⁹ *R. v Russell* (1854) 3 F. & B. 942; *R. v Train* (1862) 2 B. & S. 640; *R. v Lepine* (1866) 30 J.P. 723; *R. v Bartholomew* [1908] 1 K.R. 554; *Kent CC v Curtis* (1998) EGCS 100; *Westminster CC v Moran* [1999] J.P.L. 49.

⁵⁰ See *R. v Morris* (1830) 1 B. & Ad. 441; *R. v Train* (1862) 2 B. & S. 640; *Att Gen. v Barker* (1900) 83 L.T. 245.

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Obstruction criminal offence of the Highways Act 1980, s. 137(1) obstruction has as to what may be reasonable use of the highway established a defence of liability in nuisance but the obstruction amounts to a

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⁵² See *Trevett v [1999] 2 A.C.*

⁵³ At 254-245.

⁵⁴ At 258-259.

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owner has knowledge of his land, where there are abating it, and where he . . . The three elements of : means are all present in

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authority, may the highway authority itself license the obstruction by granting its consent to the obstructing acts.⁵¹

Obstruction of the highway may be a public nuisance and, as such, is both a criminal offence and a tort. However, it is also a specific criminal offence under the Highways Act 1980 s. 137 where the offence is only committed if the obstruction has been caused "without lawful authority or excuse". The question as to what may amount to a lawful excuse is, in part, bound up with the question whether the activity, which is alleged to have caused the obstruction, is or is not a reasonable use of the highway. If it is, then the reasonable excuse will be established and the offence will not have been committed. There is no specific defence of lawful excuse to obstruction of the highway viewed as a public nuisance but the reasonableness of the usage of the highway which has caused the obstruction inevitably affects the decision as to whether or not the obstruction amounts to a public nuisance and is, therefore, unlawful.⁵²

The House of Lords in *DPP v Jones*⁵³ has held that the public right to be on the highway extends beyond the right to pass and repass. The case proceeded on the basis that the activity involved—a static demonstration—was not an obstruction of the highway. The speeches of the majority of the House of Lords were based in part on the desirability of equating the law defining the public's right to be on the highway with the law on obstruction. Lord Irvine said⁵⁴:

"Provided these activities are reasonable, do not involve the commission of a public or private nuisance, and do not amount to an obstruction of the highway unreasonably impeding the primary right of the general public to pass and repass, they should not constitute a trespass. Subject to these qualifications, therefore, there would be a public right of peaceful assembly on the public highway."

and:

"I find it satisfactory that there is a symmetry in the law between the activities on the public highway which may be trespassory and those which may amount to unlawful obstruction of the highway."⁵⁵

Lord Clyde summarised his conclusions in the following way.⁵⁶

"I am not persuaded that in any case where there is a peaceful non-obstructive assembly it will necessarily exceed the public's right of access to the highway. The question then is, as in this kind of case it may often turn

⁵¹ *Att Gen v Barker* in 50 above; *R v Sheffield Gas Consumers' Co* (1853) 1 C.L.R. 916; *Preston Corp v Fulwood Local Board* (1885) 53 L.T. 718; *Harvey v Truro RC* [1903] 2 Ch. 638. An authority may, however, authorise parking and waiting on a highway under statutory authority, see the Road Traffic Regulation Act 1984, below at Ch.16 and *W.R. Anderson (Motors) Ltd v Hargreaves* [1962] 1 Q.B. 425.

⁵² See *Trevett v Lee* [1955] 1 W.L.R. 113 CA.

⁵³ [1999] 2 A.C. 240.

⁵⁴ At 254-245.

⁵⁵ At 258-259.

⁵⁶ At 281.

11, per May L.J. at 553; *Cooper v T. Evans*, L.J. at 242. *R v [unclear]* (1866) 30 J.P. 723; EGCS 100; *Westminster CC v*

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out to be, whether on the facts here the limit was passed and the exceeding of it established. The test then is not one which can be defined in general terms but has to depend upon the circumstances as a matter of degree. It requires a careful assessment of the nature and extent of the activity in question. If the purpose of the activity becomes the predominant purpose of the occupation of the highway, or if the occupation becomes more than reasonably transitional in terms of either time or space, then it may come to exceed the right to use the highway . . . I am prepared to hold that a peaceful assembly which does not obstruct the highway does not necessarily constitute a trespassory assembly."

Lord Hutton⁵⁷ said that:

"the law as to trespass on the highway should be in conformity with the law relating to proceedings for wilful obstruction of the highway under section 137 of the Highways Act 1980 that a peaceful assembly on the highway may be a reasonable use of the highway."

However, he added the rider "provided that it does not obstruct the passage of other citizens". It is clear, therefore, that the majority of the Court in *DPP v Jones* all confirmed that for the public use of the highway to be lawful it had to be non-obstructive. That was sufficient on the facts of the case—where the presence of the small group of protesters had been found not to be obstructing the highway in question and where the legal issue was whether the presence of protesters was trespassory in nature.

7-20 In *Scott v Mid-South Essex Justices*,⁵⁸ however, it has been suggested that the decision in *Jones* may have changed the law on obstruction—at least in the determination as to what is or is not a reasonable use of the highway; per Goldring J.⁵⁹:

"the decision of the majority in the House of Lords in *Jones* did effectively amount to a change in the law. What might have amounted to an offence under section 137 before *Jones* might not now."

It is clear, however, their Lordships were not intending to extend the boundaries as to what might or might not amount to an obstruction of the highway but that they were concerned to equate the lawful use of the highway with that which would not amount to an unlawful obstruction under s.137—indeed any other approach would have been untenable. Section 137 only prohibits activity that does not have "lawful authority or excuse" and the courts have historically looked at the reasonableness of the use of the highway in determining whether that usage could amount to a lawful excuse. The danger of a circularity of reasoning is obvious but it would at least appear that the holding of a protest on

⁵⁷ At 287.

⁵⁸ [2004] EWHC 1001; see, however, *Crown Prosecution Service v Stephen Birch* [2006] Crim. L.R. 301.

⁵⁹ At para.40.

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⁶² (1865) 19 C.B. (2
⁶³ At 511.

⁶⁴ [1912] 3 K.B. 59:

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the highway must now be regarded as being potentially a lawful use of the highway and capable therefore of being a lawful excuse to some level of obstruction of it. The case may, however, have raised the bar as to what would be regarded as an unlawful obstruction in relation to activities associated with the exercise of rights of peaceful protest⁶⁰—although it would appear that these activities may still have to meet a test of reasonableness in order to amount to a lawful excuse under s. 137. Subsequent cases dealing with the exercise of the right to protest on the highway have made it clear that whilst the presence of single encamped protester on a lightly used pavement may be within the lawful use of the highway the setting up of a protest camp encompassing a material part of the highway goes well beyond such a lawful use.⁶¹

Temporary obstructions

Whether or not a temporary obstruction to the highway is lawful will depend on the length of the obstruction, the nature and reasonableness of the activity which has caused the obstruction to occur and on the nature of the remedy being sought in relation to that obstruction. However, save for where an obstruction of reasonable duration has occurred for the purpose of carrying out works to adjoining land, obstructions which are more than transitory—so as to cause special damage—will be actionable. There have, however, been a number of conflicting cases.

In *Herring v Metropolitan Board of Works*⁶² the respondents, in the exercise of the powers conferred upon them by the Metropolis Local Management Act, erected a hoarding in Northumberland Street for the purpose of enabling them to reconstruct a sewer, making access to the claimant's premises difficult to access. The claimant sought compensation under the provisions of the Act. The Court of Common Pleas held that the claimant was not, however, entitled to compensation because⁶³:

“the construction of the hoarding being necessary for the due performance of the works by the board, and the obstruction not having been more than was necessary, or kept for an unreasonable time.”

This decision was distinguished, however, by the Court of Appeal in *Lingke v Mayor of Christchurch*⁶⁴ where a claim for compensation arose from the effects of the laying of a drain in the highway abutting the claimant's house and furniture shop. Excavated soil had been thrown up against his premises with the result that

⁶⁰ In the case of other types of obstruction the limits of the de minimis rule in excusing obstruction of the highway seem to have been tightly maintained since *DPP v Jones*, see *East Hertfordshire District Council v Isabel Hospice Trading Ltd* [2001] J.P.L. 597.

⁶¹ Compare *Westminster City Council v Haw* [2002] EWHC 2073 (QB) and *City of London Corp v Samede* [2012] EWHC 34 (QB). As to other matters which might make presence on the highway unlawful, see *The Church of Jesus Christ of the Latter Day Saints v Price* [2004] EWHC 3245 (QB).

⁶² (1865) 19 C.B. (N.S.) 510.

⁶³ At 511.

⁶⁴ [1912] 3 K.B. 595 at 604; cf. *Ameroth v Chivers* [1948] 1 All E.R. 53.

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allowed to fall into disrepair or where gates have been left open.¹¹⁵ Where the land is unfenced and falls within the categories described in the section, liability may still attach where there has been negligence unrelated to any failure to fence. Thus, where activities in which animals are under human control are being conducted on land adjoining the highway there may be liability if an animal escapes onto the highway where this is a foreseeable result of the activity concerned.¹¹⁶ Section 2 of the Animals Act 1971 sets out the circumstances generally where liability will arise from damage caused by domestic animals.¹¹⁷ Where damage, which would fall within s.2, is caused on a highway by an animal placed on common land, it would appear that liability under s.2 would not be excluded by s.8.¹¹⁸

Dangers to the user of the highway

A highway nuisance may also be created where there is a danger caused to highway users from the condition of adjoining land or from an activity on that land. As has already been noted¹¹⁹ there often is a very large overlap between dangers to the highway that constitute a nuisance and obstructions to the highway which constitute a nuisance. An excavation in the highway, for example, is both an obstruction and a danger to highway users and many other forms of obstruction will carry with them an element of danger from collision. Whereas the courts have principally been concerned in obstruction cases with the extent of the obstruction and the purpose for which the obstructing article or event was on the highway, the judicial approach to the question of highway nuisance caused by the creation of a danger to highway users has tended to concentrate on the source of the danger and the reasonableness of the use of land which creates the danger. The standard of liability may differ depending upon the source of the danger that causes the nuisance.

Liability for private nuisance generally falls upon the occupier of land only where he has caused the nuisance, or where he may be said to have continued it. To be liable for continuing a nuisance it is established that the occupier should be actually aware of the nuisance or should reasonably have become aware of the existence of the nuisance and have failed to take reasonable steps to abate it.¹²⁰ In *Leakey v National Trust for Places of Historic Interest or Natural Beauty*¹²¹ the Court of Appeal confirmed that liability for nuisance caused by hazards of natural origin is also dependent upon whether the defendant knew or ought reasonably to have known of the risk of the hazard. It is not entirely clear whether these

¹¹⁵ See *Wilson v Donaldson* [2004] EWCA Civ 972.

¹¹⁶ *Bativala v West* [1971] 1 Q.B. 716.

¹¹⁷ For a consideration of these provisions of the Animals Act 1971, reference should be made to standard works of authority on the law of torts.

¹¹⁸ See *Ridyard v Owen* 1980 WL 612949; and see, under the common law, *Fitzgerald v Cooke (E.D. & A.D.) Bourns (Farms)* [1964] 1 Q.B. 249; and see also the offence created by Highways Act 1980 s.155.

¹¹⁹ At para.7-11, above.

¹²⁰ *Sedleigh Denfield v O'Callaghan* [1940] A.C. 880.

¹²¹ [1980] Q.B. 485. See also *Cambridge Water Co Ltd v Eastern Counties Leather Plc* [1994] 2 A.C. 264.

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principles apply to every kind of highway nuisance, since a distinction has appeared in the earlier cases between nuisances caused by natural objects, such as trees and vegetation, and nuisances caused by structures erected alongside highways and by operations carried on near to highways, causing danger to highway users.

Dangers arising from natural causes or natural vegetation on land adjoining the highway

- 7-38 Trees or other vegetation may grow in such a way as to cause a nuisance to highway users by the encroachment of their roots undermining the highway or by overhanging branches interfering with free passage along the highway. In *Hale v Harts and Dorset Motor Services Ltd and Another*,¹²² it was established that the overhanging branch of a tree could constitute an actionable nuisance. In that case the tree in question had been planted in the highway by the highway authority under statutory powers which expressly required that the authority should not allow such trees to hinder the reasonable use of the highway¹²³ but the same principle will apply to the situation where the tree is growing on adjoining land and a common law nuisance arises. The liability of the occupier of the adjoining land for such a nuisance will only arise when he is aware of the existence of the nuisance, or ought reasonably to have become aware of it. Thus, in *British Road Services v Slater*,¹²⁴ a bough which had protruded over a highway for many years without causing an accident was held to be a nuisance when a lorry carrying a high load caught it and part of the load became dislodged. However, although the bough was in plain view, the landowners were not aware that it constituted a nuisance, and the court appears to have been satisfied that they should not reasonably have been aware of the potential of the branch as a nuisance. Lord Parker C.J., therefore, held, applying the principles of *Sedleigh Denfield v O'Callaghan*,¹²⁵ that this lack of knowledge, actual or presumed, relieved the defendants from liability for nuisance, commenting that the tendency of the law was "more and more to assimilate nuisance and negligence". Once aware of the facts that constitute the nuisance the landowner will be liable for foreseeable damage if he fails to take reasonable steps to abate it.¹²⁶

- 7-39 It would appear that the same principles apply, howsoever the tree or vegetation actually causes the nuisance. Thus, the encroachment of the roots of a tree onto adjoining land causing damage has been held to constitute a private nuisance, and there seems to be no reason why the same principle should not apply to highway nuisance.¹²⁷ Where danger has been caused to the highway by

¹²² [1947] 2 All E.R. 628.

¹²³ Roads Improvement Act 1925 s.1(1), (2), now repealed.

¹²⁴ [1964] 1 W.L.R. 498.

¹²⁵ [1940] A.C. 880; see also *Cunliffe v Barker* [1945] 1 All E.R. 459.

¹²⁶ *Delaware Mansions Ltd v Westminster City Council* [2002] 1 A.C. 321.

¹²⁷ See *Butler v Standard Telephones and Cables Ltd* [1940] 1 K.B. 399; *Bridges v Harrow LBC* (1981) 160 E.G. 284; *Solloway v Hampshire CC* (1981) 79 L.G.R. 449; *Russell v Barnet LBC* (1985) 83 L.G.R. 152; *Hurst v Hampshire CC* (1998) 96 L.G.R. 27; *Delaware Mansions Ltd v Westminster City Council* [2002] 1 A.C. 321.

ice a distinction has natural objects, such as structures erected alongside the highway, causing danger to

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cause a nuisance to the highway or by the structure on the highway. In *Hale v Esplanade* it was established that the occupier is liable for a nuisance. In that case the highway authority had no authority should not way¹²⁸ but the same principle applies to adjoining land. The existence of the structure is the existence of the nuisance. Thus in *British Road v. G. & C.* for many years a lorry carrying a structure, however, although the structure constituted a nuisance, that they should not be treated as a nuisance. Lord Denning in *Sedleigh Denfield v O'Flaherty* assumed, relieved the tendency of the law. Once aware of the structure, the occupier is liable for foreseeable

the tree or vegetation if the roots of a tree constitute a private nuisance should not apply to the highway by

Bridges v Harrow LBC [1999] 1 A.C. 199; *Russell v Barnet LBC* [2002] 1 W.L.R. 1004; *Delaware Mansions Ltd v*

decaying and dangerous trees, there will be liability if the defect in the tree is known to, or is discoverable on reasonable inspection by, the landowner, but he will not be absolutely liable for latent defects of which he was neither aware nor should have been aware.¹²⁸ Similarly, where a danger has arisen by other natural means, liability depends upon actual or constructive knowledge. Thus, where snow had accumulated on the roof of property adjoining the highway and had not been cleared for four days, it was found that the occupier ought reasonably to have been aware that it constituted a danger to users of the highway, and he was therefore liable in nuisance.¹²⁹

Dangerous structures causing a hazard to users of the highway

In *Mint v Good*,¹³⁰ the strict attitude of the courts towards dangerous structures adjoining the highway was explained by Denning L.J.¹³¹

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"The law of England has always taken particular care to protect those who use a highway. It puts on the occupier of adjoining premises a special responsibility for the structures which he keeps beside the highway. So long as those structures are safe, all well and good; but if they fall into disrepair, so as to be a potential danger to passers by, then they are a nuisance, and, what is more, a public nuisance; and the occupier is liable to anyone using the highway who is injured by reason of the disrepair. It is no answer for him to say that he and his servants took reasonable care; for, even if he has employed a competent independent contractor to repair the structure, and has every reason for supposing it to be safe, the occupier is still liable if the independent contractor did the work badly: see *Tarry v Ashton* (1876) 1 Q.B.D. 314.

The occupier's duty to passers-by is to see that the structure is as safe as reasonable care can make it; a duty which is as high as the duty which an occupier owes to people who pay to come on to his premises. He is not liable for latent defects, which could not be discovered by reasonable care on the part of anyone, nor for acts of trespassers of which he neither knew, nor ought to have known: see *Barker v Herbert* [1911] 2 K.B. 633, 634; but he is liable when structures fall into dangerous disrepair, because there must be some fault on the part of someone or other for that to happen; and he is responsible for it to persons using the highway, even though he is not actually at fault himself. That principle was laid down in this court in *Wringe v Cohen* [1940] 1 K.B. 233, where it is to be noted that the principle is confined to 'premises on a highway,' and is I think, clearly correct in regard to the responsibility of an occupier to passers-by."

¹²⁸ See *Noble v Harrison* [1926] 2 K.B. 332; *Cunliffe v Barks* [1945] 1 All E.R. 459; *Caminar v Northern and London Investment Trust* [1951] A.C. 88; *Quinn v Scott* [1965] 1 W.L.R. 1004; *Poll v Viscount Asquith of Morley* [2006] EWHC 2251 (QB); *Berent v Family Mosale Housing* [2012] B.L.R. 488; *Denniss v East Hampshire DC* [2012] EWHC 2951 (TCC).

¹²⁹ *Slater v Worthington's Cash Stores (1930) Ltd* [1941] 1 K.B. 488.

¹³⁰ [1951] 1 K.B. 517.

¹³¹ At 526-527.

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This statement appears to be an attempt to reconcile different lines of authority which have stressed, on the one hand, the need for foreseeability in this kind of nuisance,¹³² and on the other hand, an element of strict liability for certain kinds of highway nuisance.¹³³ It is by no means a complete reconciliation. Where a structure has been allowed to fall into decay, thereby causing a danger to users of the highway, it may be a reasonable supposition that the occupier knows or ought to have known of the danger which has in fact been brought about by his own or his predecessor's neglect, but this is not inevitably so. In *Turry v Ashton*,¹³⁴ it was held that the employment of an independent contractor did not absolve the occupier of land adjoining a highway from his duty to repair all known defects in his property which might cause a danger to users of the highway. The occupier was held to be liable for a public nuisance caused when a gas lamp overhanging the highway fell onto the highway. Whilst Blackburn J. appears to have founded the liability on the basis of the occupier's knowledge that the lamp was out of repair¹³⁵ Lush and Quain JJ. did not expressly do so. In *Wringe v Cohen*,¹³⁶ the Court of Appeal went further and found that where an injury is caused to the user of a highway through the disrepair of premises adjoining the highway, the occupier (or in some cases, the owner) would be liable whether or not he knew of the danger. From this wide proposition the Court of Appeal then withdrew situations where the danger was caused by a latent defect or where it was caused by the act of a trespasser or by a secret or unobservable process of nature, unless the occupier or owner had allowed the danger to continue. It may be that in practical terms there is little difference between this approach and one which requires the landowner to have actual or constructive knowledge of the danger. In subsequent cases involving natural objects, the courts have declined to apply the form of strict liability which *Wringe v Cohen* implies.¹³⁷

7-41 Generally, it is the occupier having control over land who is liable for nuisances arising on that land, except where the nuisance is caused by a third party and is not adopted by him. However, the owner of land, rather than the occupier, may be liable for the disrepair if a structure causes danger to the highway where the owner is liable on a covenant for repair, or where he has reserved a right to enter.¹³⁸ Whilst, in the absence of a covenant of repair, the courts were prepared to imply a right of entry where the landlord had in practice carried out repairs, in *Mint v Good*, Denning L.J. indicated that even where the landlord had taken an express repairing covenant from his tenant, the courts might still look critically at the landlord's position.¹³⁹

¹³² See *Barker v Herbert* [1911] 2 K.R. 633; *Cushing v Walker & Sons* [1941] 2 All E.R. 693; *Leane v Egerton* [1943] 1 All E.R. 489.

¹³³ *Wringe v Cohen* [1940] 1 K.B. 233.

¹³⁴ (1876) 1 Q.B.D. 314.

¹³⁵ Although this interpretation of his judgment was expressly refuted by Atkinson J. in *Wringe v Cohen* [1940] 1 K.B. 229.

¹³⁶ [1940] 1 K.B. 229.

¹³⁷ See para. 7-40, above.

¹³⁸ See *Mint v Good* [1951] 1 K.B. 517; *Wilchick v Marks and Silverstone* [1934] 2 K.B. 56; *Heap v Ind Coops & Allsopp Ltd* [1940] 2 K.B. 476.

¹³⁹ [1951] 1 K.B. 517 at 528.

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¹⁴² See *Highways J*

¹⁴³ *Barnes v Ward* (C
K.B. 633.

¹⁴⁴ See *Hardcastle v*
1 All E.R. 14; *B*

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¹⁴⁵ *Bramley v Merc*

A.C. 361; *Cress*

¹⁴⁶ *Occupiers' Liab*

¹⁴⁷ *Morrison v Loru*

¹⁴⁸ *Whyler v Bingle*

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Dangerous excavations on land adjoining the highway

If land adjoining the highway is excavated so as to remove support for the highway then this will amount to a public nuisance.¹⁴⁰ It would appear that there may also be liability for loss of support to the highway caused by natural means where the owner or occupier knew, or was presumed to know, of the defect or condition on his land giving rise to the danger—even though he had not created it—where it was reasonably foreseeable that the defect or condition would, if not remedied, cause damage.¹⁴¹

The liability of adjoining landowners for highway nuisance extends to situations where the danger does not actually impinge upon the highway but where users of the highway may accidentally be caused to deviate from the highway into, for example, a dangerous excavation. Although generally there is no duty on the landowner to fence the land adjoining the highway (unless he has received a statutory notice to do so)¹⁴² he may, nonetheless, be liable where injury is caused to a highway user who accidentally falls from the highway or steps from the highway to his injury.¹⁴³ Liability will only attach where the dangerous excavation or object is on land adjoining or near to the highway and will depend upon the risk of accident to a highway user being reasonably foreseeable.¹⁴⁴ This liability only relates to persons who accidentally leave the highway and not to those who deliberately choose to leave the way for some other purpose.¹⁴⁵ Although the liability of the landowner towards trespassers generally is now governed by the Occupiers' Liability Act 1984, that Act does not impose any duty in respect of persons using the highway nor does it affect any duty already owed to such persons.¹⁴⁶ It would appear, therefore, that the common law rules relating to the liability towards highway users who stray from the highway are unchanged.

There will be no liability on the landowner for any failure to fence a natural danger, such as a stream or valley,¹⁴⁷ but where there is a fence in existence defining the line of the highway adjacent to a dangerous area of land, it may be negligent for the highway authority or for the adjoining landowner to remove it.¹⁴⁸ Where a dangerous difference in the levels of the highway and the adjoining land is caused by the highway authority raising the level of the highway, then any liability for danger thereby resulting will fall on the highway authority rather than

¹⁴⁰ This would seem to follow from *All Gan v Roe* [1915] 1 Ch. 235; *Lodge Holes Colliery Co Ltd v Wednesbury Corp* [1908] A.C. 323 HL.

¹⁴¹ *Holbeck Hall Hotel Ltd v Scarborough BC* [2000] Q.B. 836.

¹⁴² See Highways Act 1980 s.165.

¹⁴³ *Barnes v Ward* (1850) 9 C.B. 392; *Harrold v Watney* [1898] 2 Q.B. 320; *Barker v Herbert* [1911] 2 K.B. 533.

¹⁴⁴ See *Hardcastle v South Yorkshire Ry. Co* (1859) 4 H. & N. 67 at 74; *Caseley v Bristol Corp* [1944] 1 All E.R. 14; *Binks v South Yorkshire Ry. and River Dun Co* (1862) 3 B. & S. 244; and see also *Great North Eastern Railway Ltd v Hart* [2003] BWHC 2450 (QB).

¹⁴⁵ *Bromley v Mercer* [1922] 2 K.B. 126; *Mumford v Naylor* [1951] W.N. 579; *Jacobs v LCC* [1950] A.C. 361; *Creed v McGeoch & Sons Ltd* [1955] 1 W.L.R. 1005.

¹⁴⁶ Occupiers' Liability Act 1984 s.1(7).

¹⁴⁷ *Morrison v London Midland & Scottish Ry Co* [1929] S.C. 1.

¹⁴⁸ *Whyler v Bingham R.C.* [1901] 1 K.B. 45.

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the landowner.¹⁴⁹ The occupier of land may still be required to rebuild a fence protecting the public from the danger, even where the dangerous excavation has been created by a previous occupier of the land.¹⁵⁰

Activities on land adjoining the highway

- 7-45 Liability may attach to dangerous activities and operations on land adjoining the highway, as well as to dangerous land or structures.¹⁵¹ A golf course or cricket pitch adjoining a highway may be a highway nuisance depending on the likelihood and seriousness of the risk of danger.¹⁵²

Remedies for highway nuisance

Indictment

- 7-46 At common law the highway authority had the right to abate a nuisance and to remove any obstruction interfering with the free passage along the highway.¹⁵³ The remedy for a nuisance lay in criminal proceedings by way of indictment.¹⁵⁴ Although this procedure has fallen into disuse, it is still possible to bring criminal proceedings for a public nuisance, and such an offence is triable either on indictment or summarily.¹⁵⁵ The principles applicable to proceedings brought by way of indictment are essentially similar to those relating to a civil action in nuisance.¹⁵⁶ Under the old law, the court had power to order the defendant to abate a continuing nuisance.¹⁵⁷ The reported cases show a greater concern in the court for the exercise of this power than for the imposition of punishment. Thus, where the nuisance had been abated before trial, the courts tended to impose nominal penalties.¹⁵⁸

Role of the Attorney General

- 7-47 A highway nuisance is a wrong to the public at large and the Attorney General has power to bring proceedings, on behalf of the public, for a declaration or an injunction to restrain the commission, or to require the removal of a highway

¹⁴⁹ See *Nicholson v Southern Ry* [1935] 1 K.B. 558; *Myers v Harrow Corp* [1962] 2 Q.B. 442.

¹⁵⁰ *Att Gen v Roe* [1915] 1 Ch. 235.

¹⁵¹ See *Holling v Yorkshire Traction Co* [1948] 2 All E.R. 682; *Dollman v Hillman* [1941] 1 All E.R. 355.

¹⁵² *Castle v St. Augustine's Links Ltd* (1922) 38 T.L.R. 615; cf. *Bolton v Stone* [1951] A.C. 850.

¹⁵³ *Bagshaw v Buxton Local Board of Health* (1875) 1 Ch D 220; *Reynolds v Prestalyn UDC* [1896] 1 Q.B. 604.

¹⁵⁴ See *R. v Clark (No.2)* [1964] 2 Q.B. 315.

¹⁵⁵ Magistrates' Courts Act 1980 s.17(1), Sch.1 para.1; see also *R. v Andrews Ex p. Cheshunt UDC* (1962) 60 L.Q.R. 211, where the standard of proof was considered.

¹⁵⁶ See *R. v Bartholomew* [1908] 1 K.B. 554; *R. v Clark (No.2)* [1964] 2 Q.B. 315; cf. the position under the Highways Act 1980 s.121.

¹⁵⁷ *R. v Stead* (1799) 8 Term. Rep. 142; *R. v Ingleton* (1810) 13 East. 164; *R. v Pappineau* (1726) 2 Stra. 686.

¹⁵⁸ *R. v Dunraven (Earl)* (1837) Will. Woll. & Dav. 577; *R. v Paget* (1862) 3 F. & F. 29; *R. v Lewis Corpn* (1886) 2 T.L.R. 399.

nuisance. If These proceedings of a local authority decision of institution of courts.¹⁶⁰

There were rare excavations by public utilities were general nuisances there powers in the highways and with under dealing with

Proceedings

Local authorities in virtue of the consideration of the inhabitants of metropolitan power to bring in protecting s.130.¹⁶² It is name," in s.2 to commence in a relation justified by s.

Actions by a private individual
A private individual injunction to

¹⁵⁹ *Ware v Regent* (1882) 21 Ch.

¹⁶⁰ See *London C* 435; see also 1

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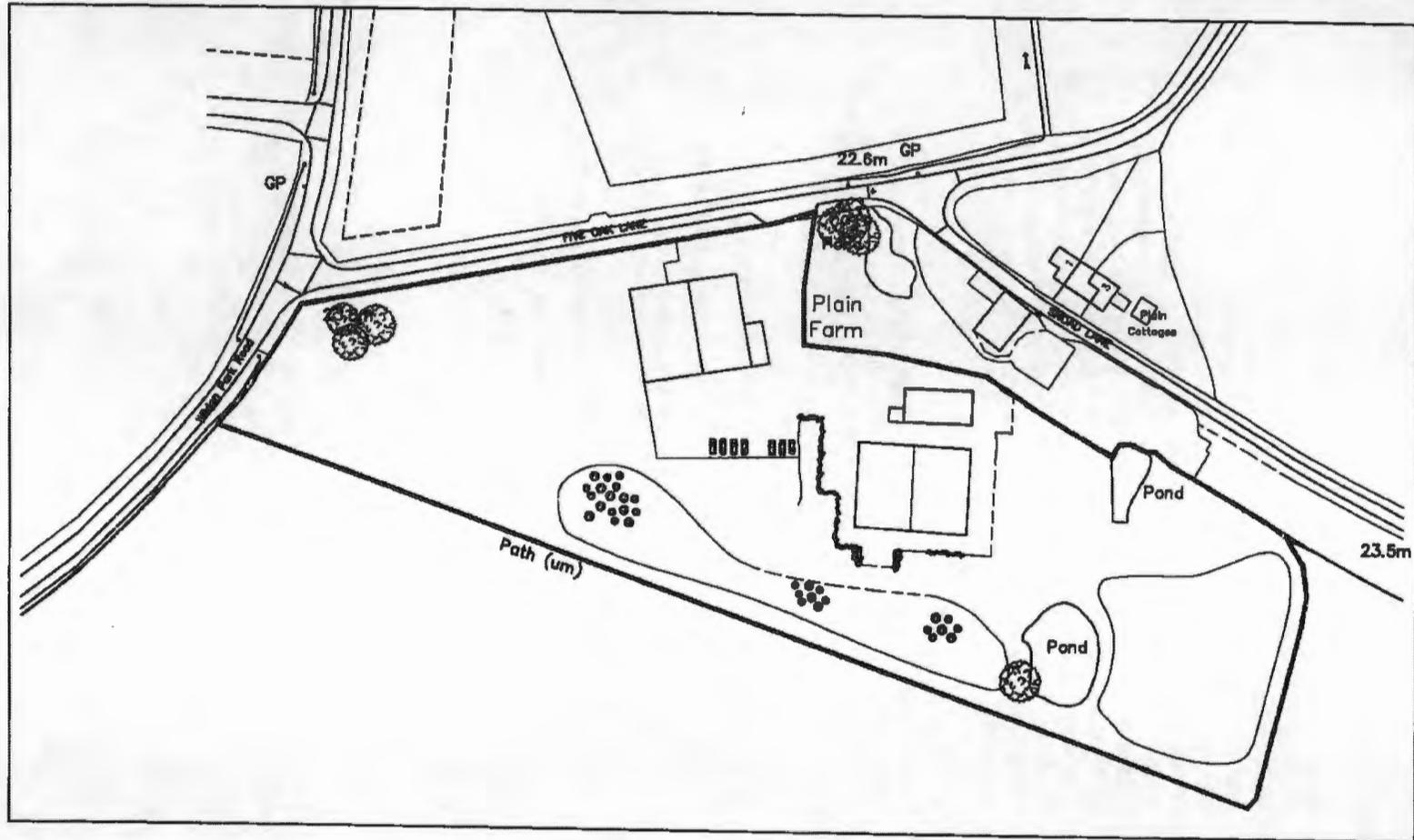
¹⁶¹ See *Att-Gen v Consumers Gc*

¹⁶² *Highways Act Nottinghamshi*

¹⁶³ See *Stoke-on-Council v Max* 227.

¹⁶⁴ See, per Lord 937. And see

(57)



LOCATION PLAN

0 20 40m
SCALE 1:1250

TITLE
LOCATION PLAN
 PROJECT
HUSH HEATH WINERY
FIVE OAK LANE
STAPLEHURST
TN12 0HT
 CLIENT
MR R BALFOUR-LYNN

DWG NO.
HH/P/01



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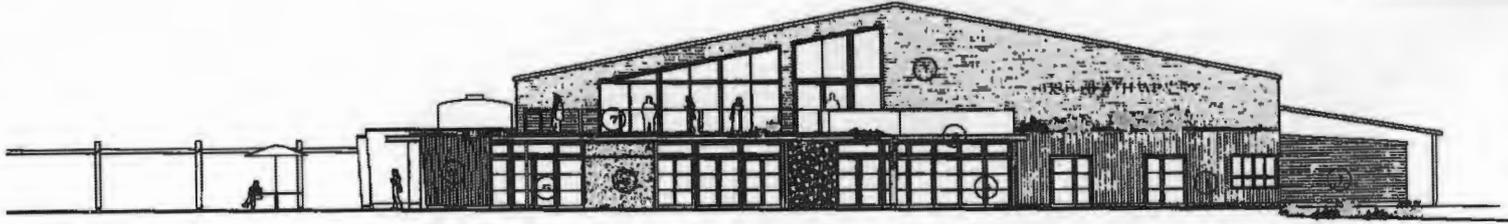
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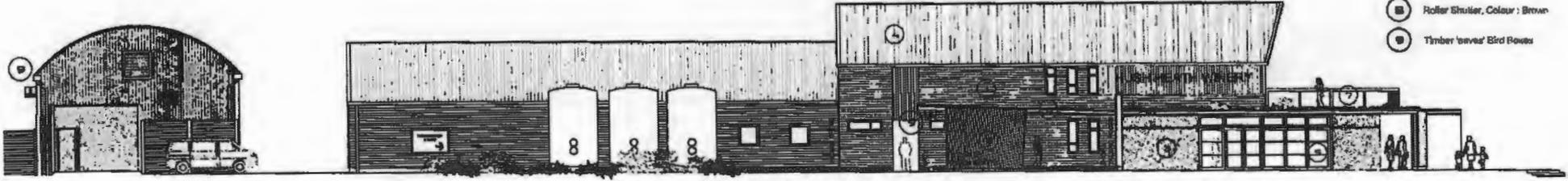
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PROPOSED WINERY ELEVATIONS
SCALE 1:100



FRONT (SOUTH) ELEVATION

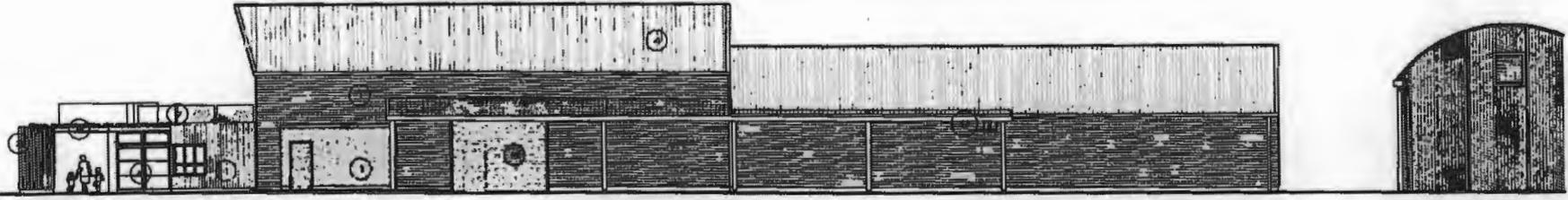
- 1 'Rough sawn' Timber boarding
- 2 'Finished Larchboard' Timber Cladding
- 3 Kent 'ragstone' Cladding
- 4 Corrugated roofing sheets (Light Grey)
- 5 Powder coated aluminium double glazed Doors & Windows, 'Cristal Styling' (Dark Grey)
- 6 Powder coated aluminium frame & fittings (Colour: Grey)
- 7 Glass balcony system
- 8 Roller Shutter, Colour: Brown
- 9 Timber 'sawn' Eird Posts



SIDE (WEST) ELEVATION



REAR (NORTH) ELEVATION



SIDE (EAST) ELEVATION

REV	DATE	DESCRIPTION
A	MAY 17	Colors and Site Area added

PROPOSED WINERY ELEVATIONS

PROJECT
HUSH HEATH WINERY
FIVE OAK LANE
STAPLEHURST
TN12 0HT
Hush Heath Winery



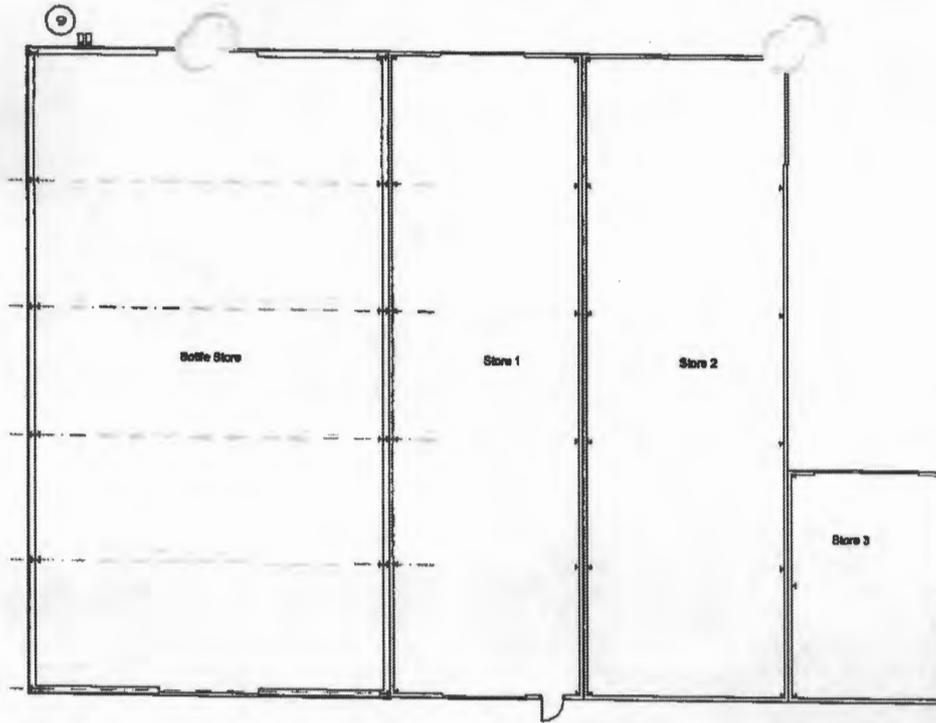
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THE PENTAGON, DUNDEE CITY
DUNDEE DD1 1DA

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1:100	May 17	HH/P/07	A

8

**PROPOSED BOTTLE STORE
SCALE 1:100**

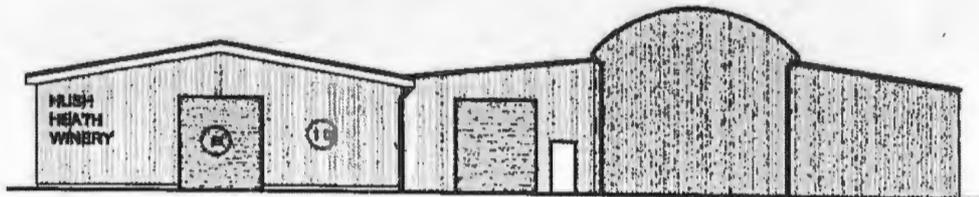


STORE BARN PLAN

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AMENDED

- 8 Roller Shutter, Colour : Green
- 9 Timber 'eaves' Bird Boxes
- 10 Powder coated aluminium 'sandwich' composite cladding sheets Colour : Green (as existing)
- 11 Powder coated aluminium 'sandwich' composite roof cladding sheets Colour : Light Grey



FRONT (SOUTH) ELEVATION



SIDE (EAST) ELEVATION

REV	DATE	DESCRIPTION
A	Aug 17	Amended Colour & Bird Boxes added

**TITLE
PROPOSED BOTTLE
STORE
PLAN & ELEVATIONS**

**HUISH HEATH WINERY
FIVE OAK LAKE
STAPLEHURST
TN12 0HT**

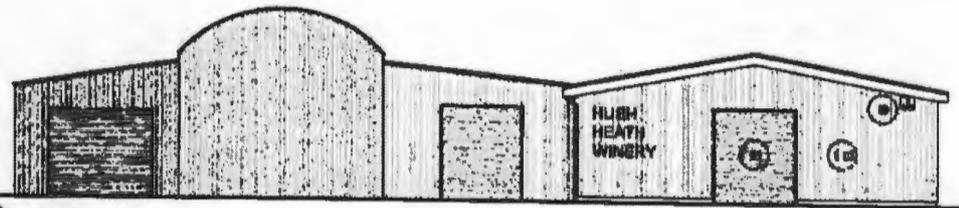
Huish Heath Winery



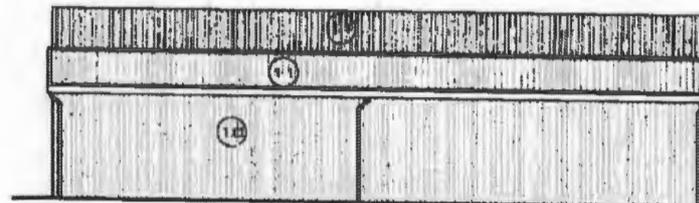
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REAR (NORTH) ELEVATION

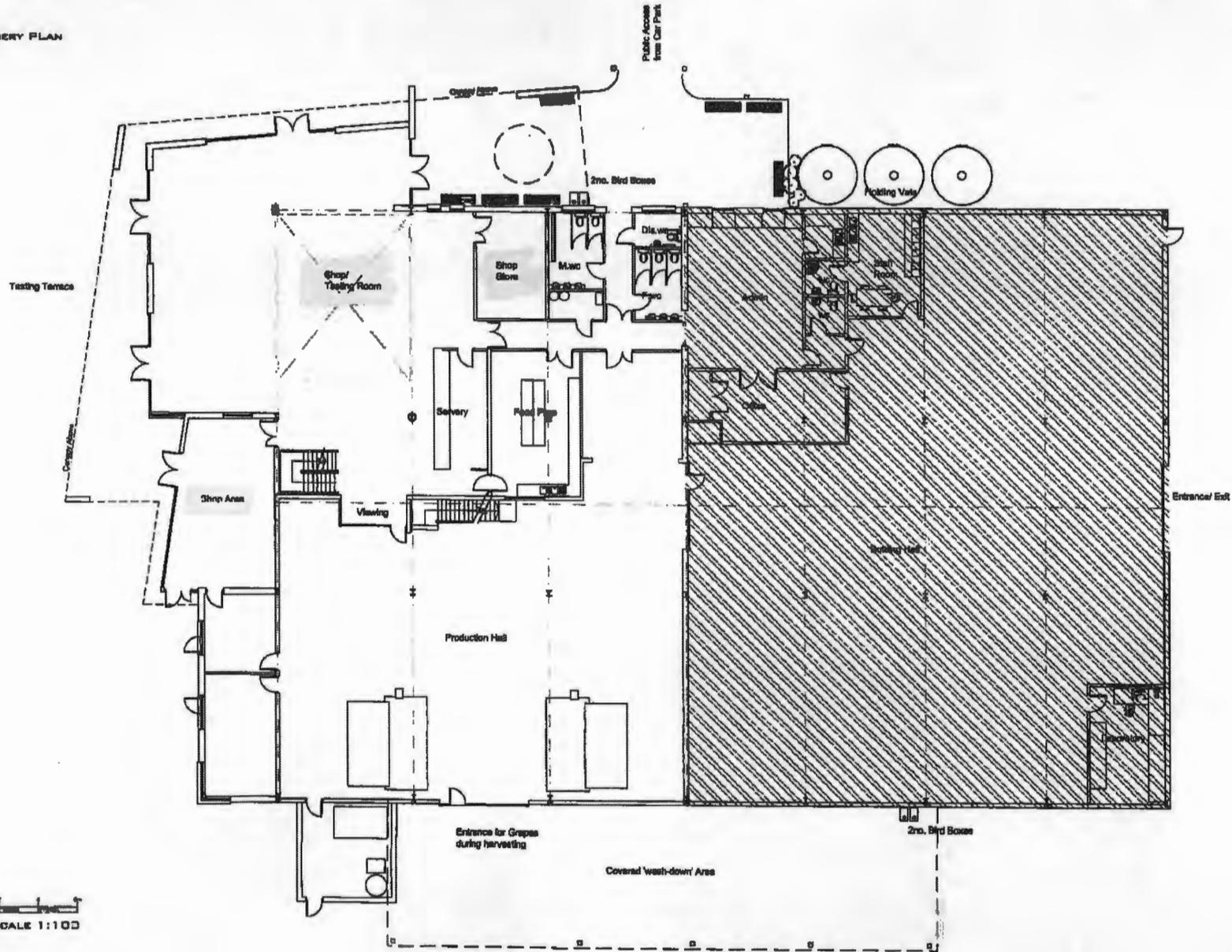


SIDE (WEST) ELEVATION

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PROPOSED WINERY PLAN
SCALE 1:100



WINERY FLOOR PLAN

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AMENDED

NO.	DATE	DESCRIPTION
A	MAY 17	2nd Sheet added

TITLE
PROPOSED WINERY PLAN

PROJECT
**HUSH HEATH WINERY
FIVE OAK LANE
STAPLEHURST
TN12 0HT
UK**

Hush Heath Winery



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Approved by Clients
The Planning Department
COUNCIL OF THE DISTRICT OF
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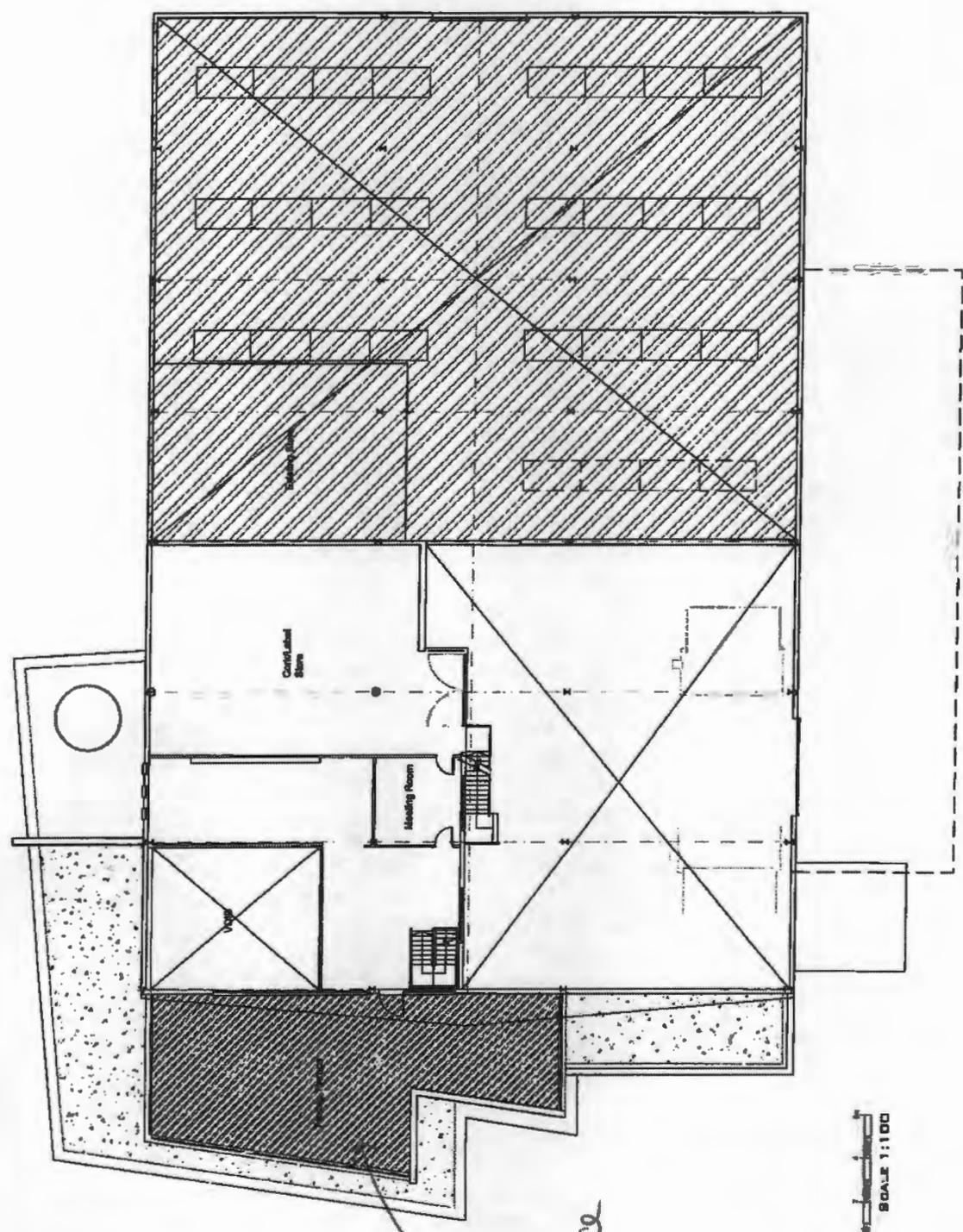
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PROPOSED MEZZANINE PLAN
SCALE 1:100

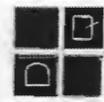


DATE: 17/05/2006

PROPOSED WINERY
MEZZANINE PLAN

HUSH HEATH WINERY
FIVE OAK LANE
STAPLEHURST
TN13 0HT

Hush Heath Winery



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1:100 May 17 HH/PA06A

Policy DM30 Design principles in the countryside

8.1 The achievement of high quality design in all developments is important. In addition to the requirements of policy SP17, where development is proposed in the countryside the design principles set out in policy DM30 must be met.

Policy DM 30

Design principles in the countryside

Outside of the settlement boundaries as defined on the policies map, proposals which would create high quality design, satisfy the requirements of other policies in this plan and meet the following criteria will be permitted:

- i. The type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness including landscape features;
- ii. Impacts on the appearance and character of the landscape would be appropriately mitigated. Suitability and required mitigation will be assessed through the submission of Landscape and Visual Impact Assessments to support development proposals in appropriate circumstances;
- iii. Proposals would not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation, or historic or archaeological importance or the erosion of roadside verges;
- iv. Where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area; and
- v. Where an extension or alteration to an existing building is proposed, it would be of a scale which relates sympathetically to the existing building and the rural area; respect local building styles and materials; have no significant adverse impact on the form, appearance or setting of the building, and would respect the architectural and historic integrity of any adjoining building or group of buildings of which it forms part.

Account should be taken of the Kent Downs AONB Management Plan and the Maidstone Borough Landscape Character Guidelines SPD.

Policy DM31 Conversion of rural buildings

8.2 Kent has a long agricultural history, with many buildings and structures having been constructed over the centuries to support the agricultural industry. Government advice in the NPPF supports the re-use of redundant buildings where

8. Development management policies in the countryside

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an enhancement to their setting would result. It also places emphasis upon the building of a strong, rural economy, which the conversion of redundant rural buildings can support.

8.3 However, the quantity and quality of buildings in the countryside in Maidstone borough brings increasing pressure for their re-use. In line with the objective to protect the quality of rural landscapes for their intrinsic value and openness, it is necessary that buildings considered for re-use are of permanent and substantial construction, not requiring major or complete reconstruction and that their resulting form and appearance is in keeping with the simple, functional character inherent in rural areas.

8.4 The quality and condition of rural buildings in the borough varies considerably. This wide range of buildings includes buildings such as oast houses, which are indigenous only to the hop growing areas of the country and exemplify the historical development of agriculture in Kent. Many of these vernacular buildings have a degree of significance which merits consideration as a heritage asset. These functional buildings are often of simple form and character, so external alterations require careful consideration.

8.5 In order to support the objective of promoting a strong, rural economy, the council will allow business or recreation uses for redundant rural buildings. Such uses are of a more functional nature than residential uses, and typically require less physical changes, having a lesser impact upon the countryside and rural character. Residential conversions can be detrimental to the fabric and simple form and character of the building. They therefore require particular attention, in order to prevent a loss of rural character and local identity.

Policy DM 31

Conversion of rural buildings

1. Outside of the settlement boundaries as defined on the policies map, proposals for the re-use and adaptation of existing rural buildings which meet the following criteria will be permitted:
 - i. The building is of a form, bulk, scale and design which takes account of and reinforces landscape character;
 - ii. The building is of permanent, substantial and sound construction and is capable of conversion without major or complete reconstruction;
 - iii. Any alterations proposed as part of the conversion are in keeping with the landscape and building character in terms of materials used, design and form;
 - iv. There is sufficient room in the curtilage of the building to park the vehicles of those who will live there without detriment to the visual amenity of the countryside; and
 - v. No fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division of it are erected which would harm landscape character and visual amenity.

3. Development management policies in the countryside

- 237
- i. The building is of a form, bulk and general design which is in keeping with its rural surroundings;
 - ii. The building is of permanent, substantial and sound construction and is capable of conversion without major or complete reconstruction;
 - iii. Any alterations proposed as part of the conversion are in keeping with the rural character of the building in terms of detailed design, form and materials;
 - iv. There is sufficient room in the curtilage of the building to park the vehicles of those who will live there without detriment to the visual amenity of the countryside;
 - v. No fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division of it are erected which would harm the visual amenity of the countryside;
 - vi. The proposals are well related to the existing road network with direct access off a public road, and will not require construction of a new long track to serve the building;
 - vii. The proposals will not create conditions prejudicial to highway safety;
 - viii. The building is not situated in an isolated location, relative to local services such as shops, schools and public transport;
 - ix. The domestic curtilage is minimal, unobtrusive and capable of being screened;
 - x. The building is of sufficient size to accommodate a genuine business use and that any residential accommodation will be ancillary to that use; The workspace element of the conversion should comprise at least 30% of the total floorspace; and
 - xi. The development is not situated in the farmyard of a working farm where conversion would prejudice the future operation of a farming business.
3. The council will impose a condition prohibiting occupation of the living accommodation until after the works necessary for the establishment of an employment generating use have been completed. The council will also impose a condition which retains the workspace.

Policy DM36 New agricultural buildings and structures

8.25 Certain agricultural and forestry developments do not require planning permission provided that the development falls within one of the categories set out in the Town and Country Planning (General Permitted Development) Order 2015. However, most of these permitted developments need to be submitted to the council for their prior approval of siting, design and external appearance. Developments that are not covered by this Order require planning permission in the usual way. The NPPF lends strong support to the rural economy and seeks to promote agricultural and land based rural businesses. The maintenance of land in agricultural use generally aids the preservation of the rural character of the countryside and the rural economy.

8. Development management policies in the countryside

8.26 Whilst the council generally seeks a positive approach towards agricultural development, it is important to ensure that new development is justified and appropriately sited, in order to minimise the impact upon the openness, character and appearance of the countryside. Development will be required to comply with Policy DM30 Design principles in the countryside.

8.27 In recent years, changing consumer demands and production techniques have seen an increase in the use of polytunnels or other similar semi-permanent structures for cultivation purposes in the countryside. Such structures can have a significant visual impact on the landscape and due to their impermeable nature can result in increased surface water run-off. There is also a concern that such development has an impact on biodiversity. These potential negative impacts should however, be seen against the benefit that an increased growing season can have for the rural economy and the increased period where locally grown produce is available thus reducing reliance on imported produce.

Policy DM 36

New agricultural buildings and structures

1. Proposals for new agricultural buildings or structures on land in use for agricultural trade or business which meet the following criteria will be permitted:
 - i. The proposal is necessary for the purposes of agriculture;
 - ii. The proposal would not have an adverse impact on the amenity of existing residents; and
 - iii. The building or structure would be located within or adjacent to an existing group of buildings, in order to mitigate against the visual impact of development, unless it can be demonstrated that a more isolated location is essential to meet the needs of the holding. Where an isolated location is essential the site should be chosen to minimise the impact of the building or structure on the character and appearance of the countryside.
2. In the case of polytunnel development, in addition to the above criteria, the council will expect proposals to address the following issues:
 - i. How surface water run-off will be dealt with and controlled;
 - ii. The inclusion of a rotation programme for the covering/uncovering of the structures/frames, which explores the possibility of following the seasons; and
 - iii. The inclusion of a programme for the maintenance and enhancement of existing field margins in the interests of encouraging biodiversity.

8. Development management policies in the countryside

Policy DM37 Expansion of existing businesses in rural areas

8.28 There are already many industrial and business enterprises located in rural areas. Some are long established, others normally small-scale, have been granted planning permission to operate in disused rural buildings. Many of these enterprises will over time need to expand and/or diversify. While such expansion is desirable for job creation, it can radically change the nature of the enterprise and its impact on the local environment. It is therefore important to weigh carefully the advantages to the rural economy of job creation or an improved industrial/business facility against the potential for an adverse impact on the rural environment. Where significant adverse impacts would result, rural businesses requiring expanded premises should look to relocate to one of the Economic Development Areas identified in policy SP22 or to a site within Maidstone urban area or one of the rural service centres.

8.29 In all cases where permission for expansion is granted, the council will require reasonable measures to be taken to ameliorate the impact, not only of the extension but also of the existing enterprise, on the local environment. Such measures, where required, will normally be considered essential for the grant of permission. Where necessary, planning agreements may be used to secure environmental improvements. Conditions will also be imposed to ensure there is adequate landscaping, parking and servicing provision.

Policy DM 37

Expansion of existing businesses in rural areas

1. Planning permission will be granted for the sustainable growth and expansion of rural businesses in the rural area where:
 - i. New buildings are small in scale and provided the resultant development as a whole is appropriate in scale for the location and can be satisfactorily integrated into the local landscape;
 - ii. The increase in floorspace would not result in unacceptable traffic levels on nearby roads or a significant increase in use of an existing substandard access;
 - iii. The new development, together with the existing facilities, will not result in an unacceptable loss in the amenity of the area. In particular the impact on nearby properties and the appearance of the development from public roads will be of importance; and
 - iv. No open storage of materials will be permitted unless adequately screened from public view throughout the year.
2. Where significant adverse impacts on the rural environment and amenity would result from expansion, rural businesses requiring expanded premises should look to relocate to one of the Economic Development Areas identified in policy SP22 or to a site within Maidstone urban area or one of the rural service centres.

NOTES FOR TECH		
APPLICATION PROPOSAL		Ref No 17/505447/SUB
Submission of Details to Discharge Conditions 2 (Landscape Scheme) 4 (Samples), 6 (Construction Method Statement), 8 (Cycle parking), 9 (Enhancement of Biodiversity), 10 (Surface Water Drainage), 11 (Sustainable Travel Statement), 12 (Renewable or Low Carbon Energy), 13 (Plant or Ducting Systems) Subject to 17/502611/FULL		
ADDRESS Hush Heath Winery Five Oak Lane Staplehurst TN12 0HT		
RECOMMENDATION - Split - Part Allowed/Part Refused		
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr Richard Balfour-Lynn AGENT Mr Nick Mumby
DECISION DUE DATE 14/12/17	PUBLICITY EXPIRY DATE 27/11/17	

Officer Site Visit

08.02.18

RELEVANT PLANNING HISTORY (Including relevant history on adjoining site)

09/0127-Erection of a winery, including associated works, hardstanding and parking. Approved 25.06.09

09/2169-Application to vary conditions of MA/09/0127 (Winery and associated works). Approved 18.01.10

13/0265-Use of wine tasting room for the general sale of wine and cider produced on the holding. Approved 29.10.13

17/502611/FULL -Proposed new processing hall, including visitor tasting room and administration offices. Extension to existing barn for the storage of bottles. Approved 05.09.17

DESCRIPTION OF SITE

The site is located on the south side and more or less at the western end of Five Oak Lane, close to the junction with Wilden Park Road, and forms part of the open countryside to the south-west of the Staplehurst village settlement. The site is a winery (Hush Heath Winery) which consists of processing and bottling areas, a shop and tasting area, bottle storage and other ancillary facilities, including parking, and some 50 acres of vineyards and 10 acres for apple growing which are harvested to provide wines and ciders to the market including several major supermarket chains and export.

PROPOSAL

Planning permission was granted 05.09.17 under application ref. 17/502611/FULL for the erection of a new processing hall extension to the existing winery building, including visitor

tasting room and administration offices. The permission also included an extension to an existing barn for the storage of bottles.

The current application seeks to discharge the requirements of conditions nos. 2, 4, 6, 8, 9, 10, 11, 12 and 13 of the planning permission granted under application ref. 17/502611/FULL. The conditions relate to the submission of the following details/information for consideration and approval:

Condition 2 – Landscape scheme

Condition 4 – Materials used in the construction of the approved car park

Condition 6 – Method statement for the construction of the development

Condition 8 – Details of cycle parking within the development

Condition 9 – Scheme for the enhancement of biodiversity on the site

Condition 10 – Surface water drainage scheme based on sustainable drainage principles

Condition 11 – Submission of a Sustainable Travel Statement

Condition 12 – Details of decentralised and renewable or low-carbon sources of energy to be incorporated into the development

Condition 13 – Details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in the approved development

LOCAL REPRESENTATIONS

No neighbour or Parish Council consultation carried out on the current application.

CONSULTATION RESPONSES

Environmental Health Officer: No response/comments received.

Kent Highways: Consider that the requirements of condition 6 can be discharged.

KCC Flood and Water Management: Comment that there is presently insufficient information submitted to recommend the discharge of condition 10. Recommend that the application is not determined until further detailed information is submitted for the site's surface water drainage strategy. Further commented that whilst some additional details have been submitted (following the original comments) these do not specifically address their comments.

BACKGROUND PAPERS

The application is accompanied by the following drawings/documents:

Drawing No. 6074D110 C1 received 08.12.17 – Proposed Below Ground Foul, Surface Water & Process Waste Drainage.

Drawing No. 6074D100 C2 received 08.12.17 - Proposed Below Ground Foul, Surface Water & Process Waste Drainage.

Flood Risk Assessment dated 23.06.17 Ref. WFR-FRA-2017/06/Q14 received 08.12.17.

Stormsaver system specification and quotation.

Construction Management Plan.

Cycle racks drawing.

Email dated 06.02.18.

APPRAISAL

With regards to the respective conditions for which the discharge of the requirements is sought in the current application, the following comments are made:

Condition 2 (Landscape scheme)

No landscape scheme has been submitted for consideration and approval. The discharge of the requirements of this condition cannot therefore be considered at the present time under the current application.

Condition 4 (Materials used in the construction of the approved car park)

The approved development (under application 17/502611/FULL) incorporates the extension of the existing car park to the winery to create a new 60 parking space car park with an extension of the extent of existing hardsurfacing on the site. Whilst no details of surfacing materials for the new car park were initially submitted, the agent has confirmed by email dated 06.02.18 that the material used is crushed Type 1 and recycled road plainings and photographs of the material have been provided. The use of crushed Type 1 and recycled road plainings is considered acceptable and the details can be approved and the requirements of condition 4 discharged.

Condition 6 (Method statement for the construction of the development)

A Construction Management Plan document has been submitted pursuant to this condition. The Construction Management Plan provides details of an access route to the site, delivery times (between 07.30 and 16.00 Monday to Friday), delivery vehicle type, traffic management, unloading of lorries, contractor parking, site security and signage, site set up and welfare facilities, demolition, dust control, wheel washing, re-use/recycling of waste material, construction sequence, and a construction programme for the extension to the main building and the bottle store extension. The reason for the imposition of condition 6 was to ensure the construction of development does not result in highway safety. Kent Highways have commented that they consider that condition 6 can be discharged. The submitted Construction Management Plan can be approved and the requirements of condition 6 discharged.

Condition 8 (Details of cycle parking within the development)

The cycle parking details currently submitted show two variations of a cycle stand. No details are provided as to which type of cycle stand is to be used on the site, the number of proposed cycle stands to be provided on site, or the location of the cycle parking provision within the site. It would normally be expected that cycle parking provision is provided under cover within a purpose built cycle parking enclosure/covered structure. In the absence of the required level of information relating to proposed cycle parking provision within the development, the discharge of the requirements of this condition cannot be considered at the present time under the current application.

Condition 9 (Scheme for the enhancement of biodiversity on the site)

No scheme for the enhancement of biodiversity on the site has been submitted for consideration and approval. The discharge of the requirements of this condition cannot therefore be considered at the present time under the current application.

Condition 10 (Surface water drainage scheme based on sustainable drainage principles)

With regards to the requirements of this condition, Kent County Council Flood and Water Management officers commented that there was insufficient information submitted to discharge the requirements of condition 10 and recommended that further detailed information is submitted for the site's surface water drainage strategy. KCC commented that

it was not clear how the additional storage volumes for surface water were accommodated within the existing pond and how the flow would be controlled out of the pond and that clarification is required on how this would be achieved. KCC additionally commented that the outfall points to ditches should be confirmed to ensure the drainage strategy can be delivered once approved.

Whilst additional information was provided for consideration pursuant to this condition by Richard Attridge of Attridge Consulting Ltd on 08.12.17, KCC's Flood and Water Management officer commented that whilst some additional details have been submitted, these do not specifically address the previous comments made.

The agent has been requested to give further consideration to this matter with a view to submitting the further detailed information for the site's surface water drainage strategy as referred to in KCC's Flood and Water Management officer's comments but to-date no further detailed information has been forthcoming. The discharge of the requirements of this condition cannot therefore be recommended at the present time under the current application.

Condition 11 (Submission of a Sustainable Travel Statement)

No Sustainable Travel Statement has been submitted for consideration and approval. The discharge of the requirements of this condition cannot therefore be considered at the present time under the current application.

Condition 12 (Details of decentralised and renewable or low-carbon sources of energy to be incorporated into the development)

The condition requires the submission of details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the approved development to provide at least 10% of total energy requirements of the development. No details of any decentralised and renewable or low-carbon sources of energy to be incorporated into the approved development have been submitted for consideration under the current application to-date. The discharge of the requirements of this condition cannot therefore be considered at the present time under the current application.

Condition 13 (Details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in the approved development)

The submitted application form states that the only mechanical installation is toilet extract. No details of the toilet extract ventilation scheme or any other plant have been submitted. The condition is not restricted to mechanical plant only. There is likely to be a requirement for an air conditioning system with associated plant required for the approved processing hall, visitor tasting room and administration offices and possibly the bottling store. The processing hall may also involve the installation of further plant. An assessment of the noise levels associated with the operation of any plant to be installed within the approved buildings is also required. In the absence of the submission of the required level of detail/information pursuant to this condition, the discharge of the requirements of the condition cannot be considered at the present time under the current application.

Summary

In light of the above, it is considered that the requirements of conditions 4 and 6 can be formally discharged. However, in light of the current lack of appropriate details/information submitted pursuant to the requirements of conditions 2, 8, 9, 10, 11, 12 and 13, the requirements of these conditions cannot currently be discharged. The lack of appropriate

details/information submitted pursuant to these conditions has been drawn to the attention of the applicant's agent (by emails dated 31.01.18 and 08.02.18) but the agent has to-date failed to provide the required details/information. The details submitted pursuant to the requirements of conditions 4 and 6 can be approved but the requirements of conditions 2, 8, 9, 10, 11, 12 and 13 have not been met in the current submission and the requirements of these conditions cannot be discharged.

RECOMMENDATION – Split - Part Allowed/Part Refused subject to the following conditions/reasons:

(1) Condition 4: Materials to be used in the construction of the car park, as shown in the following approved details/documents:

Email dated 06.02.18 and photographs of material, namely: crushed Type 1 and recycled road plainings

(2) Condition 6: Method Statement for the construction of the development.

Approved details/document: Construction Management Plan

(3) Condition 2: Landscape scheme

No landscape scheme has been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.

Condition 8: Cycle parking

The cycle parking details submitted show two variations of a cycle stand and no other details/information. No details are provided as to which type of cycle stand is to be used, the number of proposed cycle stands to be provided on site, or the location of the cycle parking provision within the site. The details submitted do not meet the requirements of the condition.

Condition 9: Scheme for the enhancement of biodiversity on the site

No scheme for the enhancement of biodiversity on the site has been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.

Condition 10: Surface water drainage scheme based on sustainable drainage principles

Kent County Council Flood and Water Management officers have commented that insufficient information has been submitted to discharge the requirements of condition 10 and recommended that further detailed information be submitted for the site's surface water drainage strategy. KCC commented that it was not clear how the additional storage volumes for surface water were accommodated within the existing pond and how the flow would be controlled out of the pond and that clarification is required on how this would be achieved. KCC additionally commented that the outfall points to ditches should be confirmed to ensure the drainage strategy can be delivered once approved. In the absence of the further detailed information for the site's surface water drainage strategy, as referred to above, the discharge of the requirements of the condition cannot be recommended at the present time.

Condition 11: Sustainable Travel Statement

No Sustainable Travel Statement has been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.

Condition 12: Details of decentralised and renewable or low-carbon sources of energy to be incorporated into the development

No details of any decentralised and renewable or low-carbon sources of energy to be incorporated into the approved development have been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.

Condition 13: Details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in the approved development

The submitted application form states that the only mechanical installation is toilet extract. No details of the toilet extract ventilation scheme or any other plant have been submitted. The condition is not restricted to mechanical plant only. There is likely to be a requirement for an air conditioning system with associated plant required for the approved processing hall, visitor tasting room and administration offices and possibly the bottling store. The processing hall may also involve the installation of further plant. An assessment of the noise levels associated with the operation of any plant to be installed within the approved buildings is also required. In the absence of the submission of the required level of detail/information pursuant to this condition, the discharge of the requirements of the condition cannot be considered at the present time.

The refusal is based on the following submitted drawings/documents:

Drawing No. 6074D110 C1 received 08.12.17 - Proposed Below Ground Foul, Surface Water & Process Waste Drainage.

Drawing No. 6074D100 C2 received 08.12.17 - Proposed Below Ground Foul, Surface Water & Process Waste Drainage.

Flood Risk Assessment dated 23.06.17 Ref. WFR-FRA-2017/06/Q14 received 08.12.17. Stormsaver system specification and quotation..

Cycle racks drawing.

Email dated 06.02.18.

INFORMATIVES

(1) This decision refuses the details submitted/lack of details submitted to discharge the requirements of Conditions Nos. 2, 8, 9, 10, 11, 12 and 13 of the planning permission granted under reference 17/502611/FULL. The applicant's attention is drawn to the need to make a new submission to seek to discharge the requirements of these outstanding conditions.

Case Officer Jon Barnes

Case Officer Sign	Date
Jon Barnes	28.02.2018



Mr Richard Balfour-Lynn
C/O Mr Nick Mumby
Design Quarter UK Ltd.
B6-B7 The Admirals Office
Main Gate Road
The Historic Dockyard
Chatham
ME4 4TZ
England

1 March 2018

PLANNING DECISION NOTICE

APPLICANT:	Mr Richard Balfour-Lynn
DEVELOPMENT TYPE:	N/A
APPLICATION REFERENCE:	17/505447/SUB
PROPOSAL:	Submission of Details to Discharge Conditions 2 (Landscape Scheme) 4 (Samples), 6 (Construction Method Statement), 8 (Cycle parking), 9 (Enhancement of Biodiversity), 10 (Surface Water Drainage), 11 (Sustainable Travel Statement), 12 (Renewable or Low Carbon Energy), 13 (Plant or Ducting Systems) Subject to 17/502611/FULL
ADDRESS:	Hush Heath Winery Five Oak Lane Staplehurst TN12 0HT

The Council hereby **APPROVES** the following detail(s) reserved by the Condition(s)

Condition 4: Materials to be used in the construction of the car park, as shown in the following approved details/documents:

Email dated 06.02.18 and photographs of material, namely: crushed Type 1 and recycled road plainings

Condition 6: Method Statement for the construction of the development.

Approved details/document: Construction Management Plan

MKPS – Working in Partnership with: Maidstone Borough Council

Please Note: All planning related correspondence for MBC should be sent to:

Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ

Email: planningsupport@midkent.gov.uk

Access planning services online at: www.maidstone.gov.uk; or submit an application via www.planningportal.gov.uk

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Informative(s):

- (1) This decision refuses the details submitted/lack of details submitted to discharge the requirements of Conditions Nos. 2, 8, 9, 10, 11, 12 and 13 of the planning permission granted under reference 17/502611/FULL. The applicant's attention is drawn to the need to make a new submission to seek to discharge the requirements of these outstanding conditions.

The Council hereby **REFUSES** the following detail(s) reserved by the Condition(s) the following Reason(s):

Condition 2: Landscape scheme

No landscape scheme has been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.

Condition 8: Cycle parking

The cycle parking details submitted show two variations of a cycle stand and no other details/information. No details are provided as to which type of cycle stand is to be used, the number of proposed cycle stands to be provided on site, or the location of the cycle parking provision within the site. The details submitted do not meet the requirements of the condition.

Condition 9: Scheme for the enhancement of biodiversity on the site

No scheme for the enhancement of biodiversity on the site has been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.

Condition 10: Surface water drainage scheme based on sustainable drainage principles

Kent County Council Flood and Water Management officers have commented that insufficient information has been submitted to discharge the requirements of condition 10 and recommended that further detailed information be submitted for the site's surface water drainage strategy. KCC commented that it was not clear how the additional storage volumes for surface water were accommodated within the existing pond and how the flow would be controlled out of the pond and that clarification is required on how this would be achieved. KCC additionally commented that the outfall points to ditches should be confirmed to ensure the drainage strategy can be delivered once approved. In the absence of the further detailed information for the site's surface water drainage strategy, as referred to above, the discharge of the requirements of the condition cannot be recommended at the present time.

Condition 11: Sustainable Travel Statement

No Sustainable Travel Statement has been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.

Condition 12: Details of decentralised and renewable or low-carbon sources of energy to be incorporated into the development

No details of any decentralised and renewable or low-carbon sources of energy to be incorporated into the approved development have been submitted for consideration and approval as required by the condition. The requirements of the condition have not been met.

Condition 13: Details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in the approved development

The submitted application form states that the only mechanical installation is toilet extract. No details of the toilet extract ventilation scheme or any other plant have been submitted. The condition is not restricted to mechanical plant only. There is likely to be a requirement for an air conditioning system with associated plant required for the approved processing hall, visitor tasting room and administration offices and possibly the bottling store. The processing hall may also involve the installation of further plant. An assessment of the noise levels associated with the operation of any plant to be installed within the approved buildings is also required. In the absence of the submission of the required level of detail/information pursuant to this condition, the discharge of the requirements of the condition cannot be considered at the present time.

The refusal is based on the following submitted drawings/documents:

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Flood Risk Assessment dated 23.06.17 Ref. WFR-FRA-2017/06/Q14 received 08.12.17.

Stormsaver system specification and quotation.

Cycle racks drawing.

Email dated 06.02.18.

Informative(s):

- (1) This decision refuses the details submitted/lack of details submitted to discharge the requirements of Conditions Nos. 2, 8, 9, 10, 11, 12 and 13 of the planning permission granted under reference 17/502611/FULL. The applicant's attention is drawn to the need to make a new submission to seek to discharge the requirements of these outstanding conditions.

R. L. Jarman

**Rob Jarman
Head of Planning Services
Maidstone Borough Council**

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Regards from Paul Stanley
P Stanley Property Services

Begin forwarded message:

From: Richard Balfour-Lynn <rbl@warwickbalfour.com>
Date: 13 December 2018 at 16:53:52 GMT
To: Doreen Stanley <paulstanley256@btinternet.com>
Subject: Re: Noise

Paul

I am prepared to investigate what sound reducing we can apply to the cooling plant you refer to. I do not know yet exactly how and the cost involved. Perhaps in parallel you might consider writing to the Licensing Authority and withdrawing your objections to our application ?

Warm regards,

Richard

On 13 Dec 2018, at 10:28, Paul Stanley <paulstanley256@btinternet.com> wrote:

Hi Richard

I've identified the noise that I reported to you on the 11th it is most likely a cooling plant or fridge unit and it must be on the side of the winery that is directly in front of our bedroom window if there is some way of making it quiet it would be much appreciated by us

I am curious to know why you found it necessary to stand by our front gate the night before I reported the noise in question it seems a little bit strange to say the least Merry Christmas and a prosperous new year

Regards from Paul Stanley
P Stanley Property Services

Little Harts Heath

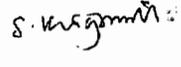


Acoustics Report

February 2019



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Prepared by:	David Leversedge	Director		18.02.19
Reviewed & checked by:	Sarah Kingsmill	Director		18.02.19
Authorised by:	David Leversedge	Director		18.02.19
Date of issue:	18.02.19			
Revision:	0			
Project number	1255			

Revision History				
Rev	Date	Status	Reason for revision	Additional comments
0	31.01.19	Draft		
1	15.02.19	Draft	Update of instruction	
2	18.02.19	Final	Client's comments	

DISCLAIMER

Aria Acoustics Ltd has used reasonable skill and care in completing this work and preparing this report, within the terms of its brief and contract and taking account of the resources devoted to it by agreement with the client. We disclaim any responsibility to the client and others in respect of any matters outside the stated scope. This report is confidential to the client and we accept no responsibility to third parties to whom this report, or any part thereof, is made known. The opinions and interpretations presented in this report represent our reasonable technical interpretation of the data made available to us. Aria Acoustics Ltd accepts no responsibility for data provided by other bodies and no legal liability arising from the use by other persons of data or opinions contained in this report.

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Aria Acoustics Limited, Windlesham Cottage, College Hill, Steyning, West Sussex, BN44 3GB

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Tables

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Table 3.2: Summary of baseline data Little Harts Heath

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Table 5.1: Guidance music noise levels for 4 to 12 events per calendar year Forstal Farm

Table 5.1: Guidance music noise levels for 4 to 12 events per calendar year Forstal Farm

Charts

Chart 3.1: Baseline monitoring 15 – 22 January 2019 L_{Aeq} , L_{Amax} and Indices Forstal Farm

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Figures

Figure 1: Site location plan, closest residents and measurement positions

Appendices

Appendix A: Glossary

Appendix B: Noise Measurement Methodology

Appendix C: BS 4142:2014

1. Introduction

- 1.1 Aria Acoustics Limited (Aria) has been appointed by Ms Amanda Tipples to carry out a baseline noise measurement survey at two locations near Staplehurst, Kent.
- 1.2 The survey was carried out between Tuesday 15th and Tuesday 22nd January 2019.
- 1.3 This report contains:
- A description of the site and environs
 - Details of the noise methodology and the instruments used
 - Graphical representations of the time history of each survey including frequency data in octave bands between the 16Hz and 8kHz centre frequencies
 - An analysis of the data
 - Advice and guidance as to the noise from plant and ducting and from music from licenced events
- 1.4 Aria has also been instructed to advise on maximum sound levels from ventilation and other plant used in association with the Hush Heath Winery, premises close to both the receptors surveyed as part of the baseline survey. In addition to this task, Aria has also been asked to provide advice and comment on the noise provisions made in premises licence reference 18/02446/LAPRE issued by the Licensing Partnership in respect of the Hush Heath Winery. This advice can be found in this report together with reference to the baseline noise survey carried out in January 2019.
- 1.5 Aria Acoustics Limited is a consultancy specialising in providing advice to the entertainment industry and licensing authorities on matters relating to the management of sound at outdoor and indoor events. David Leversedge, one of the Directors, has provided such advice and noise management services for over 20 years. Clients include Glastonbury Festivals, Festival Republic and Alexandra Palace. David has given expert testimony in the Magistrates' Court, Crown Court, The House of Lords Select Committee and is a member of the Institute of Acoustics (IOA) and the Chartered Institute of Environmental Health (CIEH).
- 1.6 A glossary of acoustic terms is provided in the next section together with an abstract of the guidance relevant to this study in Appendix A.

2. Site and Environs

- 2.1 The survey was carried out at two locations to the south-east of Staplehurst, a village on the A229 Maidstone to Hastings Road. Both locations, known as Little Harts Heath and Forstal Farm, are residential. The area is best described as rural and is a mix of agricultural land and with a settlement pattern of scattered houses and farms. The locations of the two monitoring positions are shown in Figure 1 of this report. There are no major roads in the immediate area.
- 2.2 To the south of the lane below Forstal Farm, there is a facility known as Hush Heath Winery. The site comprises of what appears to be a series of agricultural/commercial buildings, car parks and storage tanks with vineyards and orchards.
- 2.3 Observations made at the beginning and the end of the surveys noted that the ambient sound in the area comprises mainly of vehicle movements on the local roads, which are lightly used, and the occasional flyovers by light aircraft. The sound from livestock in nearby fields was noticeable at Forstal Farm, as was the sound of shooting in nearby woodland. The occupier noted that due to a road closure, there may have been some additional traffic on the local road network.
- 2.4 The sound of agricultural machinery from a distant source was heard at Little Harts Heath. The residents at Little Harts Heath have dogs and vehicle movements in the drive will be represented in the measurements at this location.

3. Baseline Sound Survey

- 3.1 A baseline sound survey to establish background and residual sound levels for the assessment was undertaken between Tuesday 15th and Tuesday 22nd January 2019. The survey was unattended.
- 3.2 The technical details and meteorological information relating to the survey can be found in Appendix B of this report. All measurements were made with due regard to British Standard 7445: 2003 'Description and measurement of environmental noise. Part 1: Guide to environmental quantities and procedures. The data is summarised in Tables 3.1 and 3.2 below and shown graphically in Charts 3.1 to 3.4:

Table 3.1: Summary of baseline data Forstal Farm

Address	Start Time	Finish Time	L _{Aeq}	L _{Amax}	L _{A10}	L _{A90}	Time of L _{Amax}
Tuesday	23:00:00	07:00:00	35.8	59.6	34.9	26.6	06:00 to 06:15
Wednesday	07:00:00	23:00:00	45.4	68.4	47.4	34.1	13:15 to 13:30
Wednesday	23:00:00	07:00:00	36.8	73.5	32.2	22.5	05:45 to 05:30
Thursday	07:00:00	23:00:00	45.1	69.4	47.0	33.9	15:45 to 16:00
Thursday	23:00:00	07:00:00	34.9	71.0	32.1	22.9	23:45 to 00:00
Friday	07:00:00	23:00:00	44.3	72.8	45.7	32.5	10:30 to 10:45
Friday	23:00:00	07:00:00	32.7	58.3	32.5	24.4	06:15 to 6:30
Saturday	07:00:00	23:00:00	43.0	71.1	44.1	29.5	15:15 to 15:30
Saturday	23:00:00	07:00:00	31.8	62.4	30.1	19.3	05:15 to 05:30
Sunday	07:00:00	23:00:00	42.7	72.3	43.3	29.5	15:00 15:15
Sunday	23:00:00	07:00:00	33.8	63.4	31.1	22.6	05:45 to 06:00
Monday	07:00:00	23:00:00	43.7	71.9	45.0	31.6	10:00 to 10:15
Monday	23:00:00	07:00:00	39.4	64.8	38.1	30.4	00:00 to 00:15
Average Weekday	07:00:00	23:00:00	44.6		46.3	33.0	
Average Weekday	23:00:00	07:00:00	35.9		34.0	25.3	
Average Weekend	07:00:00	23:00:00	43.7		44.9	31.0	
Average Weekend	23:00:00	07:00:00	32.8		30.6	21.0	

Address	Start Time	Finish Time	L _{Aeq}	L _{Amax}	L _{A10}	L _{A90}	
Range Weekday	07:00:00	23:00:00	43.7 to 45.4		45.0 to 47.4	31.6 to 34.1	
Range Weekday	23:00:00	07:00:00	32.7 to 39.4		31.1 to 38.1	22.5 to 30.4	
Range Weekend	07:00:00	23:00:00	42.7 to 43.0		43.3 to 44.1	29.5	
Range Weekend	23:00:00	07:00:00	31.8 to 33.8		30.1 to 31.1	19.3 to 22.6	

Table 3.2: Summary of baseline data Little Harts Heath

Address	Start Time	Finish Time	L _{Aeq}	L _{Amax}	L _{A10}	L _{A90}	Time of L _{Amax}
Tuesday	23:00	07:00:00	33.2	58.9	33.0	25.7	06:45 to 07:00
Wednesday	07:00	23:00:00	42.9	81.8	41.9	31.7	09:15 to 09:30
Wednesday	23:00	07:00:00	32.8	64.8	29.2	20.6	03:00 to 03:15
Thursday	07:00	23:00:00	43.0	78.0	42.8	32.2	10:30 to 10:45
Thursday	23:00	07:00:00	30.8	67.2	28.8	21.0	01:00 to 01:15
Friday	07:00	23:00:00	44.6	88.3	40.8	30.4	12:00 to 12:15
Friday	23:00	07:00:00	29.9	60.3	28.3	22.1	05:30 to 05:45
Saturday	07:00	23:00:00	41.9	81.5	40.4	27.6	09:30 to 09:45
Saturday	23:00	07:00:00	28.4	51.4	25.3	17.8	00:15 to 00:30
Sunday	07:00	23:00:00	44.7	85.0	39.4	27.2	10:30 to 10:45
Sunday	23:00	07:00:00	30.1	61.4	28.6	19.9	06:00 to 06:15
Monday	07:00	23:00:00	43.8	81.4	40.9	30.0	18:30 to 18:45
Monday	23:00	07:00:00	35.3	58.9	34.1	27.8	05:45 to 06:00

	Start Time	Finish Time	L _{Aeq}	L _{Amax}	L _{A10}	L _{A90}	
Average Weekday	07:00:00	23:00:00	43.6		41.6	31.1	
Average Weekday	23:00:00	07:00:00	32.4		30.7	23.4	
Average Weekend	07:00:00	23:00:00	43.3		40.6	29.0	
Average Weekend	23:00:00	07:00:00	29.2		27.0	18.8	
Range Weekday	07:00:00	23:00:00	42.9 to 44.6		40.9 to 42.8	30.0 to 32.2	
Range Weekday	23:00:00	07:00:00	29.9 to 35.3		28.3 to 34.1	20.6 to 27.8	
Range Weekend	07:00:00	23:00:00	41.9 to 44.7		39.4 to 40.4	27.2 to 27.6	
Range Weekend	23:00:00	07:00:00	28.4 to 30.1		25.3 to 28.6	17.8 to 19.9	

Chart 3.1: Baseline monitoring 15 – 22 January L_{Aeq}, L_{Amax} and Indices Forstal Farm

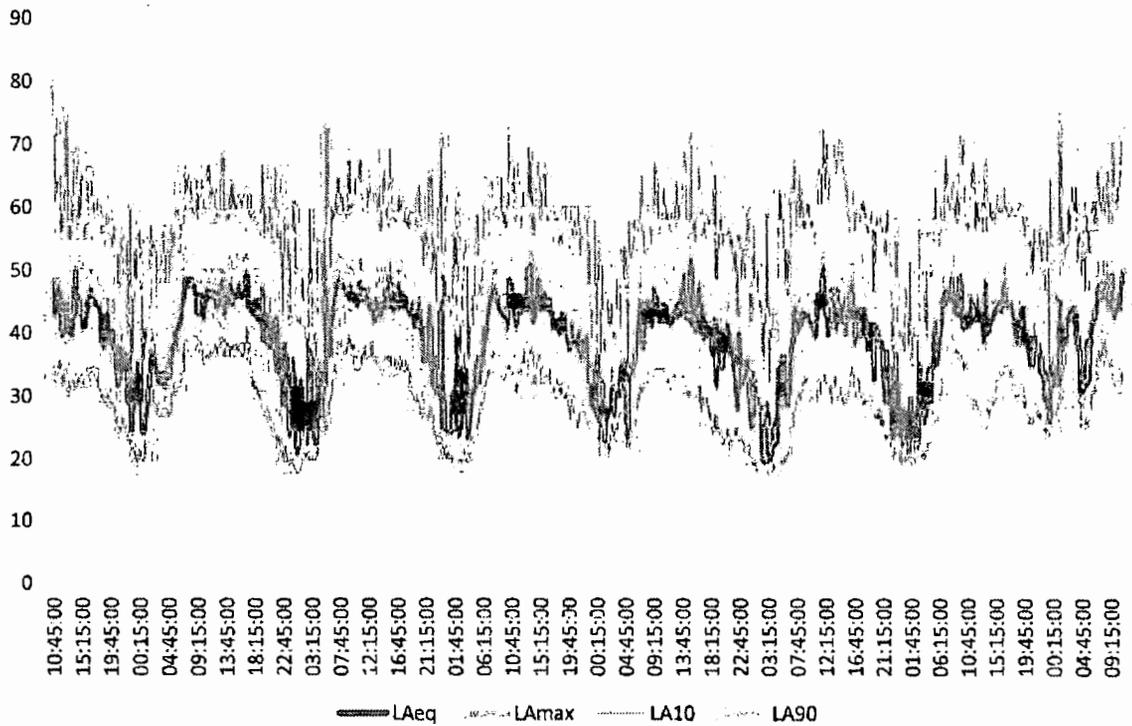


Chart 3.2: Baseline monitoring 15 – 22 January 2019 octave bands Forstal Farm

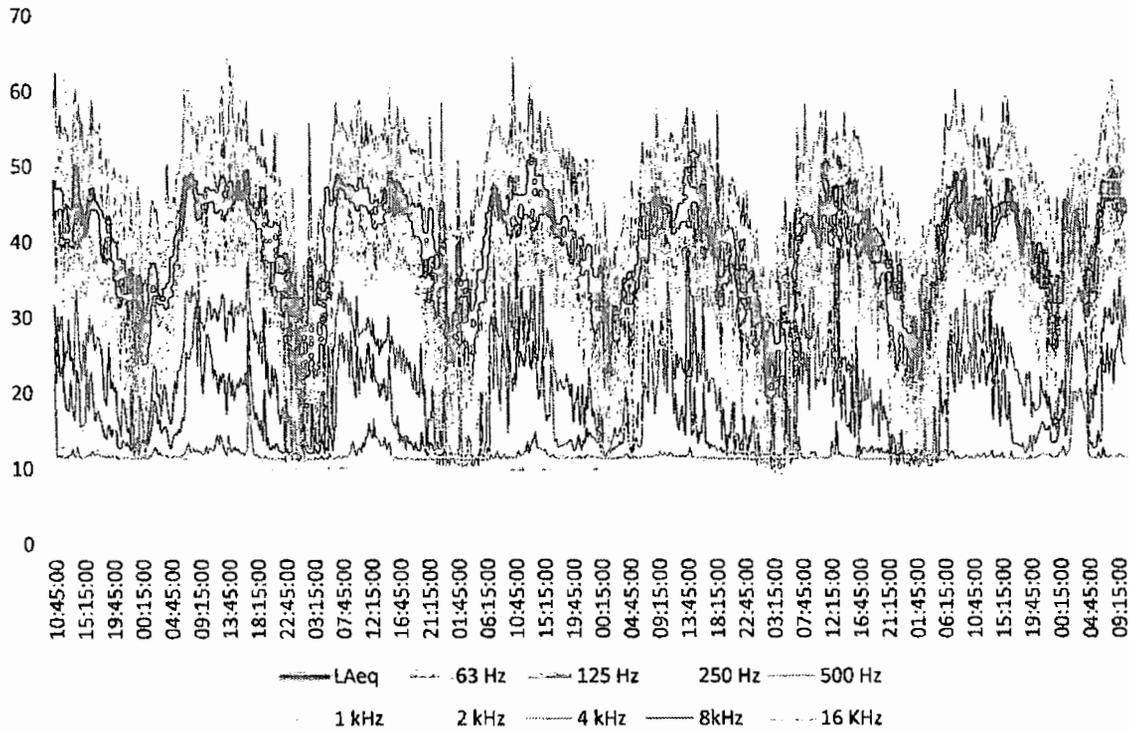


Chart 3.3: Baseline monitoring 15 – 22 January 2019 L_{Aeq} , L_{Amax} and Indices Little Harts Heath

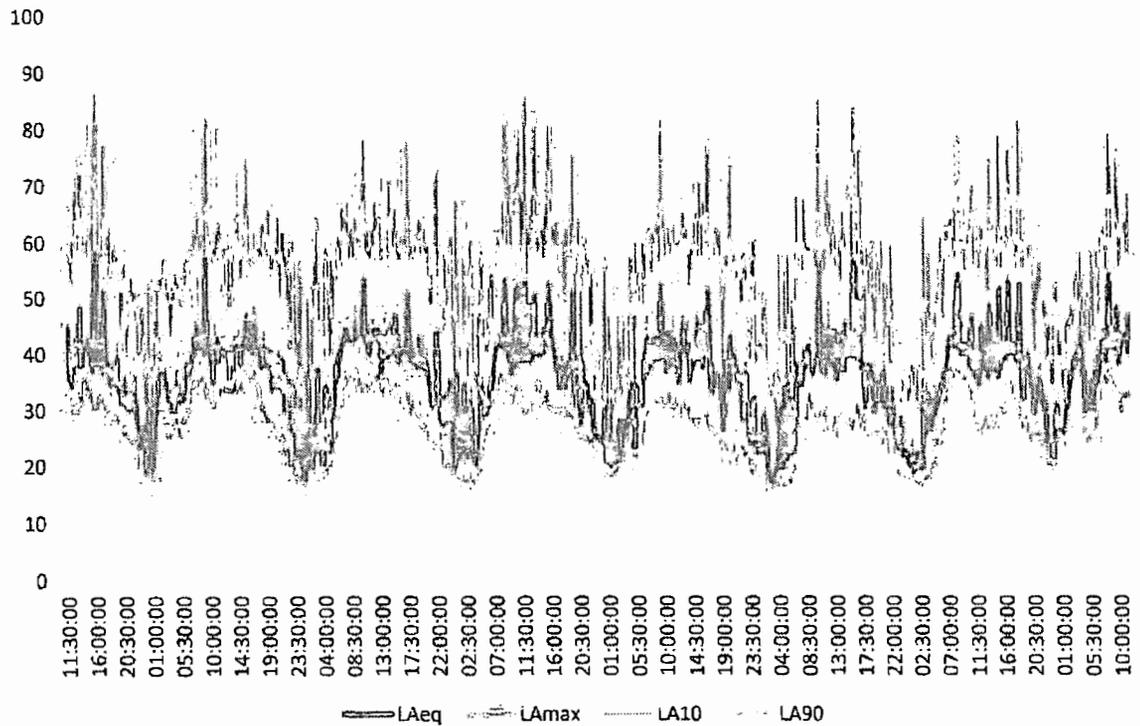
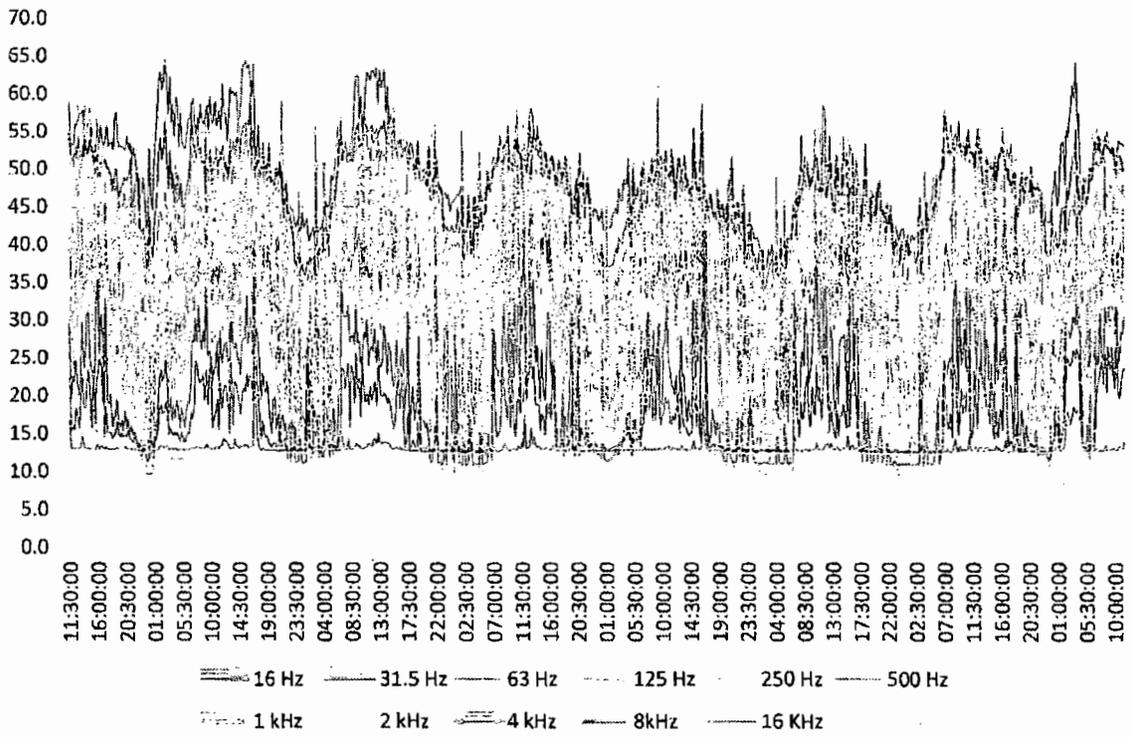


Chart 3.4: Baseline monitoring 15 – 22 January 2019 octave bands Little Harts Heath



4. Noise from plant and ducting

- 4.1 On 15th September 2017, Maidstone Council issued a planning decision notice regarding Hush Heath Winery (ref: 17/502611/FULL). Conditional planning permission was granted. Condition 13 referred to noise from plant and ducting systems as follows:

'(13) Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in the pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter. The scheme shall ensure that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 (or in areas of low background sound levels a target of NR30) as defined by BS 8233:2014 'Guidance for sound insulation and noise reduction in buildings (sic) and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above whenever operating. After the installation of the approved plant, no new plant or ducting system shall be used without prior written consent of the Local Planning Authority.

Reason : To maintain the amenity of the locality and nearby properties.'

- 4.2 This condition defines the maximum sound level from air handling plant at the boundary of noise sensitive properties. This includes all residential properties in the vicinity such as Forstal Farm and Little Harts Heath. The use of BS8233:2014 and NR values to define maximum plant noise levels is not unusual and to the level at the boundary of a property is appropriate to protect the amenity of gardens and other open spaces. There are other ways of assessing noise from air handling plant as will be discussed later in this section.
- 4.3 Noise Rating (NR) values are commonly used to define maximum sound levels from ventilation plant. Each 'curve' is defined by a maximum sound level in the octave bands with frequency centres between 31.5 Hz and 8kHz. The lower the number of the NR value the lower the maximum sound level in each octave band. Thus NR 30 contains lower maximum sound levels than NR35. For plant to be rated as, for example NR30, all of the levels sound levels must be lower than the maximum levels in each octave band. Table B.1 in the Standard contains the maximum sound levels for the NR curves between NR0 and NR75. An extract showing the levels for NR30 and NR35 are shown in Table 4.1:

Table 4.1: Noise Rating values (from BS8233)

Noise Rating	Octave band centre frequency								
	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1KHz	2 kHz	4 kHz	8 kHz
NR35	79.2	63.1	52.4	44.5	38.9	35.0	32.0	29.8	28.0
NR30	75.8	59.2	48.1	39.9	34.0	30.0	26.9	24.7	22.9

4.4 If one or more sound level exceeds the maximum in the particular octave band, the plant cannot be rated as NR30 but will be rated a higher NR value. This can be shown by measurement or by calculation.

4.5 NR rating takes account of frequency components but is independent of the pre-existing background and ambient sound levels.

4.6 Condition 13 makes reference to 'areas of low background sound levels'. As what constitutes a low sound level is not defined, Aria has sought clarification from Mid Kent Environmental Health, the combined environmental health service which now operates in the area. The officer acknowledged that background sound levels at this location would appear to be 'low background sound area'. The results of the baseline survey for both locations show that the background sound level, as defined by L_{A90} for the period 07:00 - 23:00 recorded average levels between 31 and 33 dB with no daily level being higher than $L_{Aeq\ 07:00-23:00}$ 34.1 dB, and average L_{A90} levels for the period 23:00 - 07:00 being less than 25 dB. The levels recorded at Little Harts Heath over the weekend between 23:00 and 07:00 are so close to the inherent noise specification for the sound meter that there is a degree of uncertainty of the measurements as the sound levels recorded are so low.

4.7 Aria concludes from the data gathered that this area is a 'low background sound area' and as such the noise generated at the boundary of any noise sensitive property shall not exceed a target of Noise Rating NR30.

4.8 It has been confirmed that with Mid Kent that details of the plant or ducting system have not been submitted to and approved in writing by the Local Planning Authority in the pursuance of this permission.

British Standard 4142: 'Method for rating and assessing industrial and commercial sound', 2014

4.9 Another way of assessing noise from ventilation plant is to use BS4142:2014. An abstract of this Standard is included as Appendix C. The methodology requires that a rating level is derived which is corrected for tonal components and the irregularity of the sound which is then compared with the background sound level. An extract from section 11 is as follows:

'The lower the rating level is relative to the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact. Where the rating level does not exceed the background sound level this is an indication that the specific sound source is having a low impact, depending on context.'

4.10 With regard to the extract above, as the Winery is situated in a low background noise area it is reasonable to require that the rating level for the total plant noise should not exceed the background sound level. Although the background level changes through the day and night-time periods and between weekdays and weekends, the design for maximum load should meet the lowest background sound level period for the times when the plant is operating. This is likely to be at weekends in the evening or night-time periods. At present the operating times of the plant are not known to Aria. The data from the baseline survey included in this report can be used to determine the maximum rating levels.

4.11 As a guide and until further information as to the operating hours of the plant is available, the rating level ($L_{A,r,Tf}$) should not exceed the following which are the lowest background sound levels recorded during the baseline survey.

- Fostal Farm - $L_{A,r,Tf}$ 19 dB
- Little Harts Heath - $L_{A,r,Tf}$ 18 dB

5. Noise from licensed entertainment

- 5.1 A premises licence for the Hush Heath Winery (reference 18/02446/LAPRE) has been issued. Recorded and live music is permitted, with due regard to the following:

'Recorded music, live music and late night refreshment will take place after 17:00 on not more than 12 occasions in any calendar year ("events")

Such event occasions will not occur on consecutive weekends

Any event location will be notified to neighbours within 800m of the premises a minimum of 7 days before the event

After 23:00 hours live and recorded music and late night refreshment will be indoors only and windows and doors will be closed save for entry and exit

Live and recorded music will end by 23:45 hours

All visitors to the premises will leave the premises and parking area by 00:00

On event occasions, signage will be placed at the exits of the premises asking visitors to leave quietly and respect neighbours.'

- 5.2 One of the four objectives of the Licensing Act 2003 is the prevention of public nuisance, which can arise from music noise affecting noise sensitive premises around the site. Although the condition does contain helpful advice as to how to limit annoyance from music being played as part of an event, there are no references as to what level music may be played at so as to prevent a public nuisance at neighbouring noise sensitive premises. This information is helpful to the occupier of the licenced premises as it helps them to apply the necessary noise control strategies to limit any adverse effects on their neighbours, and to local residents as it helps them to judge how well the sound from the premises is being managed.

- 5.3 In the absence of any such conditions, reference has been made to Noise Council 'Code of Practice on Environmental Noise Control and Concerts'. It is noted that there is no suggestion that concerts will be staged at the Winery, but in the absence of other, more pertinent guidance on music from events, the principles used to establish sound levels at noise sensitive premises applied in this Code of Practice are considered relevant. In particular the part of the condition which limits the number of events to twelve each calendar year has a direct parallel in the Code.

- 5.4 Table 1 of the Code states that for 4 to 12 events per calendar year:

'The MNL (music noise level) should not exceed the background noise level by more than 15 dB over a 15 minute period'

The MNL is defined as *'the L_{Aeq} of the music noise measured at a particular location'*.

The background noise level is defined as *'the prevailing sound level at a location, measured in terms of $L_{Aeq,Ton}$ on an equivalent day and at an equivalent time when no concert or sound checks are taking place.'* A footnote to Table 1 states that for four to twelve events per calendar year the value of the background noise level is to be

'the arithmetic average of the hourly L_{A90} measured over the last four hours of the proposed event or over the entire period of the music event if scheduled to last for less than four hours.'

5.5 Tables 5.1 and 5.2 below contains the arithmetic average of the hourly L_{A90} for the period 19:00 until 23:00 for the duration of the survey and the MNL which is the maximum permitted without exceeding the guidance

Table 5.1: Guidance music noise levels for 4 to 12 events per calendar year Forstal Farm

Address	Start Time	Finish Time	L _{A90}	MNL (L _{A90} +15 dB)
Tuesday	19:00:00	23:00:00	27	42
Wednesday	19:00:00	23:00:00	26	41
Thursday	19:00:00	23:00:00	28	43
Friday	19:00:00	23:00:00	28	43
Saturday	19:00:00	23:00:00	24	39
Sunday	19:00:00	23:00:00	26	41
Monday	19:00:00	23:00:00	28	43

Table 5.2: Guidance music noise levels for 4 to 12 events per calendar year Little Harts Heath

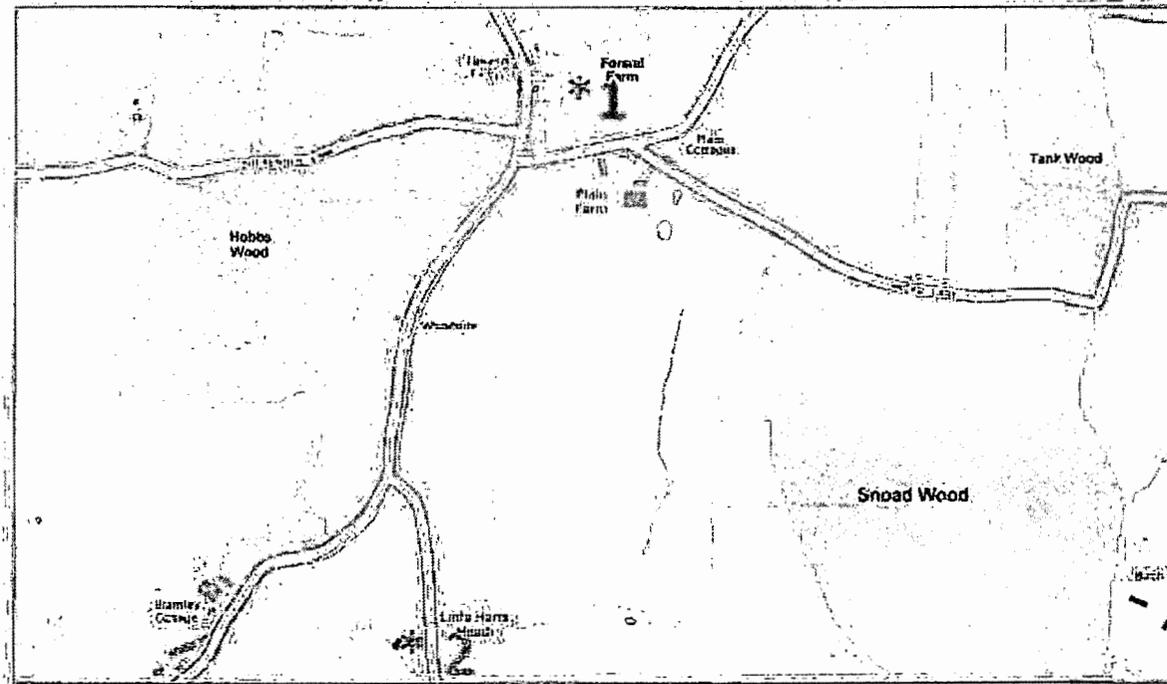
Address	Start Time	Finish Time	L _{A90}	MNL (L _{A90} +15 dB)
Tuesday	19:00:00	23:00:00	26	41
Wednesday	19:00:00	23:00:00	25	40
Thursday	19:00:00	23:00:00	26	41
Friday	19:00:00	23:00:00	26	41
Saturday	19:00:00	23:00:00	22	37
Sunday	19:00:00	23:00:00	24	39
Monday	19:00:00	23:00:00	26	41

5.6 For the period between 23:00 and 23:45 the guidance in the Code is that *'music noise should not be audible within noise sensitive premises with windows open in a typical manner for ventilation.'* It is considered that this is the most appropriate measure to adopt in this instance.

6. Conclusions

- 6.1 Aria Acoustics Limited (Aria) has been appointed by Ms Amanda Tipples to carry out a baseline noise measurement survey at two locations near Staplehurst, Kent.
- 6.2 The survey was carried out between Tuesday 15th and Tuesday 22nd January 2019 at Forstal Farm and Little Harts Heath.
- 6.3 This report has also addressed noise from ducting and plant and noise from public entertainment from Hush Heath Winery. With regard to plant noise it is concluded that the Winery and the two locations where the baseline survey was undertaken are in a low background sound area and as such the noise generated at the boundary of any noise sensitive property shall not exceed a target of Noise Rating NR30.
- 6.4 Applying the rating methodology of British Standard 4142: 'Method for rating and assessing industrial and commercial sound', 2014, and as a guide and until further information as to the operating hours of the plant is available, the rating level ($L_{A,T,r}$) should not exceed $L_{A,T,r}$ 19 dB at Forstal Farm and $L_{A,T,r}$ 18 dB at Little Harts Heath.
- 6.5 Using the Noise Council 'Code of Practice on Environmental Noise Control and Concerts' in the absence of other more pertinent guidance between 09:00 and 23:00 the MNL (music noise level) should not exceed the background noise level by more than 15 dB over a 15 minute period. For the period between 23:00 and 23:45 the guidance in the Code is that 'music noise should not be audible within noise sensitive premises with windows open in a typical manner for ventilation.' It is recommended that these levels are used to prevent a public nuisance arising.

Figures



Date: January 2019
© Ordnance Survey

Figure 1 : Measurement positions

 Aria Acoustics

Appendices

Appendix A

Glossary of noise terminology

Glossary

Noise is defined as sound unwanted at the point of reception. The range of audible sound is from 0 dB to 140 dB. The frequency response of the ear is usually taken to be about 18 Hz (number of oscillations per second) to 18000 Hz. The ear does not respond equally to different frequencies at the same level. It is more sensitive in the mid-frequency range than the lower and higher frequencies and because of this, the low and high frequency components of a sound are reduced in importance by applying a weighting (filtering) circuit to the noise measuring instrument. The weighting which is most widely used and which correlates best with subjective response to noise is the dB(A) weighting. This is an internationally accepted standard for noise measurements.

For variable noise sources such as traffic, a difference of 3 dB(A) is just distinguishable. In addition, a doubling of a noise source would increase the overall noise by 3 dB(A). For example, if one item of machinery results in noise levels of 30 dB(A) at 10 m, then two identical items of machinery adjacent to one another would result in noise levels of 33 dB(A) at 10 m. The 'loudness' of a noise is a purely subjective parameter but it is generally accepted that an increase/decrease of 10 dB(A) corresponds to a doubling/halving in perceived loudness.

External noise levels are rarely steady but rise and fall according to activities within an area. In an attempt to produce a figure that relates this variable noise level to subjective response, a number of noise indices have been developed. These include:

L_{Amax} noise level: This is the maximum noise level recorded over the measurement period.

L_{Aeq} noise level: This is the 'equivalent continuous A-weighted sound pressure level, in decibels' and is defined in British Standard 7445 (BS 7445) [7] as the 'value of the A-weighted sound pressure level of a continuous, steady sound that, within a specified time interval, T, has the same mean square sound pressure as a sound under consideration whose level varies with time'.

It is a unit commonly used to describe construction noise and noise from industrial premises and is the most suitable unit for the description of other forms of environmental noise. In more straightforward terms, it is a measure of energy within the varying noise. It is also the unit best suited to assessing community response.

Music Noise Level (MNL): the L_{Aeq} of music noise measured at a particular location.

L_{A10} noise level: This is the noise level that is exceeded for 10% of the measurement period and gives an indication of the noisier levels. It is a unit that has been used over many years for the measurement and assessment of road traffic noise.

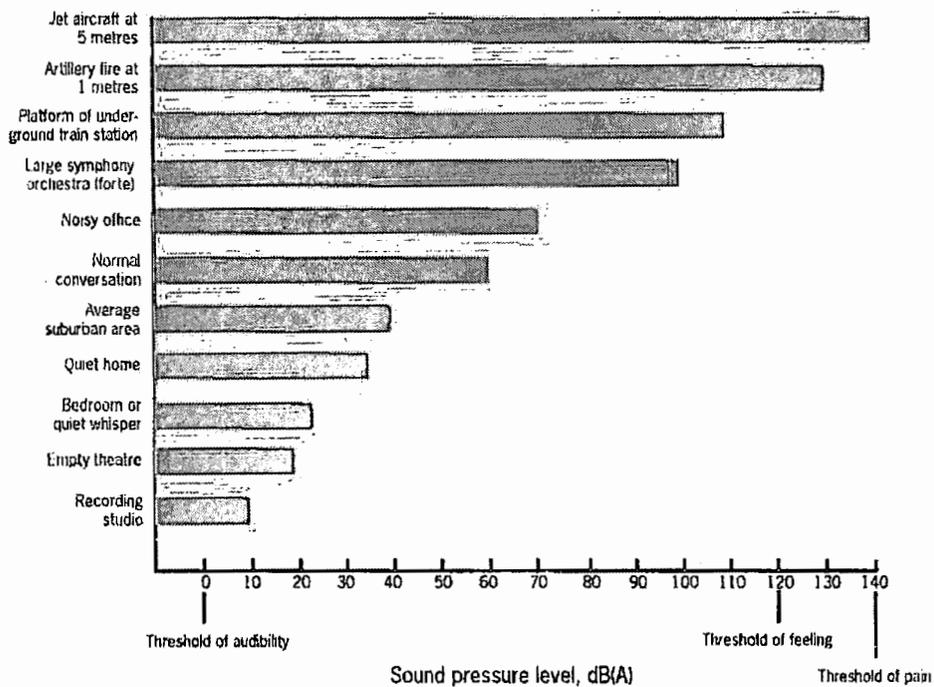
L_{A90} noise level: This is the noise level that is exceeded for 90% of the measurement period and gives an indication of the noise level during quieter periods. It is often referred to as the background noise level and is used in the assessment of disturbance from industrial noise.

Hz (Hertz): The tonal quality of a sound is described and measured in terms of the frequency content and is commonly expressed as octave or third octave bands, the latter being the division of the octave bands into

three for finer analysis, across the frequency spectrum. The smaller the octave band or third octave band centre frequency number defined in terms of Hz, the lower the sound. For example 63 Hz is lower than 500 Hz and is perceived as a deeper sound. The attenuation due to air absorption and natural barriers increases with frequency i.e. low frequencies are always the most difficult to control.

An indication of noise levels and pitches is provided in Appendix A1.1 and A1.2 of *Building Bulletin 93 'Acoustic Design of Schools: A Design Guide', 2003 (BB 93)*. These are reproduced in Figures A1 and A2 below:

Figure A.1: Typical sound pressure levels



Appendix B

Noise Measurement Methodology

Baseline noise measurements were undertaken between Tuesday 15th and Tuesday 22nd January 2019 at the two shown in Figure 1. Measurements of L_{Aeq} , L_{Amax} , L_{A10} and L_{A90} were made over consecutive 15 minute intervals at these locations using Class 1 Rion 52 sound level meters. The meters were also set up to record octave band data. The sensitivity of the meters was checked before and after each measurement run using a Rion NC-74 acoustic calibrator (Serial number 35015345). The amount of drift in each case is considered acceptable. Both sets of measurements were undertaken in free field positions as shown in the photographs below:



Position 1 – Forstal Farm



Position 2 – Little Harts Heath

Weather data for the period was obtained from the Weather Underground site <https://www.wunderground.com>:

The closest location to the measurement locations for which data were available is Lydd so there may be variations between these two places. The data presented does represent the most applicable to the site for this period and is shown in the Table below:

Meteorological Data for Lydd, Kent Tuesday 15th to Tuesday 22nd January

Date	Average Temp (°C)	Precipitation (mm)	Wind Speed(m/s)	Wind Direction
15/1	6	0	3 to 16	WSW to WNW
16/1	6	0	5 to 20	SW to WSW
17/1	2	0	3 to 17	SW to WSW
18/1	2	0	1 to 14	N to S
19/1	4	0	5 to 14	S to SSE
20/1	2	0	5 to 10	E to N
21/1	1	0	3 to 13	N to NW
22/1	3	0	0 to 25	SSW

The weather over the monitoring period was dry, with variable wind speeds including periods when the speed was greater than 5 m/s. Wind direction was also variable.

Appendix C

British Standard 4142: 2014

↪

British Standard 4142: 'Method for rating and assessing industrial and commercial sound', 2014

The scope of this Standard states that it describes methods for rating and assessing sound of an industrial and/or commercial nature and includes;

'a) sound from industrial and manufacturing processes;

b) sound from fixed installations which comprise mechanical and electrical plant and equipment;

c) sound from loading and unloading of goods and materials at industrial and/or commercial premises; and

d) sound from mobile plant and vehicles that is an intrinsic part of the overall sound emanating from premises or processes, such as that from forklift trucks, or that from train or ship movements on or around an industrial and/or commercial site.

The methods described in this British Standard use outdoor sound levels to assess the likely effects of sound on people who might be inside or outside a dwelling or premises upon which sound is incident.'

The scope continues;

'This Standard is applicable to the determination of the following levels at outdoor locations;

- a) rating levels for sources of sound of an industrial and/or commercial nature; and*
- b) ambient residual and background sound level*

For the purposes of;

- 1) investigating complaints*
- 2) assessing sound from proposed, new modified or additional source(s) of sound of an industrial and/or commercial nature; and*
- 3) assessing sound at proposed new dwellings or premises used for residential purposes'*

In conclusion the scope states;

'The determination of noise amounting to a nuisance is beyond the scope of this British Standard.

Sound of an industrial and/or commercial nature does not include sound from the passage of vehicles on public roads and railway systems.

This standard is not intended to be applied to the rating and assessment of sound from;

- a) recreational activities, including all forms of motorsport*
- b) music and other entertainment*
- c) shooting grounds*
- d) construction and demolition*
- e) domestic animals*
- f) people*
- g) public address systems for speech; and*
- h) other sources falling within the scopes of other standards and guidance*

This standard is not intended to be applied to the derivation of indoor sound levels arising from sound levels outside or the assessment of indoor sound levels.

This standard is not applicable to the assessment of low frequency noise.'

The Standard advocates the use of L_{Aeq} level that is directly measurable. The L_{Aeq} is either measured or calculated at a development location and this is termed the 'specific sound source'. The specific sound source may then be corrected for the character of the sound, if appropriate, and it is then termed the 'rating level', whether or not a correction is applied. A correction of between 0 and +9 dB is made depending on the character of the sound.

When used to assess the sound, the rating level is determined and the L_{A90} background sound level is subtracted from it. Section 11 of the standard states;

- 'a) Typically the greater this difference, the greater the magnitude of the impact;*
- b) A difference of around 10 dB or more is likely to be an indication of a significant adverse impact, depending on context*
- c) A difference of around 5 dB is likely to be an indication of an adverse impact, depending on context;*
- d) The lower the rating level is relative the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact. Where the rating level does not exceed the background sound level this is an indication that the specific sound source is having a low impact, depending on context.'*

Note 2 to this section states;

'Adverse Impacts include, but are not limited to, annoyance and sleep disturbance. Not all adverse impacts will lead to complaints and not every complaint is proof of an adverse impact.'

Context includes the character and level of the background and residual sound levels and the sensitivity of the receptor. The standard refers to design measures such as facade treatment, ventilation arrangements and acoustic barriers.

BS 4142 states that when assessing the noise from night-time operations, the period of 23:00 to 07:00 hours, is commonly adopted.

Tavern Farm

[REDACTED]

Forstal Farm

[REDACTED]

2 Plain Cottages

[REDACTED]

3 Plain Cottages

[REDACTED]

Clarke's Farm

[REDACTED]

Little Harts Heath

[REDACTED]

Harts Heath Farm

[REDACTED]

Huggins Farm

[REDACTED]

Staplehurst

Kent TN12

19 February 2019

Mr Robert Jarman
Head of Planning and Development
Maidstone Borough Council
King Street
Maidstone
Kent ME15 6JQ
By email to: robjarman@maidstone.gov.uk and by First Class Post

Dear Mr Jarman

Re: The Hush Heath Winery

A. Purpose of this letter

- 1. This letter concerns the Hush Heath Winery ("HHW"). It is written on behalf of the full-time residents at the properties listed at the top of this letter, save for Amanda Tipples, who lives at

██████████ on the weekends and on occasion during the week. All of our properties are situated near HHW, and we represent the community that lives closest to HHW. The contents of this letter also affect the people who live on, or use, the highways surrounding HHW, in particular Pinnock Lane and Five Oak Lane. This is because Pinnock Lane and Five Oak Lane provide the sign-posted highway access to HHW from Staplehurst. In terms of highway users, we mean all highway users who use these lanes, which include cyclists, runners, pedestrians, horse-riders, ponies and traps, as well as vehicles. There is therefore a much wider community in Staplehurst that is affected by the matters set out below.

2. We respectfully ask you, as Head of the Planning and Development Department of Maidstone Borough Council ("**MBC**"), to take the time to read and digest this letter and its attachments, as it contains important information relating to HHW. For the reasons set out in this letter, MBC's Planning Department is respectfully asked to:

- (i) Investigate HHW's compliance with the breaches of planning controls set out below, and to take enforcement action as necessary, as a matter of priority.
- (ii) Write to MBC's Licensing Department to explain the restrictions on the planning uses for which the premises at HHW is authorised.
- (iii) Inform MBC's Licensing Department (and continue to keep MBC's Licensing Department informed of): (a) the information relating to the planning control breaches set out below, (b) any investigations that are to be conducted by MBC's Planning Department into these breaches; and (c) any enforcement action taken in relation to the breaches.

B. Key message

3. Planning controls exist so as to strike a careful balance between promoting and encouraging suitable development in an area, whilst ensuring that the characteristics of the area and the needs of the people that live in it are taken into consideration. The individuals who are directly impacted by how HHW operates must be able to rely on MBC both to grant appropriate planning controls in relation to HHW, but also to ensure that those controls are properly enforced, so as to maintain the integrity of the planning control system and the public's acceptance of the decision-making process that it involves. MBC needs to enforce planning controls on behalf of residents, in order to safeguard both the amenity of the local area, and to ensure that the interests of residents are

protected. For the numerous reasons set out below, MBC's Planning Department is asked to take the steps requested in paragraph 2 above.

4. Fundamentally, our concern regarding HHW is as follows. All planning and licensing applications that have been submitted to MBC to date in relation to HHW have proceeded on the basis that HHW is an agricultural business. When HHW first opened a winery at its site in 2009, this was considered to be an acceptable agricultural use, because making wine is ancillary to the growing of grapes. After HHW was established as a winery, it was permitted to diversify, by adding controlled retail and wine tasting elements to its business. This expansion was permitted on the basis that these functions were still ancillary to its primary function as a winery, and therefore as an agricultural business, and because they were therefore considered to be acceptable forms of agricultural diversification. It is highly concerning, however, how far the use of the premises at HHW has shifted away from being primarily used for the purposes of agriculture, and the number of signs there are that HHW intends to transform the nature of its premises even further away from being used for the purposes of agriculture. There are strong indications that the owners of HHW are seeking to transform the site into a large-scale hospitality and events venue, which could also operate as some form of eatery/restaurant and bar. Using the premises in this manner is wholly inappropriate for the rural location in which HHW is situated.
5. HHW has not tried to follow the appropriate planning and licensing routes to seek to undertake such a wholesale transformation of the use of its premises. Such fundamental changes in use would be expected, in the ordinary course, to require both (i) new planning permission(s) (including consideration of whether the classification of the use class of HHW's premises as "agricultural" still held true); and (ii) application(s) for new premises licences. Instead, HHW has sought to change its business by (i) failing to comply with many of the planning controls to which it is presently subject; and (ii) applying for incremental increases in the licensed activities it is permitted to undertake on its premises, and the hours during which it can supply alcohol. By doing so, it has sought, via the back door, to change the very use for which development at HHW was authorised.
6. Although this letter contains a number of specific examples, MBC is asked to consider the effect of the issues described in this letter in the round, and the cumulative impact on the local area of the numerous issues that there have been with the operation and development of HHW to date.

C. Background

7. HHW is a well-known winery, which is located on the south side of Five Oak Lane, at the western end. It is situated in the open countryside to the south west of Staplehurst village. A map showing the location of HHW, and of our properties, can be found at [p. 1] (please note that all references in this letter to page numbers are to page numbers in the exhibit provided with this letter).
8. HHW is situated in what a planning case officer for MBC described as a “*rural location in the open countryside beyond the bounds of any town or village*”, where “*development is tightly restricted*”.¹ The Maidstone Borough Council Local Plan (“**the Local Plan**”) acknowledges that the countryside in which HHW is situated “*has an intrinsic character and beauty that should be conserved and protected for its own sake*”.²
9. Although HHW is located in a rural area, there are a substantial number³ of residential properties located within one mile of HHW, including properties directly across the road from the site (2 and 3 Plain Cottages, Snoad Lane). Furthermore, HHW is situated in an area of the Low Weald in which sound travels great distances, due to the topography of the local area. The location of HHW is therefore not so remote that its operations do not impact local residents; on the contrary, local residents are greatly impacted by the manner in which the site operates.

D. Breaches of existing planning conditions

(i) Introduction

10. HHW is in breach of numerous planning conditions to which it is subject. What are believed to be the breaches are set out below. It appears – from the public register of planning enforcement and stop notices – that no enforcement action has been taken by MBC against HHW to date in relation to these breaches. We therefore ask that appropriate planning investigatory and enforcement action is taken as a matter of priority.

(ii) Key breach of the 2017 Planning Permission

11. On 5 September 2017, HHW was granted planning permission to build a “*new processing hall, including visitor tasting room and administration office*” (“**the New Building**”), pursuant to Planning Decision Notice 17/502611/FULL (“**the 2017 Planning Permission**”). A copy of the 2017 Planning Permission can be found at [pp. 59-62C].

¹ See Delegated Report by Catherine Slade dated 29.10.13 [p. 15].

² See paragraph 4.95 of the Local Plan [p. 70].

³ Information from the Land Registry shows that there are 78 households within a one-mile radius of HHW.

12. Condition 16 of the 2017 Planning Permission is of fundamental importance [p. 62A]. It requires that: "*The retail element approved by this application shall remain strictly ancillary to the primary use of the site as a Winery*". The express purpose of this condition was "*To ensure an appropriate scale of retail use having regard to its countryside location*". The site officer's planning report in relation to the 2017 Planning Application stated that: "*The application relates to the extension of the existing winery building to provide for additional processing and storage floorspace as well as increased space for tasting and retail areas, and other ancillary facilities such as staff and preparation area and meeting rooms*".
13. The manner in which HHW is moving away from being primarily used as a winery towards a much larger non-agricultural commercial enterprise is of real concern. The use of the site is being transformed into a hospitality and events venue, serving and selling food and drink, rather than operating as a winery with an ancillary shop in accordance with the planning permissions to which it is subject. For example, HHW's website now refers to the existence of a "*large roof-top terrace bar*" on the site [p.74]; planning permission was only ever granted, however, for a tasting area, not for a rooftop bar.
14. It is questionable whether the shop located at HHW can still truly be considered to be "*ancillary*" to the site's primary use as a winery. In the lead up to Christmas 2018, HHW ran a "*Christmas Shop*" for the sale of its products. This "*Christmas Shop*" was advertised independently of tours of the winery and tastings, and it was independently signposted by HHW's own signage around the surrounding country lanes, together with signage erected on local roads by the AA⁴, which directed visitors to the shop. This is clearly inconsistent with the shop being ancillary to the tours and tastings business, and engages issues regarding whether it is an appropriate retail operation for such a rural area.

(iii) The provision and sale of food at HHW

15. On 4 September 2013, HHW applied for planning permission to use part of its premises "*for the general sale of wine and cider produced on the holding*" ("**the 2013 Planning Permission**"). A copy of the 2013 Planning Permission can be found at [pp.19-22].
16. Condition 1 of the 2013 Planning Permission said that: "*The development hereby permitted shall only be used for the sale of wine produced by the Hush Heath Estate and the Hush Heath Winery*". The stated reasons were: "*To ensure a sustainable development and prevent a general retail use from being*

⁴ There were AA road signs on Wilden Park Road before the junction with Five Oak Lane, as well as on the A229 directing traffic along Pinnock Lane and Five Oak Lane.

established in an inappropriate location, to safeguard the rural amenity of the open countryside and the enjoyment of their properties by adjoining residential occupiers, and prevent harm to highway safety”.

17. None of the planning applications that have been submitted to MBC by HHW to date contain any reference to food being served or sold at HHW. The only “produce” which has ever been referred to in planning applications as being consumed onsite is the wine which is produced at the onsite winery. MBC has not, therefore, in its assessment of the various planning applications that have been submitted to date by HHW, had the opportunity to consider the possibility that food was to be sold at the premises, nor has it had the opportunity to prevent or restrict the sale of food at the premises.

18. Although no reference to the onsite sale of food to the public has been made in any of the planning applications, HHW has provided and sold food on the premises on a number of occasions to date, in breach of Condition 1 of the 2013 Planning Permission. As only apples and grapes are grown onsite at HHW, none of the foods that have been offered for consumption at the premises could have been produced onsite:
 - (i) The website for HHW states that HHW now contains “A commercial kitchen ideal for weddings and corporate events”, and that it offers “corporate venue hire packages” for between “25 and 200 guests”. A screenshot of the website is at [p. 77A]. It is understood that holding these type of events would require planning permission, which HHW does not have.

 - (ii) The HHW website is currently advertising a “summer evening cocktail party” with “canapes”, and an Annual Winemaker’s Dinner in autumn 2019 to include a “four-course gourmet meal”. A screenshot of the website is at [p.78].

 - (iii) A vacancy for an Events Manager at HHW has been advertised online, which states that part of the role will include “liaising with our executive chef” requiring the food requirements for events, and managing the “catering” for events [pp. 90-92].

 - (iv) HHW currently sells sharing platters for two to be eaten onsite at HHW, seven days per week. A copy of HHW’s menu offering these platters can be found at [p. 75].

 - (v) HHW offered mince pies for consumption onsite while its “Christmas Shop” was open in 2018. The advertisement can be found at [p.76].

(vi) A website named "Produced in Kent" has advertised tours of the winery at HHW, including the option to purchase a lunch picnic box for two for £25 for consumption onsite. The advertisement, including the food contained in the boxes, can be found at [p. 97].

(vii) Foreman & Field, a smoked salmon producer located in London, is currently advertising a tour during which guests can taste wine at HHW which has been paired with smoked salmon produced by Foreman & Field, and at which salmon will be available for purchase. A screenshot of the advertisement can be found at [pp. 98-100].

19. By selling food on the premises, HHW has contravened condition 1 of the 2013 Planning Permission [p. 19], which restricts the use of the premises only to selling wine which is produced on the premises. As the sale of food has not been disclosed to MBC, HHW is not currently subject to any of the planning controls which a restaurant or eatery would be expected to be subject to. Furthermore, MBC, Staplehurst Parish Council ("**SPC**") and local residents were not given the opportunity to object to such a wholesale change in the nature of the use of the site into a commercial eatery.

20. It is highly concerning that HHW is developing a business selling food onsite when it has never been granted planning permission on the basis that it was to become a restaurant or eatery. The unauthorised sale of food at HHW will further drive up visitor numbers, and thereby increase the traffic and noise disturbance caused by HHW to the local area.

(iv) Breach of planning condition in the 2013 Planning Permission regarding opening hours

21. Condition 4 of the 2013 Planning Permission [p. 20] stated that: "*No retail sales to the public shall be carried out outside of the hours of 08:00 – 18:00 Mondays to Saturdays and at no time on Sundays or Bank or Public Holidays*". The reasons stated for this condition were: "*In the interests of rural amenity of the open countryside, to safeguard the enjoyment of their properties by adjoining residential occupiers and prevent harm to highway safety*".

22. HHW has breached this planning control, however, as in the past it has been, and it remains, open to visitors seven days per week, including on public holidays and bank holidays. The fixed signs on Five Oak Lane at the entrance to HHW say "OPENING TIMES MONDAY TO SUNDAY AND ALL BANK HOLIDAYS 10AM – 5PM OPEN ALL YEAR WWW.HUSHHEATH.COM TEL: 01622 832794", and

another sign says "HUSH HEATH WINERY OPEN AS USUAL 7 DAYS A WEEK 10AM – 5PM FOR TOURS AND TASTING".

23. By breaching this planning condition, HHW has increased the level of disturbance caused by vehicles on the roads surrounding HHW on Sundays and bank holidays. There is a very real concern that the continued breach of this condition will contribute to problems with the highways surrounding HHW (which are discussed in paragraphs 58 to 63 below) and will affect the "rural amenity of the open countryside" in which HHW is located, together with "highway safety", which condition 4 expressly sought to protect.⁵ HHW's non-compliance with this planning condition should be investigated as a matter of priority, and appropriate action be taken.

(v) Breach of planning condition relating to landscaping scheme

24. Condition 2 of the 2017 Planning Permission [p. 60] provided that construction of the New Building "should not commence above slab level" until a landscape scheme designed in accordance with MBC's landscape character guidance had been submitted to and approved by MBC. The scheme was required, amongst other things, to provide details of the planting that was to take place to mitigate loss of amenity and biodiversity, and was required to include a 10-year plan for landscape management. Condition 2 also specified that: "Following the approval of the details, the approved landscaping scheme shall be implemented on the first planting season following occupation of the building and retained thereafter in accordance with the details of the approved management plan".
25. MBC stated that the reasons for condition 2 were "In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development". The very purpose of this condition was, therefore, to mitigate the visual impact of development at HHW in order to preserve the rurality of the surrounding area. The site officer's report for the 2017 Planning Application [pp. 51-58] commented that: "A new parking area will extend the existing parking area to the west although this will remain enclosed by existing grassland and planting which will be secured by planning condition". The site officer found, on this basis, that the development complied with Local Plan Policy DMI [p. 65]. DMI requires that a development, amongst other things, does not result in "visual intrusion", and requires the use of vegetation around the edge of developments such as HHW to help assimilate the development in a manner which reflects the natural character of the surrounding rural area.

⁵ At Box 20 – Hours of Opening – in the 2017 Planning Application [p.27] the answer provided to the question "If known, please state the hours of opening (eg 15:30) for each non-residential use proposed" was (i) Monday to Friday: 11:00; 17:00; (ii) Saturday: 11:00-17:00; and (iii) Sunday and Bank Holidays – not open, as these boxes were left blank. The declaration at Box 26 was signed on 16 May 2017 [p. 28].

26. Although HHW was required to comply with this condition before erecting the New Building, this condition has still not been complied with. The New Building opened to the public back in September 2018, several months after construction of the venue reached above “slab level”.
27. As a result, it is unclear when any steps will be taken in relation to landscaping at HHW to ensure that the look of the site is in keeping with the rurality of the local area.

(vi) Breach of planning condition relating to cycle parking

28. Condition 8 of the 2017 Planning Permission stated that: “No development shall take place above slab level until details of cycling parking have been submitted and approved by the Local Planning Authority” [p. 61]. It also said that: “The approved cycle parking shall be in place before the first use of the development and shall be retained permanently for use thereafter”. Although HHW were required to provide these details to the satisfaction of MBC before the New Building was erected, the details of the parking for bicycles available at HHW have still not been approved to MBC’s satisfaction.
29. The stated purpose of this condition was “To promote sustainable modes of travel”. Given the increase in the vehicular traffic on the roads surrounding HHW caused by the expansion of HHW’s business (see paragraphs 49 – 54, 57 - 63 below), HHW should be required to comply with this condition in order to demonstrate that it has made adequate provision for bicycles, as this will help to reduce pollution, noise, and traffic congestion, and therefore mitigate the impact of the site on the amenity of the local area.

(vii) Planning condition relating to biodiversity scheme

30. Under condition 9 of the 2017 Planning Permission [p. 61], the New Building was not to be erected to above “slab level” until details of a scheme for the enhancement of biodiversity on the site had been submitted to and approved by MBC. This scheme was required to include details relating to the appearance of the New Building. Kent County Council (“KCC”) wrote to MBC on 4 June 2018 to say that sufficient information has been provided to discharge this planning condition [pp. 63 – 64]. However, the only documents that were submitted to MBC behalf of HHW in support of the discharge of this planning condition were a document named “Farm Environment Plan”, which had been prepared back in 2005 (and therefore even pre-dated the initial establishment of a winery on the site), and a planting scheme (which did not take into account that the Farm Environment Plan was a historic document). KCC should not, therefore, have advised that sufficient information had been provided to discharge condition 9 on the basis of the information that was submitted,

and an application has been made to object to the discharge this planning condition as matters stand.

31. As matters currently stand, HHW does not have an up to date approved plan in relation to biodiversity in operation at its site, as is required of a development of this nature. HHW should be made to comply with its obligations in this regard, particularly as the inappropriate external lighting that has been installed at the site will drive species away from the area.

(viii) Breach of planning condition regarding surface water drainage

32. Under condition 10 of the 2017 Planning Permission [p. 62], the development under which the New Building was to be built was not permitted to “*commence until a surface water drainage scheme for the site based on sustainable drainage system*” had been approved. No such scheme has been approved by MBC to date. This planning condition is closely connected with the pollution of the pond at the junction of Snoad Lane and Five Oak Lane (which has been raised by Mr Stanley with MBC on a number of occasions).

(ix) Breach of planning condition in relation to sustainable travel statement

33. Condition 11 of the 2017 Planning Permission [p. 62] said that: “*No part of the development shall be occupied until a Sustainable Travel Statement, providing measures and incentives to encourage trips by alternative means to the private car has been submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be carried out in full*”.
34. Although HHW was required to have an approved plan in place before the New Building was occupied, the New Building has been open since September 2018 without HHW having an approved sustainable travel plan in place. This is of particular concern, given the impact of HHW’s business on the local highways (as described in paragraphs 58 to 63 below) and the impact that increased car numbers has on the amenity of the local area. HHW’s non-compliance with this condition presents risks to the safe operation of the highways surrounding HHW, which are discussed in paragraphs 58 – 63 below.

(x) Breach of planning condition regarding renewable or low carbon energy

35. Under condition 12 of the 2017 Planning Permission [p. 62], the development authorised by the 2017 Planning Permission was not allowed to progress above “slab level” until details of how renewable or low-carbon energy sources would be incorporated into the development had been approved by MBC. HHW has also not discharged this planning condition to date.

(xi) Breach of planning condition regarding plant ducting system

36. Under condition 13 of the 2017 Planning Permission [p. 62], the maximum sound level from the air handling plant at the boundary of noise sensitive properties was defined. These include all residential properties in the vicinity of HHW, such as 3 Plain Cottages, Forstal Farm and Little Harts Heath. HHW was required to submit details of any plant or ducting system to MBC and to have these detailed approved “Prior to the first use of the premises”. This scheme was required in order to ensure that maximum noise limits at the boundaries of neighbouring properties were being complied with and were not being exceeded. The stated purpose of this condition was “To maintain the amenity of the locality and nearby properties”. The site officer’s report [pp. 51-58] in respect of the 2017 Planning Application recorded that “a condition has been placed in order to ensure no noise effects are caused to neighbouring properties”.

37. HHW has, however, failed to satisfy this condition to date, despite the New Building having been in use since September 2018. Local residents have not, therefore, been able to benefit from the protection this condition was meant to give them against inappropriate noise levels being emitted from HHW an unsociable hours.

38. There have been occasions on which residents living opposite HHW, at 3 Plain Cottages, have been disturbed by the noise of machinery operating at HHW. This disturbance has been, for example, because of the noise of the grape press operating at HHW, and the noise emitting from the cooling plant operating at night.

(xii) Breach of planning condition in the 2009 planning permission regarding external lights

39. HHW was first granted planning permission to erect a winery on the site in June 2009 – including associated works, hard standing, and parking – pursuant to Planning Permission MA/02/0127. A copy of that planning permission can be found at [pp. 2-13]. Condition 9 of that planning permission stated that, once the development for which planning permission had been granted had been built,

“No further external lighting shall be installed without the prior consent of the Local Planning Authority”
[p. 4].

40. In 2018, a substantial external artificial lighting scheme was installed around the perimeter of the extended car park at HHW, and on the west side of the New Building which was constructed in 2018. A photograph of this lighting scheme can be found at [pp. 147-148].
41. The installation of the lighting scheme was in breach of condition 9 of the June 2009 planning permission, as there is no planning permission in force under which the scheme is permitted. In order to validly install an exterior lighting scheme, HHW also needed to submit details of the scheme to MBC, in order to demonstrate that it met the requirements of Local Plan Policy Number DM8 [p. 69], and to gain approval of the scheme before it was installed. As HHW is situated in a rural area with an intrinsically dark landscape, the requirements that the lighting scheme would need to have satisfied would have been strict.
42. Paragraph 6.51 of the Local Plan [p. 72] recognises that *“inappropriate and excessive external lighting can not only be both visually obtrusive and inefficient in energy terms, but can also damage rural character in areas containing little built development”*, and that *“Protected species, such as bats, tend to avoid well-lit areas”*. It is for this very purpose that planning controls governing external lighting exist. The external lights that have been installed at HHW which emit light after dark are highly obtrusive, and ruin the rural landscape surrounding HHW at night. The site provides a habitat for many different species, such as bats, badgers, foxes, deer, barn owls and swifts,⁶ and the inappropriate lighting scheme which is in place will drive these species away from the area. It is important that the issue of the unnecessary light pollution caused by HHW is dealt with quickly, before any further damage is done to the biodiversity of the area.

⁶ See, for example, the *“Extended Ecology Phase I Habitat Survey Report”* dated 2009 and prepared by Lizard Landscape Design:
https://pa.midkent.gov.uk/online-applications/files/4ED9432393CAEB5977B83B862D299BFD/pdf/09_0127-ECOLOGY_PHASE_I_HABITAT_SURVEY_REPORT-1737306.pdf

E. Omission of information in applications for planning permission that have been submitted

(i) Introduction

43. There are multiple ways in which the site at HHW is currently being used (and ways in which its owners have proposed that it is to be used in the future) of which MBC was not informed when planning applications in relation to development at the site were submitted on behalf of HHW, particularly the application that was submitted in support of the grant of the 2017 Planning Permission (“**the 2017 Planning Application**”).

44. These has three consequences:

- (i) First, MBC was not provided with a complete picture of the factors that were relevant to determining the planning applications that were submitted by HHW, because MBC did not have all of the relevant information before it. This affected MBC’s ability to assess the applications for planning permission properly, in order to determine (a) whether planning permission should be granted; and (b) if so, which planning conditions should be imposed. MBC was not able to consider, and therefore regulate, aspects of the proposed use of the site that were not disclosed to them in the applications for planning permission that were submitted.
- (ii) Second, SPC did not have all of the relevant information before it when it was asked to comment upon whether it supported or opposed the 2017 Planning Application. SPC’s approval of the 2017 Planning Application fed into MBC’s decision-making process (see paragraph 50 below).
- (iii) Third, the planning applications that were submitted on behalf of HHW were publicly available documents. They were available for use by local residents to rely upon and to consider in order to decide whether or not they had reason to object to the applications, based on the information they contained. The information that was contained in the 2017 Planning Application was – to put it favourably – lacking in highly relevant details. As a result, local residents did not have all of the relevant information before them when deciding whether to object to the grant of planning permission, to oppose the grant, or to ask for any further development to be subject to tougher controls.

45. The following issues were not referred to in the planning applications submitted on behalf of HHW to MBC to date. They are, therefore, issues which have not been properly regulated, and which have had serious effects on the impact that development at HHW has had on local residents and the local area.

(ii) The scale of the increase in visitor numbers

46. The 2017 Planning Application did not include any details about the scale of the increase in visitor numbers that it was envisaged the development to HHW would bring, and suggested that the additional number of visitors would be insignificant. The Design and Access Statement that was submitted in support of the application [p. 44] referred to the “*insignificant increase of vehicular movement to and from the Winery*” that would result from the construction of the New Building, and referred to visitors arriving in “*individual cars*” and “*a small number maybe in small mini buses*”. The site officer’s report in respect of the 2017 Planning Application [pp. 51-58] therefore recorded that “*The applicant has forecast new staff to increase by around 5 staff and an additional HGV movement per week although it is acknowledged by the application that visit movements may increase as a result of the development. This potential increase has been received by KCC Highways and they have no objections to the scheme having regard to the quality of the approach roads and the likely increase in traffic. It is also notable that the level of HGV Traffic is not expected to increase significantly*”.

47. This differs greatly, however, from the statements the owners of HHW have made in the press regarding the development. The owner of HHW has stated in the press that HHW are seeking to build a “*wine tourism*” destination; that it is seeking to increase visitor numbers to “*50,000 per annum over the next five years*”; and that it is seeking to increase the number of bottles of wine produced at the site “*from 150,000 bottles per year up to 500,000 bottles*”. A copy of this press report is at [pp. 93-96]. The scale of the planned increase of visitor numbers is such that HHW has placed an advertisement online in January 2019 for a full-time Events Manager. The advertisement says that HHW is seeking to “*substantially grow its visitor numbers by holding events throughout the year*”, and the job description includes, amongst other things, “*organis[ing] facilities for car parking, traffic control*” [pp. 90-92].

48. The Local Plan, in accordance with which the 2017 Planning Permission was required to be considered, states that MBC “*will continue to recognise the importance of supporting small-scale rural business development*”.⁷ The comparatively modest tours and tastings business described in the

⁷ See paragraph 4.99 of the plan (p. 71).

2017 Planning Application and previous planning applications was such a small-scale rural development. It is clear that a business on the scale described above is not.

(iii) Travel to HHW by coach

49. None of the planning applications submitted to MBC by HHW to date (including the 2017 Planning Application) made any reference to coaches being used to transport visitors to HHW. The only references in the 2017 Planning Application to vehicles was to propose that HHW's car park contain spaces for 75 cars [p. 25]⁸, as well as the statements made in the Design and Access Statement quoted in paragraph 46 above.

50. As a result, when a Senior Planning Developer in the Highways and Transportation Department at KCC commented upon the 2017 Planning Application, he noted that the proposed car park was to increase to 60 car parking spaces for visitors, but commented that: "*Whilst mini-buses are mentioned I note that coaches are not*" [p. 47]. This contributed towards his conclusion that KCC would not object to the proposal "*given the modest scale*". SPC relied on this letter from KCC, together with the traffic information provided in the updated Design & Access Statement [pp. 44-45]⁹ (which had originally been omitted), in deciding on 3 July 2017 to support the proposal [pp. 49-50]. The 2017 Planning Permission was subsequently approved, and included an extension of the car park to include 60 car parking spaces, without any designated area for coach parking¹⁰ [p. 62d].

51. Since the New Building was opened, however, local residents have noticed an increase in the number of coaches using Pinnock Lane and Five Oak Lane, and it has become apparent that a number of visitors are being transported to HHW by coach. HHW is aware that coaches are being used to transport visitors to its premises, and is actively encouraging visits to the premises by coach:

⁸ As part of the 2017 Planning Application, HHW was asked, at section 10, to: "*Please provide information on the existing and proposed number of on-site parking spaces*". In answer to this question, HHW identified (i) the type of vehicle as "cars"; (ii) the existing number of spaces as "75"; (iii) the total number of spaces proposed (including spaces retained) as "75"; and (iv) the difference in the number of spaces as "0" [p. 25].

⁹ Policy PW2 of Staplehurst's Neighbourhood Plan – Referendum Plan 2016-2031 (September 2016) provides that: "*Proposals for new development in the countryside beyond the extended village envelope will be assessed in terms of potential impact of the development upon the visual setting and landscape features of the site and its surroundings, the potential impact upon the biodiversity of the area and such other relevant planning considerations, such as the impact of traffic and noise. Proposals which fail to demonstrate these impacts cannot be satisfactorily addressed will not be supported.*" [p. 73].

¹⁰ The Proposed Site Plan HH P 10A [pp. 62d] does not include a coach park. Condition 15 of the 2017 Planning Permission provided that "*the development hereby permitted shall be carried out in accordance with the following approved plans ...*", which included Plan HH P 10A.

- (i) The HHW car park now contains a sign containing giving directions to onsite “coach parking”. A photograph of this sign can be found at [p. 150].
 - (ii) A company named “English Wine Tasting Tours” is currently advertising tours to HHW, transporting visitors to HHW in “mini-coaches” containing between 15 and 28 seats [pp. 79-81].
 - (iii) Belmond British Pullman is currently advertising summer tours of HHW, which include a “coach transfer” to HHW. The advertisement can be found at [pp. 82-84].
 - (iv) Bakers Dolphin, a coach travel company, is currently advertising a coach tour which transports visitors by coach to HHW. The advertisement can be found at [pp. 85].
 - (v) A company named “Elcock” is currently advertising a tour which visits HHW in which visitors are transported to HHW in a large 53-seater “executive coach”. The relevant sections of the brochure can be found at [pp. 86-89].
52. The number of tours which are being advertised that involve visitors being transported to HHW by coach gives an indication of the potential scale of the number of coaches that could need to travel along the highways immediately surrounding HHW, in particular Pinnock Lane and Five Oak Lane, in order to reach HHW.
53. Policy DM7 in the Local Plan [p. 68] provides that “*Proposals for development ... which could potentially generate volumes or types of traffic unsuitable to the local area, will only be permitted where they do not, by way of their operation, cause nuisance to residents or users in the vicinity, and where anticipated adverse impacts on the local road network can be mitigated*”.
54. As described further below, coach travel on this scale to HHW will cause a public nuisance to local residents and other road users. As HHW did not refer at all to coach visits to its site in the 2017 Planning Application, there are currently no planning controls or highways measures in place which restrict the operation of coach visits to HHW. MBC was not accurately informed of the volume or type of traffic that was envisaged at the time at which MBC granted the 2017 Planning Permission, so there are currently no controls in place to address the impact this has on the local road network.

(iv) Marquee installed at HHW for almost two years without planning permission

55. In spring 2017 a large marquee was erected at HHW. It has not been taken down, and remains in place. A photograph of the marquee is at [p. 152].

56. It is understood that marquees require planning permission if they are to be erected on a particular site for more than 28 days in a calendar year. There is no planning permission for this marquee. The marquee is a blot on the rural landscape, and is clearly visible from Plain Cottages.

(v) Heavy Goods Vehicles

57. HHW said in the Design and Access Statement submitted in support of the 2017 Planning Application that the level of HGV traffic was expected to increase to the level of two to three HGV movements per week [p. 45]. Residents living near HHW have, however, noticed a sizeable increase in the volume of HGV traffic, and have witnessed lorries reversing back along the narrow roads used to access HHW as they are unable to pass through. Residents have reported that branches of trees situated in gardens located adjacent to the highway have been ripped off by lorries driving along the roads immediately surrounding HHW.

F. Impact on the surrounding highways

58. Underpinning many of the issues set out above is the impact that HHW has had, and will increasingly have, on the highways surrounding HHW. Unless action is taken to address this, the roads around HHW will become dangerous. MBC must be aware of the extent of these problems now, so that these problems can be tackled before an accident takes place.

(i) Background

59. HHW is situated two miles from a main road. There is the A229 to the east (which links Staplehurst and Cranbrook) and the B2079 to the west (which links Marden and Goudhurst). Once off the main road, the highway access to HHW is all along unclassified roads, which are country lanes¹¹. These roads are all shown on the map at [p. 1]. The road access to HHW:

¹¹ These are all marked as yellow roads on the 1:25,000 High Weald Ordnance Survey which means they are roads “generally less than 4 m wide”, apart from Pinnock Lane, Marden Road, Pagehurst Road and Thorn Road. These are marked as orange roads, meaning they are “generally more than 4 m wide”.

- (i) From the south of Staplehurst, is along Pinnock Lane (0.5 miles) and then Five Oak Lane (1.5 miles). This is the route that is signposted¹² from the A229 to HHW, and is the principal road access route to HHW. The narrowest section of this road is between (a) the junction of Five Oak Lane and Five Ash Lane, and (b) the junction of Five Oak Lane and Wilden Park Road, which is a distance of 0.7 miles. This is the only road access to HHW from the east, and all vehicles must travel along it to get to HHW.
- (ii) From the north of Staplehurst is along the Marden Road, Pagehurst Road, Five Ash Lane and then Five Oak Lane (as described in (i) above).
- (iii) From the B2079 (which links Marden and Goudhurst) is along Sherenden Lane and then Five Oak Lane. Sherenden Lane is narrower than Five Oak Lane.
- (iv) From Marden (to the north-west) is along Thorn Road via Marden Thorn, then Wilden Park Road and Five Oak Lane.
- (v) From Curtisden Green (to the south) is along Curtisden Green Lane, Wilden Park Road and Five Oak Lane.
- (vi) From Goudhurst (to the south) is through Curtisden Green (at (v) above), or via Blantyre House and Hush Heath Hill, Wilden Park Road and Five Oak Lane.

60. HHW is not accessible by public transport and there is no streetlighting on the surrounding highways.

(ii) The impact on Five Oak Lane and Pinnock Lane in particular

61. The main road access route to HHW is, as sign-posted from the A229, along Pinnock Lane and Five Oak Lane. In relation to this highway:

- (i) Five Oak Lane is a narrow rural road limited to a single lane, and in many places there are deep ditches either side of it. On the 1:25,000 Ordnance Survey map it is marked as a yellow road, which is defined as “road generally less than 4 m wide”. The narrowest section

¹² There has, for some years, been a brown sign to HHW at the junction of the A229 and Pinnock Lane directing traffic from the A229 to HHW along Pinnock Lane. However, that sign was not there on Sunday 17 February 2019. There are brown signs showing the symbol of a bunch of grapes directing traffic towards HHW at (i) at the junction of Pinnock Lane and Five Oak Lane; (ii) the junction of Five Oak Lane and Five Ash Lane; and (iii) outside the entrance to HHW itself.

of this road is between (a) the junction of Five Ash Lane and Five Oak Lane, and (b) Wilden Park Road. This section of road is 0.7 miles long, and all vehicles accessing HHW from the east must pass along it. Labelled photographs showing this section of Five Oak Lane between Wilden Park Road (to the west of HHW) and Five Ash Lane (to the east of HHW) can be found at [pp. 153-187]. There is a list identifying what each photograph shows at [p.154], together with a map identifying the location at which the photograph was taken at [p. 153]. A detailed description of Five Oak Lane can be found in the letter of Natasha Davidson-Houston, who lives at Clarke's Farm on Five Oak Lane, dated 14 February 2019 [pp. 141-146].

- (ii) Pinnock Lane is also single lane rural road, apart from at the junction with the A229 where there are 5 white lines in the middle of the road marking two lanes. Pinnock Lane is shown on the 1:25,000 Ordnance Survey map as an orange road, which means "*road generally more than 4 m wide*".

62. There is considerable concern among local residents (and MBC should be concerned) about the following issues relating to the surrounding highways:

- (i) It is clear that an overall increase in visitor numbers to HHW will result in increased traffic volumes on the roads surrounding HHW. As set out above, MBC was not aware of the scale of the proposed increase to traffic volumes at the time it granted the 2017 Planning Permission. The highways surrounding HHW are small country lanes, and such increase in traffic volume will cause the highways to become dangerous (particularly Five Oak Lane) and will create a public nuisance. In some parts of the surrounding highways that are comprised of a single-track road, it is not possible to pass a vehicle in another vehicle without reversing. The deep ditches on either side of the track pose a danger to motorists manoeuvring vehicles to accommodate other motorists on the road. Manoeuvring vehicles will be extremely difficult without driving onto the grassy verges next to the ditches, and may cause traffic to become backed up along the highways, which will also create a public nuisance.
- (ii) Increasing the number of large vehicles (such as HGVs and coaches) travelling along the immediately surrounding highways, particularly Five Oak Lane, in order to reach HHW will greatly exacerbate these problems. These vehicles will have serious difficulties manoeuvring in the space available, and in avoiding the ditches when conducting manoeuvres. The presence of such large vehicles in such small roads poses a real danger

to other road users, such as the walkers, runners, cyclists, horse-riders and ponies and traps, who frequently use the country lanes surrounding HHW. Increased numbers of large vehicles visiting HHW therefore poses a real risk to public safety.

(iii) There is insufficient local infrastructure to support an increase in visitor numbers, particularly if some of those visitors are visiting the site for purpose of having alcoholic drinks. There are no street lights during the hours of darkness to protect road users who may decide to leave HHW on foot because they have consumed alcohol. There is also no public transport to take visitors who wish to drink alcohol back from the site. This increases the risk of visitors who visit the site drink driving.

(iv) An increase in the number of vehicles on the road will also cause a public nuisance by causing a general increase in noise levels, disruption, and pollution. This will damage the rurality of the area in which HHW is located.

63. The impact of an increased number of vehicles on the surrounding highways, particularly Five Oak Lane, and the presence of an increasing number of large vehicles on the surrounding highways, is already being felt by local residents. These problems have been caused because the use of the premises has moved far away from operating primarily as a winery with an ancillary shop and tasting room, and is being transformed into something on a much larger scale. This will have severe consequences for the highways surrounding HHW unless action is taken. This should be a matter of serious concern for MBC.

G. The January Licensing Application

64. It is against this background that HHW has recently applied to extend the terms of its premises licence, through submitting the January Licensing Application to the Licensing Department of MBC. Representations in relation to that application must be made by Tuesday 26 February 2019.

65. To date, HHW has only been licensed to supply tasting samples of alcohol for consumption on its premises. The application for a premises that was submitted on behalf of HHW in 2013 [pp. 139] stated, under the section requiring the applicant to list the steps taken towards the prevention of a public nuisance, that the steps that had been taken included the restriction of quantities of alcohol that were supplied at HHW to tasting samples only. HHW has therefore itself acknowledged that restricting the supply of alcohol to tasting samples is a step towards ensuring the prevention of a public nuisance.

66. The terms of HHW's current premises licence can be found at [pp. 116-121]. In essence, the current licence (i) limits the supply of alcohol to "tasting samples only"; (ii) limits the number of "events" during which recorded music, live music and late night refreshment can be provided after 17:00 to 12 events per year; (iii) stipulates that these events cannot take place on consecutive weekends; (iv) requires HHW to notify neighbours of events a minimum of seven days before the event; and (v) provides specific times at which licensed activities conducted during events are required to end. In short, this is more than sufficient to cater for activities at a premises where the authorised use of the premises is agricultural with ancillary retail and tasting functions.
67. In the January Licensing Application, HHW has sought to (i) remove the condition which limits it to supplying tasting samples only; and (ii) to extend its open hours for on-sales to 10am to 7pm Monday to Sunday.
68. There are inaccuracies and/or ambiguities in the January Licensing Application. For example:
- (i) The application states that "*The Winery is located in an extremely remote area*". This is incorrect. While the surrounding area is rural, there are, as explained above, a number of residential properties in close proximity to HHW.
 - (ii) The application states that it is proposed that visitors will be able to purchase "*alcohol which is Hush Heath Produce only*". It appears, however, that the term "*Hush Heath*" has been used to refer to a wider brand name, rather than to alcoholic drinks which are produced onsite at HHW. HHW proposes that it would sell "beer", but this is not produced at the winery.
69. MBC is asked to refuse the January Licensing Application:
- (i) It would be wholly inappropriate for MBC to grant the January Licensing Application given the number of respects in which HHW is currently in breach of planning controls.
 - (ii) Although planning and licensing are dealt with in two separate departments at MBC, planning and licensing controls must ultimately go hand in hand in order to ensure that premises are not licensed in ways which fundamentally alter the terms of any planning controls to which they are subject. It is clear that enabling alcohol to be supplied at HHW without any restriction as to quantity will shift HHW towards operating as a hospitality

and events venue, rather than as an agricultural premises with ancillary retail and tasting functions. This will constitute a wholesale change in the nature of the use of the premises, which will breach planning controls.

- (iii) Additionally, purely as a matter of licensing, it is clear that the application does not support or promote the “licensing objectives” contained in Schedule I of the Licensing Act 2003. Permitting alcohol to be served freely at the premises will pose a risk to public safety, as the surrounding highways are simply not equipped to deal safely with the increased visitor numbers that would be drawn to HHW (and the risk that, in an area with no public transport, visitors might be tempted to drive under the influence of alcohol). It will also create a public nuisance in a number of ways – including through the increased noise disturbance caused by visitors to the site who are under the influence of alcohol, and the increased traffic and pollution that unrestricted alcohol sales at the site will generate.

H. Summary

70. We respectfully ask that MBC’s Planning Department give serious consideration to the issues raised above, and, in light of the information provided, MBC’s Planning Department is asked to:

- (i) Investigate HHW’s compliance with all of the breaches of planning controls set out above, and to take enforcement action as necessary, as a matter of priority.
- (ii) Write to MBC’s Licensing Department to explain the restrictions on the planning uses for which the premises at HHW is authorised.
- (iii) Inform MBC’s Licensing Department (and continue to keep MBC’s Licensing Department informed of): (a) information relating to the planning control breaches set out above, (b) any investigations that are to be conducted by MBC’s Planning Department into these breaches; and (c) any enforcement action that is taken.

71. Thank you for taking the time to consider the contents of this letter.

Yours sincerely

Signed electronically:

Angus Codd [REDACTED]

Andrea Hodgkiss [REDACTED]

Kim Humphrey [REDACTED]
Sally Humphrey [REDACTED]
Brenda Webb [REDACTED]
Mike Hayward [REDACTED]
Paul Stanley [REDACTED]
Doreen Stanley [REDACTED]
Richard Davidson-Houston [REDACTED]
Natasha Davidson-Houston [REDACTED]
Amanda Tipples [REDACTED]
Bernard Tipples [REDACTED]
Frank Tipples [REDACTED]
Anne Tipples ([REDACTED])
Ian Tipples [REDACTED]
Liz Tipples [REDACTED]

Enc.

cc. By email only:

Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ by email:
planningsupport@midkent.gov.uk

Lorraine Neale, Senior Licensing Officer, Maidstone Borough Council by email:
Lorraineneale@midkent.gov.uk

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Directorate of Operations
Maidstone House, King Street, Maidstone, ME15 6JQ

DEVELOPMENT CONTROL

Mr N Hebden,
RBA
Boyd 3
The Admirals
Portsmouth
Hampshire
PO1 3AG

My Ref: MA/09/0127
Date: 25 June 2009

TOWN AND COUNTRY PLANNING ACTS

Town and Country Planning (General Permitted Development) Order 1995
Town and Country Planning (General Development Procedure) Order 1995

TAKE NOTICE that **THE MAIDSTONE BOROUGH COUNCIL**, The Local Planning Authority under the Town and Country Planning Acts, has **GRANTED PLANNING PERMISSION** in accordance with the details set out below:

APPLICATION: MA/09/0127

DATE RECEIVED: 5 May 2009 DATE VALID: 5 May 2009

APPLICANT: Mr R. Balfour-Lynn, Hush Heath Farm

PROPOSAL: Planning permission for the erection of a winery, including associated works, hardstanding and parking as shown on drawing numbers 2.01 Rev A, 2.02 Rev A, 2.03 Rev A, 2.04 Rev A, 2.05 Rev A, 2.06, Rev A, 2.07 Rev A, 2.10 Rev A, 2.10 Rev B, 2.11 Rev A and 16408_TOPO received on 29/1/09 and 30/1/09 as amended by additional information and ecological survey received on 5/5/09.

LOCATION: PLAIN FARM, FIVE OAK LANE, STAPLEHURST, KENT

GRID REF: 575834, 141836

This permission is **SUBJECT** to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Continuation of decision: MA/09/0127

2. The development hereby permitted shall only be used to produce wine from grapes grown on the Hush Heath Estate;

Reason: To ensure a sustainable development and to protect the level of amenity enjoyed by neighbouring occupiers in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and CC1 of the South East Plan 2009.

3. The development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

4. All planting, seeding or turfing comprised in the details of landscaping identified on drawing number 2.01 Rev A received on 30/1/09 shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and QL1 of the Kent & Medway Structure Plan 2006.

5. The recommendations contained within the Ecology Phase 1 Habitat Survey Report dated 05 May 2009 shall be full adhered to throughout the development from site clearance through to completion of the development;

Reason: To ensure no protected species are harmed in accordance with PPS9.

6. No works shall commence on site, including clearance until an amphibian survey is undertaken in accordance with the recommendation in the submitted Ecology Phase 1 Habitat Survey Report dated 05 May 2009 to check for the presence/absence of amphibians including the European Protected Species of

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Continuation of decision: MA/09/0127

the Great Crested Newt. The survey shall include appropriate mitigation measures, if necessary, and the development shall be carried out strictly in accordance with the recommendations and mitigation measures until completion;

Reason: To ensure no protected species are harmed in accordance with PPS9.

7. No plant and machinery shall be operated and no work shall take place on the site on Sundays and Bank Holidays and only between the hours of 0700 to 1800 on weekdays and 0800 to 1300 on Saturdays;

Reason: To safeguard the amenities of the area in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

8. No vehicle may arrive, depart, be loaded or unloaded within the general site except between the hours of 0700 to 1800 Mondays to Fridays and 0800 to 1300 hours on Saturdays (and at no time on Sundays or Bank Holidays). When within the site no vehicle shall be stationary with its engine or refrigerator running.

Reason: In the interest of preventing noise nuisance from the unloading, loading and manoeuvring of vehicles and the running of engines or refrigerators of vehicles to adjoining occupiers in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

9. No development shall commence until details of any external lighting are submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details. No further external lighting shall be installed without the prior written consent of the Local Planning Authority;

Reason: To safeguard visual amenity in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and QL1 of the Kent and Medway Structure Plan (2006).

Informatives set out below

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Continuation of decision: MA/09/0127

construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

In order to minimise dust and dirt being blown about and potentially causing a nuisance to occupiers of nearby premises the following precautions should be taken.

- Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down the general site area, using a suitable water or liquid spray system.
- Where practicable, all loose material on the site should be covered during the demolition process.
- During the construction, reconstruction, refurbishment or modification of the building and where practicable the exterior should be sheeted, enclosing openings etc. as necessary.

This application has been considered in relation to the following policies:

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, EN34

Kent and Medway Structure Plan 2006: SP1, SS8, EN1, EN5, EP7, EP8, NR10, NR11

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

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Local Plan 2000 and Kent and Medway Structure Plan 2006) and there are no overriding material considerations to indicate a refusal of planning consent.

Signed



Alison Broom
Director of Prosperity & Regeneration

Date 25 June 2009

~~~~~  
**THIS IS NOT A BUILDING REGULATION APPROVAL**

It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations, where required, and any other necessary approvals, have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.

**TAKE NOTICE** that this decision does not confirm compliance with Section 53 of The County of Kent Act, 1981 and, therefore, it will be incumbent upon the applicant to ensure they comply with the said requirement.

~~~~~

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Delegated Report

PLAIN FARM, FIVE OAK LANE, STAPLEHURST, KENT

Planning permission for the erection of a winery, including associated works, hardstanding and parking as shown on drawing numbers 2.01 Rev A, 2.02 Rev A, 2.03 Rev A, 2.04 Rev A, 2.05 Rev A, 2.06, Rev A, 2.07 Rev A, 2.10 Rev A, 2.10 Rev B, 2.11 Rev A and 16408_TOPO received on 29/1/09 and 30/1/09 as amended by additional information and ecological survey received on 5/5/09.

Publicity Expiry Date: 13-Mar-2009

Has statutory consultation and neighbour notification been properly carried out? Yes

Has the application been properly advertised? Yes	
<input type="checkbox"/> N	the decision would not conform to the provisions of the Development Plan <input type="checkbox"/> N was accompanied by an EIA <input type="checkbox"/> N is a major development
<input type="checkbox"/> N	would affect a public right of way <input type="checkbox"/> N is of wide public interest Y affects a listed building <input type="checkbox"/> N affects a conservation area
Is it necessary to consult the Sec. of State (GOSE) before determining this application? No	
<input type="checkbox"/> N	T&CP (Shopping Development) (England & Wales) (No 2) Direction 1993 specified retail developments over 2,500m ²
<input type="checkbox"/> N	Circular 14/97 'Planning & Historic Environment' Appendix A specified listed building consent applications
<input type="checkbox"/> N	T&CP (Development Plans & Consultation) (Departures) Direction 1999 specified major departures from Development Plan
<input type="checkbox"/> N	Circular 9/98 T&CP (Playing Fields) (England) Direction 1998 loss of specified playing fields
<input type="checkbox"/> N	Circular 8/00 T&CP (Residential Development on Greenfield Land) (Eng) Direction 2000 more than 150 dwellings or 5 hectares of housing
Do the matters considered in this report raise any unique Human Rights issues? No	

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, EN34
 Kent & Medway Structure Plan 2006: SP1, SS8, EN1, EN5, EP7, EP8, NR10, NR11
 South East Plan 2009: CC1, C4, RE3, NRM4
 Village Design Statement: N/A
 Government Policy: PPS1, PPS7

HISTORY

None

SITE HISTORY CONSIDERATIONS

None

CONSULTATIONS AND REPRESENTATIONS

Newspaper Advertisement Expiry Date: 6/3/09

Parish Council: Staplehurst Parish Council wishes to see the application APPROVED with a condition that only the grapes grown on the farm shall be used.

Neighbours: Three letters of objection have been received on the following grounds:-

The building should be relocated to reduce its visual impact or using landscaping to screen it.

There should be no retail sales.

Concern regarding noise and disturbance and it should be should be restricted by limiting operating hours.

Concern about future diversification.

Limit external lighting to prevent light pollution and disturbance to wildlife.

Other: CPRE support the application but request a condition limiting it to grapes grown on the vineyard.

The **Environment Agency** have no objections to the application.

Richard Lloyd-Hughes of Rural Planning Ltd supports the application and states:-

"...that the layout and size of the buildings relate appropriately to the various identified, and necessary, winery functions that arise from the anticipated scale of production at Hush Heath Manor."

"Overall design issues are for you, but I would comment that the scheme satisfactorily breaks up the structures into various elements of differing heights and footprints according to their respective functions, makes suitable use of the roof space in the main building, and results overall in a relatively compact layout. The top height of the main building (some 9.5 m to the top of the ridge vent) is quite typical of modern farm buildings such as grain stores and fruit stores, and elements of the buildings appear to reflect other forms of farm building design found in the Kent countryside - the two main structures and their vented ridges are quite redolent of the design of the more modern type of oast building, whilst the smaller buildings' curved roofs have some linkage to the commonly used Dutch barns, two of which adjoin."

Natural England have considered the submitted ecological survey and state:-

"After considering the related documents Natural England would suggest that the advice of the extended ecology phase 1 habitat survey report (Lizard landscape design) is followed and an Amphibian survey is carried out."

Southern Water does not wish to comment on the application.

Kent Highway Services raise no objections to the application on highway matters as the application will not give rise to a significant increase in traffic.

MBC Conservation Officer wishes to see the application APPROVED stating:-

"Given the context of the existing agricultural buildings which lie closer to the listed buildings than the proposed development, I do not consider that there will be an adverse impact on their setting. Design and materials are acceptable."

MBC Environmental Health Manager raises no objections to the application stating:-

"I previously suggested that the applicant outlined whether any of the processes would be inherently noisy and therefore would need some mitigation. I have now looked at the details provided and am of the opinion that due to the location and other activities which would normally be occurring on this site, that this process should not provide excessive and unreasonable noise. I am therefore satisfied with the information provided."

Disabled Considerations: None

Environmental Health Considerations: See Main Report

Highways Considerations: Kent Highway Services raise no objections to the application on highway matters as the application will not give rise to a significant increase in traffic. On this basis I do not consider that a refusal on highway grounds would be justified.

Public Safety Considerations: None

CONSIDERATIONS

Site Visited: 18/3/09, 24/4/09 & 17/6/09

Site Location

The application site relates to an existing farm known as 'Plain Farm'. It is located on the south side of Five Oak Lane within Staplehurst Parish. The site is a complex of

PLEASE PRINT ON YELLOW PAPER

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buildings, which is part of the larger 'Hush Heath Manor Estate', which extends overall to some 162 hectares.

The site is within the open countryside and the Low Weald Special Landscape Area. There are residential properties in the vicinity being 'Plain Farm' (a barn conversion) and 1-3 Plain Cottages.

The site is generally flat and open with two existing irrigation ponds within the site boundary.

Proposed Development

The application is for the erection of a new winery comprising 810m² of floor space. This building would be located to the south of the existing large agricultural barn and would form three separate aspects. Firstly, a main barn, which would hold the 'wet' operations and would be approximately 9.4 metres in height with the walls clad in untreated sweet chestnut and a pre-aged zinc roof. Secondly, a second barn element, which would house the 'dry' operations and would be 7.8 metres in height, again with the walls clad in untreated sweet chestnut and a pre-aged zinc roof. The third element would be ancillary accommodation a low rise (3.9m) barrel vaulted pre-aged zinc roof with ragstone cladding and glazing forming the walls.

Principle of Development

The proposed winery would be for grapes grown solely on the hush heath estate and not for the use of grapes imported from other vineyards.

The building would allow the making of wine and it is generally considered that its an agriculturally associated procedure. Guidance within PPS7 and the policies in the Development Plan are supportive of agricultural development in the countryside so long as it is demonstrated that it is reasonably necessary.

The Council's agricultural expert has assessed the application and considers the scale of the development to be appropriate and reasonably necessary for the production of the grapes from the 5 hectares of vineyards.

The current situation involves the harvest being transported to the Chapel Down Winery at Tenterden. This is not commercially viable in the long term with the current rate of expansion of the enterprise.

The scale of the development is reasonably necessary for agriculture and would comply with the policies of the Development Plan.

Visual Impact

The proposed development would be screened from views from Five Oak Lane and Snoad Lane by the existing agricultural barn located to the north of the proposed development.

Any views of the development would be partially screened by existing buildings and in any case the development would form part of the existing complex of farm buildings and would not significantly extend the built development into the open countryside. There would be no harm caused to the character and appearance of the Low Weald Special Landscape Area.

The heights of the buildings are required for the functioning of the buildings and are fit for purpose. This is confirmed by the Council's agricultural advisor who states:-

"...the scheme satisfactorily breaks up the structures into various elements of differing heights and footprints according to their respective functions, makes suitable use of the roof space in the main building, and results overall in a relatively compact layout."

The proposed landscaping would enhance the area and would include English oak, field maple and sweet chestnut trees as well as meadow and wildflower mix and a mixed hedgerow (predominantly hazel).

Residential Amenity

The nearest residential property would be 'Plain Farm' (a barn conversion), which would be approximately 59 metres away from the proposed building with the existing barns between the new development and the residential properties here and at 1-3 Plain Cottages (approximately 75 metres away). These distances would be sufficient to prevent any loss of light or an overwhelming impact on the properties.

No loss of privacy would occur from the development due to the distances and the nature of the proposed development.

Some concern has been raised regarding the potential for noise disturbance from the use. The Environmental Health Manager has examined the application and is satisfied that the development is unlikely to result in a significant level of disturbance to the occupiers of the dwellings. A condition could be imposed to restrict operational times and delivery times in order to minimise disturbance to nearby residential occupiers.

Ecological Issues

The applicant has undertaken an extended ecology phase 1 habitat survey report and Natural England have raised no objections to the findings. There is a recommendation that a further amphibian survey be carried out within the survey to establish whether the ponds are breeding grounds for amphibians, including Great Crested Newts.

The development footprint itself provides poor habitat for amphibians and I am therefore satisfied that this additional survey could be a requirement of a planning condition.

Other Issues

Concern has been raised about future diversification. This would require further planning applications that would be assessed against the relevant policies at that time.

No external lighting is proposed as part of the application and a condition shall be imposed to ensure the Local Planning Authority has control on any proposed.

Overall I consider the application is acceptable and recommend approval with conditions.

RECOMMENDATION

My recommendation is for approval with conditions (AC)

DECISION

Conditions or reasons for refusal

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall only be used to produce wine from grapes grown on the Hush Heath Estate;

Reason: To ensure a sustainable development and to protect the level of amenity enjoyed by neighbouring occupiers in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and CC1 of the South East Plan 2009.

3. The development shall not commence until written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

4. All planting, seeding or turfing comprised in the details of landscaping identified on drawing number 2.01 Rev A received on 30/1/09 shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development in accordance with policies ENV6 of the Maidstone Borough-Wide Local Plan (2000) and QL1 of the Kent & Medway Structure Plan 2006.

5. The recommendations contained within the Ecology Phase 1 Habitat Survey Report dated 05 May 2009 shall be fully adhered to throughout the development from site clearance through to completion of the development;

Reason: To ensure no protected species are harmed in accordance with PPS9.

6. No works shall commence on site, including clearance until an amphibian survey is undertaken in accordance with the recommendation in the submitted Ecology Phase 1 Habitat Survey Report dated 05 May 2009 to check for the presence/absence of amphibians including the European Protected Species of the Great Crested Newt. The survey shall include appropriate mitigation measures, if necessary, and the development shall be carried out strictly in accordance with the recommendations and mitigation measures until completion;

Reason: To ensure no protected species are harmed in accordance with PPS9.

7. No plant and machinery shall be operated and no work shall take place on the site on Sundays and Bank Holidays and only between the hours of 0700 to 1800 on weekdays and 0800 to 1300 on Saturdays;

Reason: To safeguard the amenities of the area in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

8. No vehicle may arrive, depart, be loaded or unloaded within the general site except between the hours of 0700 to 1800 Mondays to Fridays and 0800 to 1300 hours on Saturdays (and at no time on Sundays or Bank Holidays). When within the site no vehicle shall be stationary with its engine or refrigerator running.

Reason: In the interest of preventing noise nuisance from the unloading, loading and manoeuvring of vehicles and the running of engines or refrigerators of vehicles to adjoining occupiers in accordance with policy QL1 of the Kent and Medway Structure Plan (2006).

9. No development shall commence until details of any external lighting are submitted to and approved by the Local Planning Authority and the development shall be carried out in accordance with the approved details. No further external lighting shall be installed without the prior written consent of the Local Planning Authority;

Reason: To safeguard visual amenity in accordance with policies ENV28 of the Maidstone Borough-Wide Local Plan (2000) and QL1 of the Kent and Medway Structure Plan (2006).

Informative

1. Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.
2. Clearance and burning of existing woodland or rubbish must be carried out without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.
3. Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.
4. Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

5. In order to minimise dust and dirt being blown about and potentially causing a nuisance to occupiers of nearby premises the following precautions should be taken.

- Reasonable and practicable steps should be used during any demolition or removal of existing structure and fixtures, to dampen down the general site area, using a suitable water or liquid spray system.
- Where practicable, all loose material on the site should be covered during the demolition process.
- During the construction, reconstruction, refurbishment or modification of the building and where practicable the exterior should be sheeted, enclosing openings etc. as necessary.

REASON FOR APPROVAL (if appropriate)

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and Kent and Medway Structure Plan 2006) and there are no overriding material considerations to indicate a refusal of planning consent.

This application has been considered in relation to the following policies:

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, EN34

Kent and Medway Structure Plan 2006: SP1, SS8, EN1, EN5, EP7, EP8, NR10, NR11

Agreed by PPO R. Jarrow Date 25/6/09

Delegated Report

HUSH HEATH WINERY, FIVE OAK LANE, STAPLEHURST, MAIDSTONE, KENT, TN12 0HX

Use of wine tasting room for the general sale of wine and cider produced on the holding as shown on site plan and floor plan, supported by covering letter all received 18th February 2013 and site location plan received 4th September 2013.

Publicity Expiry Date: 03-Oct-2013

Has statutory consultation and neighbour notification been properly carried out? Yes

Has the application been properly advertised? Not applicable			
N	the decision would not conform to the provisions of the Development Plan	N	was accompanied by an EIA
N	would affect a public right of way	N	is of wide public interest
N		N	affects a listed building
N		N	affects a conservation area
Is it necessary to consult the Sec. of State (GOSE) before determining this application? No			
N	T&CP (Shopping Development) (England & Wales) (No 2) Direction 1993	specified retail developments over 2,500m ²	
N	Circular 14/97 'Planning & Historic Environment' Appendix A	specified listed building consent applications	
N	T&CP (Development Plans & Consultation) (Departures) Direction 1999	specified major departures from Development Plan	
N	Circular 9/98 T&CP (Playing Fields) (England) Direction 1998	loss of specified playing fields	
N	Circular 8/00 T&CP (Residential Development on Greenfield Land) (Eng) Direction 2000	more than 150 dwellings or 5 hectares of housing	
Do the matters considered in this report raise any unique Human Rights issues? No			

POLICIES

Maidstone Borough-Wide Local Plan 2000: ENV28, T13, R12

Village Design Statement: Not applicable

Government Policy: National Planning Policy Framework 2012

HISTORY

- MA/11/1099 Retrospective application for the erection of a side extension to existing farm building - APPROVED WITH CONDITIONS
- MA/09/2169 Application to vary conditions of MA/09/0127 (winery and associated works) as follows:

Condition 2 - The development hereby permitted shall only be used to produce wine from grapes grown within a distance of 25 miles of the Hush Heath Estate;

Condition 7 - Remove (relating to machinery and plant operations)

Condition 8 - To read: No vehicle used in connection with the wine making process may arrive, depart, be loaded or unloaded within the general site except between the hours of 0700 to 1800 Mondays to Fridays and 0800 to 1300 hours on Saturdays (and at no time on Sundays or Bank Holidays), with the exception of a maximum of 35 days per annum when the hours of 0700 to 2300 Mondays to Sundays will apply. When within the site no vehicle used in connection with the wine making process shall be stationary with its engine or refrigerator running as shown on details submitted on 26/11/09 - APPROVED WITH CONDITIONS

- MA/09/0127 Planning permission for the erection of a winery, including associated works, hardstanding and parking - APPROVED WITH CONDITIONS

SITE HISTORY CONSIDERATIONS

Planning permission was granted under MA/09/0127 for the erection of a winery subject to conditions, some of which were later varied to allow more flexibility in the operation of the business.

CONSULTATIONS

Newspaper Advertisement Expiry Date: Not applicable.

Parish Council: Staplehurst Parish Council wish to see the application approved.

Neighbours: No representations were received.

Other: Not applicable.

Disabled Considerations: The facility is accessible to persons of disability.

Environmental Health Considerations: Not applicable.

Highways Considerations: Please see main text.

Public Safety Considerations: Not applicable.

CONSIDERATIONS

Site Visited: 21st October 2013

Site description and history

The proposal site is located in open countryside designated as being within a Special Landscape Area in a relatively remote location in the parish of Staplehurst. The site is located to the south of the junction between Five Oak Lane, the C79, and Snoad Lane, an unclassified highway. The site has an existing access from Five Oak Lane, and a significant provision of on site parking.

The site comprises a small number of agricultural type buildings, including the winery granted under MA/09/0127.

Proposed development

The application proposes the change of use of part of the existing winery building to allow the on site sale of wine. The relevant part of the building is currently used as a tasting room. No external alterations to the building are proposed.

The sales/tasting room is located in the south west corner of the building, and has a floor area of approximately 48m², representing approximately 1/16 of the entire floor area of the building, the remainder of which would remain available for production (tanks, presses, bottling, labelling, etc).

There would be no change to the existing access or on site car parking provision.

Policy context

The site is located in a rural location in the open countryside beyond the bounds of any town or village. In such a location, development is tightly restricted by the provisions of the Development Plan and central government planning policy and guidance, and under the provisions of policies ENV28 of the Local Plan the impact of development on the character and appearance of the landscape is a significant consideration in such cases.

In addition to the above, Local Plan policy R12 restricts retail uses outside defined urban and village areas to shops selling fresh produce at the point of production. Whilst wine is processed and thereby not a "fresh" product, to my mind the permission relating to the winery is a material consideration such that provision for the sale of wines from the site would not be contrary to the spirit of the policy.

This interpretation is in line with policy as set out in the National Planning Policy Framework 2012 which supports the sustainable growth and expansion of existing businesses and the development of agricultural and other land based businesses.

Planning considerations

Conditions attached to the previous consents restrict the wines that can be produced on the site in respect of the provenance of the grapes; a condition restricting sales to wine that is produced on the Hush Heath Estate shall achieve a similar limitation on unrestricted sales, which would be contradictory to planning policy.

The proposal would not have any implications for landscaping or ecology, and would have no detrimental impact upon the listed buildings located to the north east of the building. The site is not located in an area recorded by the Environment Agency as being in an area prone to flood, and the proposal would not result in harm to the residential amenity of the occupiers of neighbouring properties, subject to imposing the existing vehicle movements condition relating to the wider site, which would not be unreasonable in the circumstances of this case.

Conclusion

For the reasons set out above, the proposed development is considered to be in accordance with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and national planning policy and guidance, having regard to any other material considerations, and I therefore recommend it for approval subject to the following conditions.

RECOMMENDATION (Please type CAREFULLY – Approved, Approved with conditions or Refused)

My recommendation is approval with conditions (AC).

DECISION

Conditions or reasons for refusal

1. The development hereby permitted shall only be used for the sale of wine produced by the Hush Heath Estate at the Hush Heath Winery;

Reason: To ensure a sustainable development and prevent a general retail use from being established in an inappropriate location, to safeguard the rural amenity of the open countryside and the enjoyment of their properties by adjoining residential occupiers, and prevent harm to highway safety.

2. No vehicle may arrive, depart, be loaded or unloaded within the general site except between the hours of 0700 to 1800 Mondays to Fridays and 0800 to 1300 hours on Saturdays (and at no time on Sundays or Bank and Public Holidays) with the exception of a maximum of 35 days per calendar year when the hours of 0700 to 2300 Mondays to Sundays will apply. The applicant (or successor in title) shall keep a log of the dates when the extended hours are operated, which will be made available to the Local Planning Authority if requested. When within the site no vehicle shall be stationary with its engine or refrigerator running.

Reason: In the interest of preventing noise nuisance from the unloading, loading and manoeuvring of vehicles and the running of engines or refrigerators of vehicles to adjoining occupiers.

3. Only the wine sales area identified in pink on the approved drawing received 18th February 2013 shall be used for retail sales and no other land shall be used for sales purposes;

Reason: In the interests of the rural amenity of the open countryside, to safeguard the enjoyment of their properties by adjoining residential occupiers and prevent harm to highway safety.

4. No retail sales to the public shall be carried out outside of the hours of 08:00-18:00 Mondays to Saturdays and at no time on Sundays or Bank and Public Holidays;

Reason: In the interests of the rural amenity of the open countryside, to safeguard the enjoyment of their properties by adjoining residential occupiers and prevent harm to highway safety.

Informative

REASON FOR APPROVAL (if appropriate)

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

The application was approved without delay.

This application has been considered in relation to the following policies:

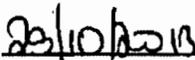
Maidstone Borough-Wide Local Plan 2000: ENV28, T13, R12

South East Plan 2009:

Agreed by PPO



Date





Directorate of Change, Planning and the Environment
Maidstone House, King Street, Maidstone, ME15 6JQ

DEVELOPMENT CONTROL

Mrs Leslie Balfour-Lynn
HUSH HEATH WINERY
FIVE OAK LANE
STAPLEHURST
MAIDSTONE
KENT
TN12 0HX

My Ref: MA/13/0265
Date: 29 October 2013

TOWN AND COUNTRY PLANNING ACTS

Town and Country Planning (General Permitted Development) Order 1995
Town and Country Planning (Development Management Procedure) (England)
Order 2010

TAKE NOTICE that **THE MAIDSTONE BOROUGH COUNCIL**, The Local Planning Authority under the Town and Country Planning Acts, has **GRANTED PLANNING PERMISSION** in accordance with the details set out below:

APPLICATION: MA/13/0265

DATE RECEIVED: 4 September 2013 DATE VALID: 4 September 2013

APPLICANT: Mrs Leslie Balfour-Lynn

PROPOSAL: Use of wine tasting room for the general sale of wine and cider produced on the holding as shown on site plan and floor plan, supported by covering letter all received 18th February 2013 and site location plan received 4th September 2013.

LOCATION: HUSH HEATH WINERY, FIVE OAK LANE, STAPLEHURST, MAIDSTONE, KENT, TN12 0HX

GRID REF: 575843, 141841

This permission is **SUBJECT** to the following conditions:

1. The development hereby permitted shall only be used for the sale of wine produced by the Hush Heath Estate at the Hush Heath Winery;

Reason: To ensure a sustainable development and prevent a general retail use from being established in an inappropriate location, to safeguard the rural

Continuation of decision: MA/13/0265

amenity of the open countryside and the enjoyment of their properties by adjoining residential occupiers, and prevent harm to highway safety.

2. No vehicle may arrive, depart, be loaded or unloaded within the general site except between the hours of 0700 to 1800 Mondays to Fridays and 0800 to 1300 hours on Saturdays (and at no time on Sundays or Bank and Public Holidays) with the exception of a maximum of 35 days per calendar year when the hours of 0700 to 2300 Mondays to Sundays will apply. The applicant (or successor in title) shall keep a log of the dates when the extended hours are operated, which will be made available to the Local Planning Authority if requested. When within the site no vehicle shall be stationary with its engine or refrigerator running.

Reason: In the interest of preventing noise nuisance from the unloading, loading and manoeuvring of vehicles and the running of engines or refrigerators of vehicles to adjoining occupiers.

3. Only the wine sales area identified in pink on the approved drawing received 18th February 2013 shall be used for retail sales and no other land shall be used for sales purposes;

Reason: In the interests of the rural amenity of the open countryside, to safeguard the enjoyment of their properties by adjoining residential occupiers and prevent harm to highway safety.

4. No retail sales to the public shall be carried out outside of the hours of 08:00-18:00 Mondays to Saturdays and at no time on Sundays or Bank and Public Holidays;

Reason: In the interests of the rural amenity of the open countryside, to safeguard the enjoyment of their properties by adjoining residential occupiers and prevent harm to highway safety.

This application has been considered in relation to the following policies:

Maidstone Borough-Wide Local Plan 2000: ENV28, T13, R12

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.

IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

Continuation of decision: MA/13/0265

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

The application was approved without delay.

Signed

R. LL. Jarman

Rob Jarman
Head of Planning

Date 29 October 2013

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**THIS IS NOT A BUILDING REGULATION APPROVAL**

It is the responsibility of the developer to ensure, before the development hereby approved is commenced, that approval under the Building Regulations, where required, and any other necessary approvals, have been obtained, and that the details shown on the plans hereby approved agree in every aspect with those approved under such legislation.

**IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES**

Continuation of decision: MA/13/0265

**TAKE NOTICE** that this decision does not confirm compliance with Section 53 of The County of Kent Act, 1981 and, therefore, it will be incumbent upon the applicant to ensure they comply with the said requirement.

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IMPORTANT:- YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

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DEC1 fulac

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1 2 3 4 5 6 7 8 9 10



**Application for Planning Permission.
Town and Country Planning Act 1990**

Publication of applications on planning authority websites.

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

1. Applicant Name, Address and Contact Details			
Title:	<input type="text" value="Mr"/>	First Name: <input type="text" value="Richard"/>	Surname: <input type="text" value="Balfour-Lynn"/>
Company name:	<input type="text"/>		
Street address:	<input type="text" value="Hush Heath Winery, Five Oak Lane"/>		
	<input type="text"/>		
Town/City:	<input type="text" value="STAPLEHURST"/>	Telephone number:	<input type="text"/>
Country:	<input type="text"/>	Mobile number:	<input type="text"/>
Postcode:	<input type="text" value="TN12 0HT"/>	Fax number:	<input type="text"/>
		Email address:	<input type="text"/>
Are you an agent acting on behalf of the applicant?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

2. Agent Name, Address and Contact Details			
Title:	<input type="text" value="Mr"/>	First Name: <input type="text" value="Nick"/>	Surname: <input type="text" value="Mumby"/>
Company name:	<input type="text" value="Design Quarter UK Ltd."/>		
Street address:	<input type="text" value="B6-B7 The Admirals Office"/>		
	<input type="text" value="Main Gate Road"/>		
	<input type="text" value="The Historic Dockyard"/>		
Town/City:	<input type="text" value="Chatham"/>	Telephone number:	<input type="text" value="01634832000"/>
Country:	<input type="text" value="England"/>	Mobile number:	<input type="text"/>
Postcode:	<input type="text" value="ME4 4TZ"/>	Fax number:	<input type="text"/>
		Email address:	<input type="text" value="nnumby@design-quarter.co.uk"/>

3. Description of the Proposal	
Please describe the proposed development including any change of use:	
<input type="text" value="Proposed new Processing Hall, including visitor tasting room and administration offices."/>	
Has the building, work or change of use already started?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

4. Site Address Details

Full postal address of the site (including full postcode where available)

House: Suffix:

House name:

Street address:

Town/City:

Postcode:

Description of location or a grid reference
(must be completed if postcode is not known):

Easting:

Northing:

Description:

5. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application?

Yes No

6. Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicle access proposed to or from the public highway?

Yes No

Is a new or altered pedestrian access proposed to or from the public highway?

Yes No

Are there any new public roads to be provided within the site?

Yes No

Are there any new public rights of way to be provided within or adjacent to the site?

Yes No

Do the proposals require any diversions/extinguishments and/or creation of rights of way?

Yes No

7. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste?

Yes No

Have arrangements been made for the separate storage and collection of recyclable waste?

Yes No

8. Authority Employee/Member

With respect to the Authority, I am:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

Do any of these statements apply to you?

Yes No

9. Materials

Please state what materials (including type, colour and name) are to be used externally (if applicable):

Doors - description:

9. Materials

Description of *existing* materials and finishes:

Description of *proposed* materials and finishes:

See drawings for specific details

Roof - description:

Description of *existing* materials and finishes:

Description of *proposed* materials and finishes:

See drawings for specific details

Walls - description:

Description of *existing* materials and finishes:

Description of *proposed* materials and finishes:

See drawings for specific details

Windows - description:

Description of *existing* materials and finishes:

Description of *proposed* materials and finishes:

See drawings for specific details

Are you supplying additional information on submitted plan(s)/drawing(s)/design and access statement?

Yes No

10. Vehicle Parking

Please provide information on the existing and proposed number of on-site parking spaces:

Type of vehicle	Existing number of spaces	Total proposed (including spaces retained)	Difference in spaces
Cars	75	75	0

11. Foul Sewage

Please state how foul sewage is to be disposed of:

Mains sewer
 Package treatment plant
 Unknown
 Septic tank
 Cess pit
 Other

Are you proposing to connect to the existing drainage system?

Yes No Unknown

12. Assessment of Flood Risk

Is the site within an area at risk of flooding? (Refer to the Environment Agency's Flood Map showing flood zones 2 and 3 and consult Environment Agency standing advice and your local planning authority requirements for information as necessary.)

Yes No

If Yes, you will need to submit an appropriate flood risk assessment to consider the risk to the proposed site.

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)?

Yes No

Will the proposal increase the flood risk elsewhere?

Yes No

How will surface water be disposed of?

Sustainable drainage system
 Main sewer
 Pond/lake

12. Assessment of Flood Risk

How will surface water be disposed of?

- Soakaway Existing watercourse

13. Biodiversity and Geological Conservation

To assist in answering the following questions refer to the guidance notes for further information on when there is a reasonable likelihood that any important biodiversity or geological conservation features may be present or nearby and whether they are likely to be affected by your proposals.

Having referred to the guidance notes, is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, OR on land adjacent to or near the application site:

a) Protected and priority species

- Yes, on the development site Yes, on land adjacent to or near the proposed development No

b) Designated sites, important habitats or other biodiversity features

- Yes, on the development site Yes, on land adjacent to or near the proposed development No

c) Features of geological conservation importance

- Yes, on the development site Yes, on land adjacent to or near the proposed development No

14. Existing Use

Please describe the current use of the site:

Wine production and Visitor Tasting Room

Is the site currently vacant? Yes No

Does the proposal involve any of the following?

If yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated? Yes No

Land where contamination is suspected for all or part of the site? Yes No

A proposed use that would be particularly vulnerable to the presence of contamination? Yes No

15. Trees and Hedges

Are there trees or hedges on the proposed development site? Yes No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?

Yes No

If Yes to either or both of the above, you may need to provide a full Tree Survey, at the discretion of your local planning authority. If a Tree Survey is required, this and the accompanying plan should be submitted alongside your application. Your local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

16. Trade Effluent

Does the proposal involve the need to dispose of trade effluents or waste? Yes No

If Yes, please describe the nature, volume and means of disposal of trade effluents or waste:

Where production facilities require the washdown of plant on site, waste effluent would have to be contained within independent below ground waste storage chambers. Periodic removal of this effluent would be undertaken by licensed waste carriers.

17. Residential Units

Does your proposal include the gain or loss of residential units?

Yes No

Market Housing - Proposed					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Proposed Market Housing Total

Market Housing - Existing					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Existing Market Housing Total

Social Rented Housing - Proposed					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Proposed Social Housing Total

Social Rented Housing - Existing					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Existing Social Housing Total

Intermediate Housing - Proposed					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Proposed Intermediate Housing Total

Intermediate Housing - Existing					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Existing Intermediate Housing Total

Key Worker Housing - Proposed					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Proposed Key Worker Housing Total

Key Worker Housing - Existing					
	Number of bedrooms				
	1	2	3	4+	Unknown
Bedsits/Studios					
Cluster Flats					
Flats/Maisonettes					
Houses					
Live-Work Units					
Sheltered Housing					
Unknown					

Existing Key Worker Housing Total

18. All Types of Development: Non-residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace?

Yes No

Use Class/type of use	Existing gross internal floorspace (square metres)	Gross internal floorspace to be lost by change of use or demolition (square metres)	Total gross new internal floorspace proposed (including changes of use) (square metres)	Net additional gross internal floorspace following development (square metres)
Other	1,372	0	1,250	1,250
Total	1,372	0	1,250	1,250

For hotels, residential institutions and hostels, please additionally indicate the loss or gain of rooms:

Use Class/types of use	Existing rooms to be lost by change of use or demolition	Total rooms proposed (including changes of use)	Net additional rooms

19. Employment

If known, please complete the following information regarding employees:

	Full-time	Part-time	Equivalent number of full-time
Existing employees	16		
Proposed employees	4		

20. Hours of Opening

If known, please state the hours of opening (e.g. 15:30) for each non-residential use proposed:

Use	Monday to Friday		Saturday		Sunday and Bank Holidays		Not Known
	Start Time	End Time	Start Time	End Time	Start Time	End Time	
Other	11:00:00	17:00:00	11:00:00	17:00:00			<input type="checkbox"/>

21. Site Area

What is the site area?

2.30 hectares

22. Industrial or Commercial Processes and Machinery

Please describe the activities and processes which would be carried out on the site and the end products including plant, ventilation or air conditioning. Please include the type of machinery which may be installed on site:

Collection and maintenance of crops (apples and grapes)
Deliveries and Distribution
Public visitors, tours and corporate events

Is the proposal for a waste management development?

Yes No

If this is a landfill application you will need to provide further information before your application can be determined. Your waste planning authority should make clear what information it requires on its website.

23. Hazardous Substances

Is any hazardous waste involved in the proposal?

Yes No

A. Toxic substances

Amount held on site

Tonne(s)

Design

Use

The estate was first established with apples over 30 years ago and supplied produce to London. As a working farm, it then expanded to grapes and the first Hush Heath vineyard was established 15 years later in 2002 comprising five acres of traditional Champagne grape varieties. This first harvest, the 2004 vintage Balfour Brut Rose, won the Gold Medal and Trophy at the International Wine Challenge. It was this award winning wine that has been the foundation for the growth of Hush Heath Winery. The production of the wine takes place in the converted 'cow shed' (2010) located close to the entrance to the estate off 'Five acre lane', this timber clad 'cow shed' now houses a vast array of 'state-of-the-art' equipment which has encouraged the growth of the Winery. Next to the existing Winery is a purpose built green 'Bottle store' which is temperature controlled and allows for the storage of sparkling wines. Further awards and accolades for the various wines produced have culminated in many various clientele and outlets, from British Airways, Orient Express to being chosen as the only English Sparkling wine at the 2012 London Olympics.

More recently the major supermarkets (Waitrose & Tesco) have also realised what Hush Heath Winery has to offer and have contracted Hush Heath to produce wines for them. This encouraged further vineyard planting and there is now over 27 acres producing top class grapes. This year a further 5 acres are to be planted and in 2018 another 18 acres, taking the total to 50 acres. Additionally, the estate also has 10 acres of Cox & Russet apple orchards which are also hand picked and then taken to the winery where they are used for sparkling apple wines and cider.

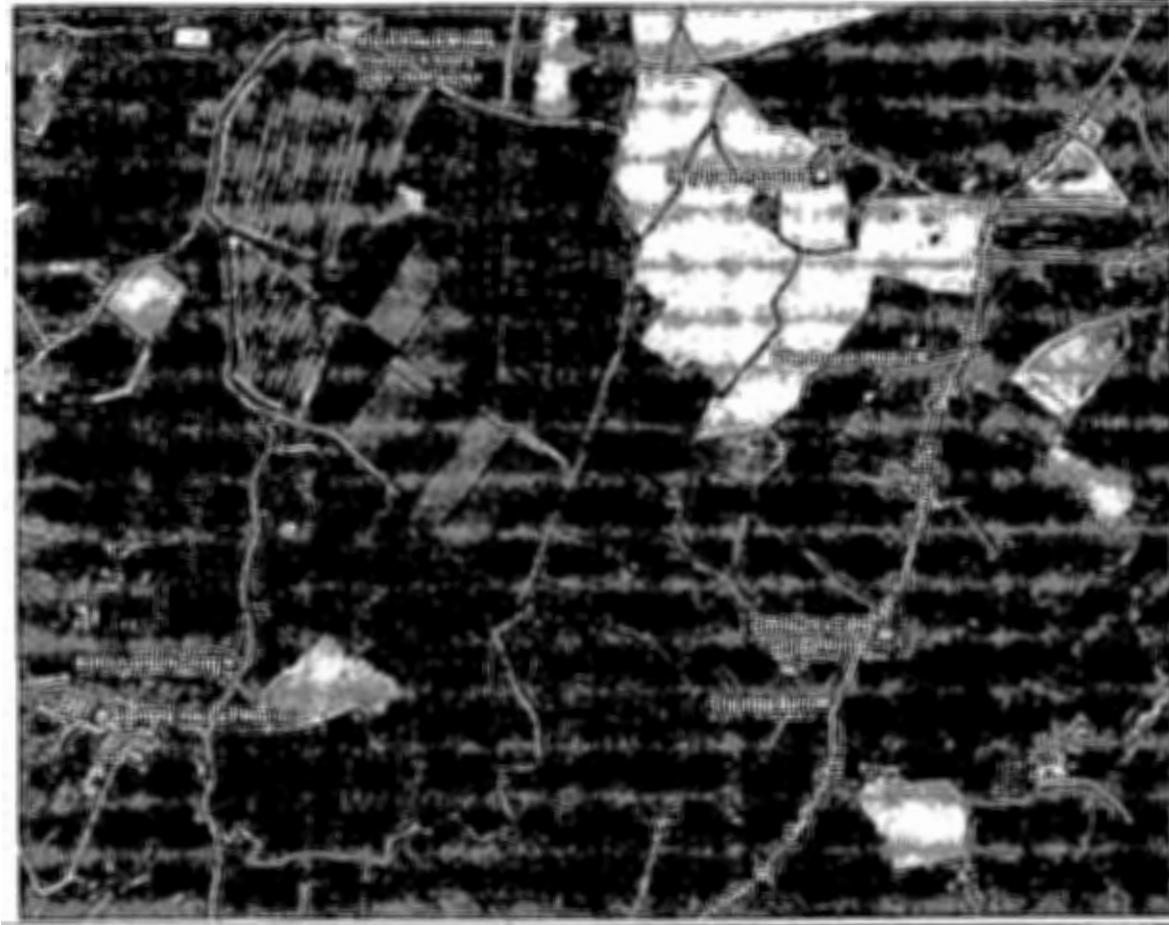
Hush Heath Winery is not only passionate about its produce but also active in showcasing the 'methodology' of producing high class wines. Hush Heath provide a very popular Wine tasting tour around the estate, educating visitors to the whole process of running a vineyard right through to the final process of 'Tasting' which is encouraged back at the Winery 'terrace' following the tour and where visitors are able to purchase produce from the Estate.





Therefore, coupled with its own success and the ever growing increase of tourists and visitors, Hush Heath Winery has outgrown its humble beginnings. This is not necessarily due to an increase in production, but with the collaboration of the major super markets and the rigorous requirements that they apply, a separate bottling/ labelling hall is required. With this in mind Hush Heath wish to take this opportunity to re-plan the whole processing procedure allowing easier access during harvesting times and allowing for greater storage of bottles of wine awaiting distribution. At the same time, to accommodate for increasing visitors, a dedicated 'tasting' room, shop and terrace would be linked to the new expansion.





Hush Heath Estate

HUSH HEATH WINERY, FIVE OAK LANE, STAPLEHURST, KENT, TN12 0HT

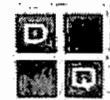


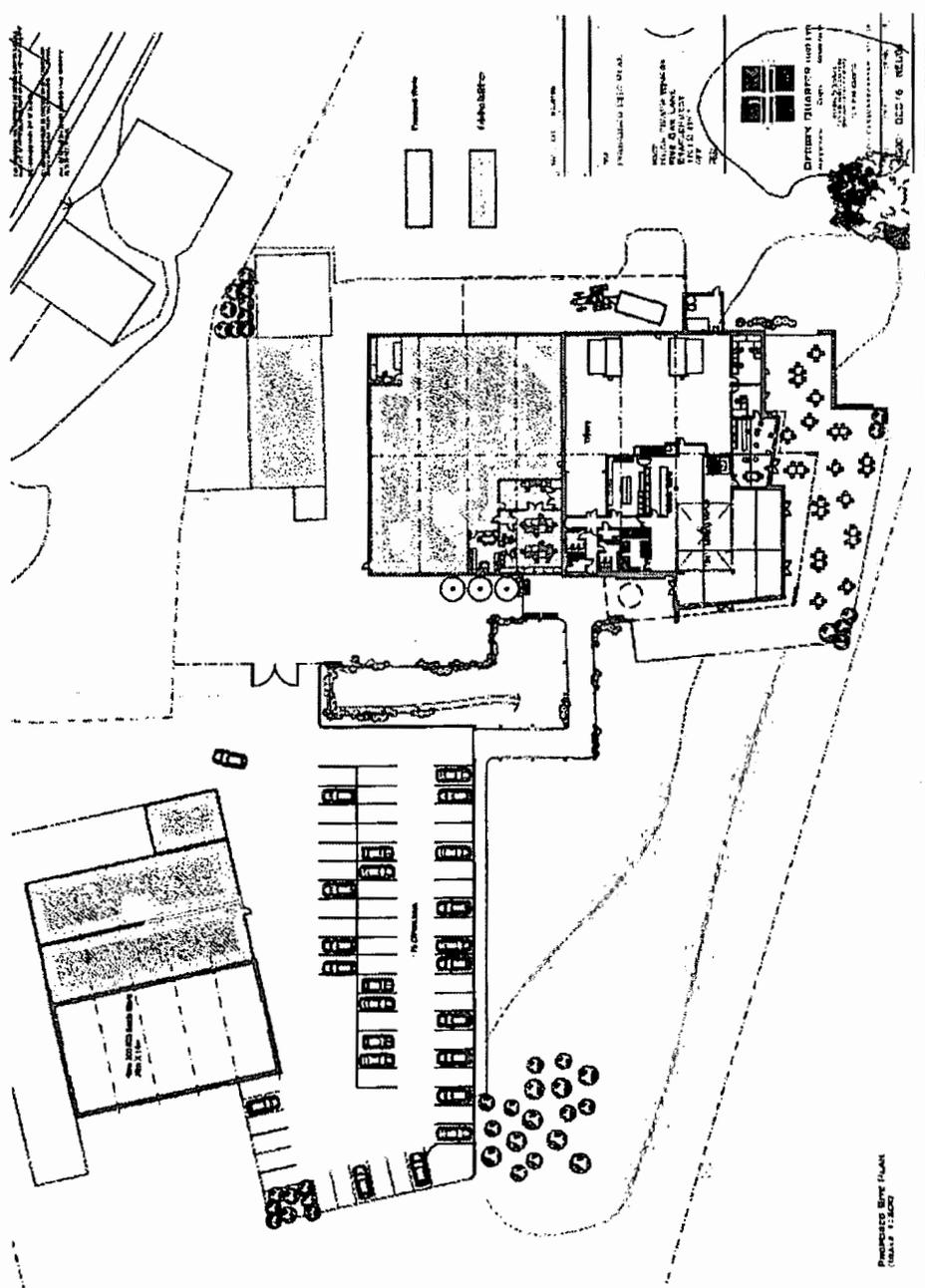
Amount

To accommodate the expansion of the winery, the same width as the existing 'portal frame' has been adopted in the design. One side of this new portal frame will be for the purpose of 'Processing' grapes. It will house the large vats required and will have a side 'roller shutter' access for tractors during harvest, which avoids them travelling completely around the Winery to unload, as they do now. The other side of this new portal frame will house the new ancillary areas such as WC's, Stores, Kitchen, Servery and Tasting rooms on the ground floor and another Corporate tasting area and storage to the first floor. Also on the first floor will be an external 'Terraced Area'. The remaining 'existing' hall which currently houses production, bottling and labelling will be left purely for bottling lines and packing.

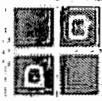
From this new additional 'portal frame' structure comes a single storey extension, this is a different aesthetic with larger openings that reflect the internal functions of the 'tasting areas' and shop which take full advantage of the southerly panorama.

Existing GFA's	Proposed GFA's
Winery: 748m ²	Winery Extension: 870m ²
Bottle Store: 150m ²	New bottle Store: 380m ²
Storage Sheds: 474m ²	
	<u>New GFA's Increase: 1250 m²</u>





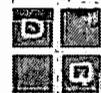
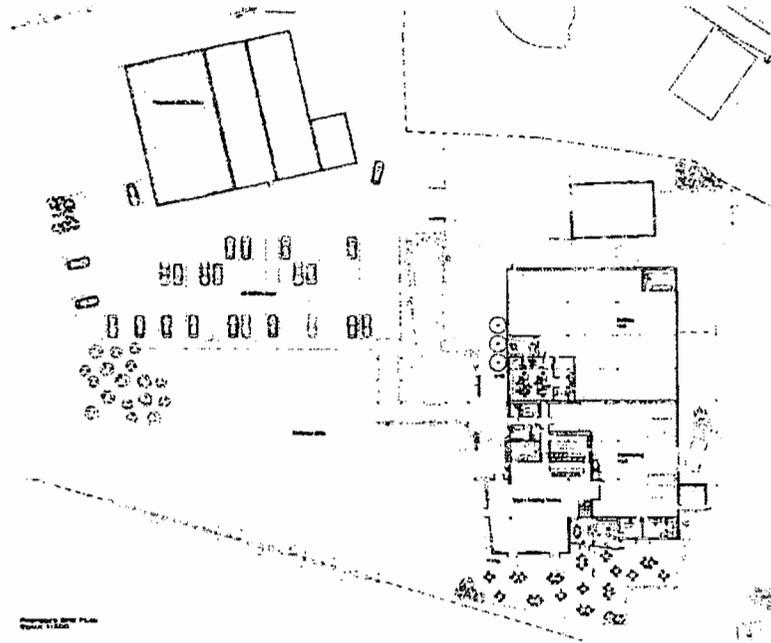
Proposed New Builds



HUSH HEATH WINERY, FIVE DAK LANE, STAPLEHURST, KENT, TN12 0HT

Layout

As mentioned above, the necessity to introduce a new hall for the purpose of bottling, labelling and packing has thrown up the possibility for rearranging the layout of the existing plant to allow a much more functional and efficient production area. The new extension 'grows' southward from the existing winery, providing visitors with the view south over the Estate but also avoiding blocking any views from the neighbouring property along Snoad Lane. This also segregates farm machinery going to and from the vineyards, accessing the west side of the Winery, from the general public visiting the shop/ tasting areas on the east side of the Winery. The existing Winery Shop will be reused as an Administration hub in the centre of the new Winery as well as a new Staff Room (not presently available) adjacent.

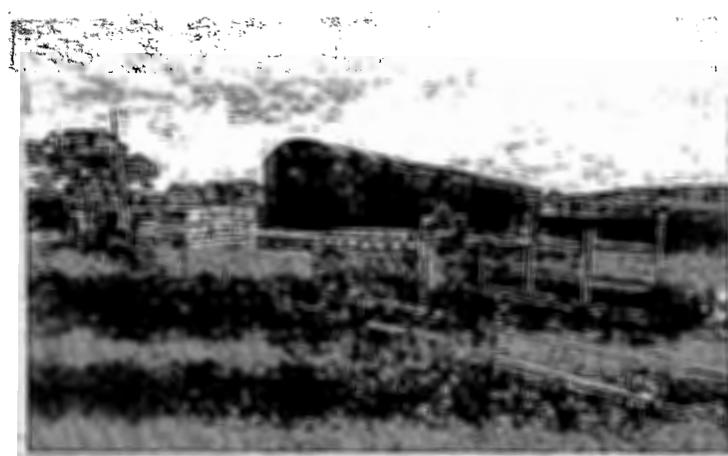


The new 14.5m X 26m Bottle Store has been aligned with the existing Storage sheds and provides a solid 'green' storage block that runs along with 'Five Oak Lane' offering a privacy screen to the Winery. Infront of this new Bottle store the existing car park will be extended, to accommodate visitors and staff.

The finish of the Car Park will be 'type1' material and not a 'tarmac' finish.



'Entrance' to Hush Heath Winery

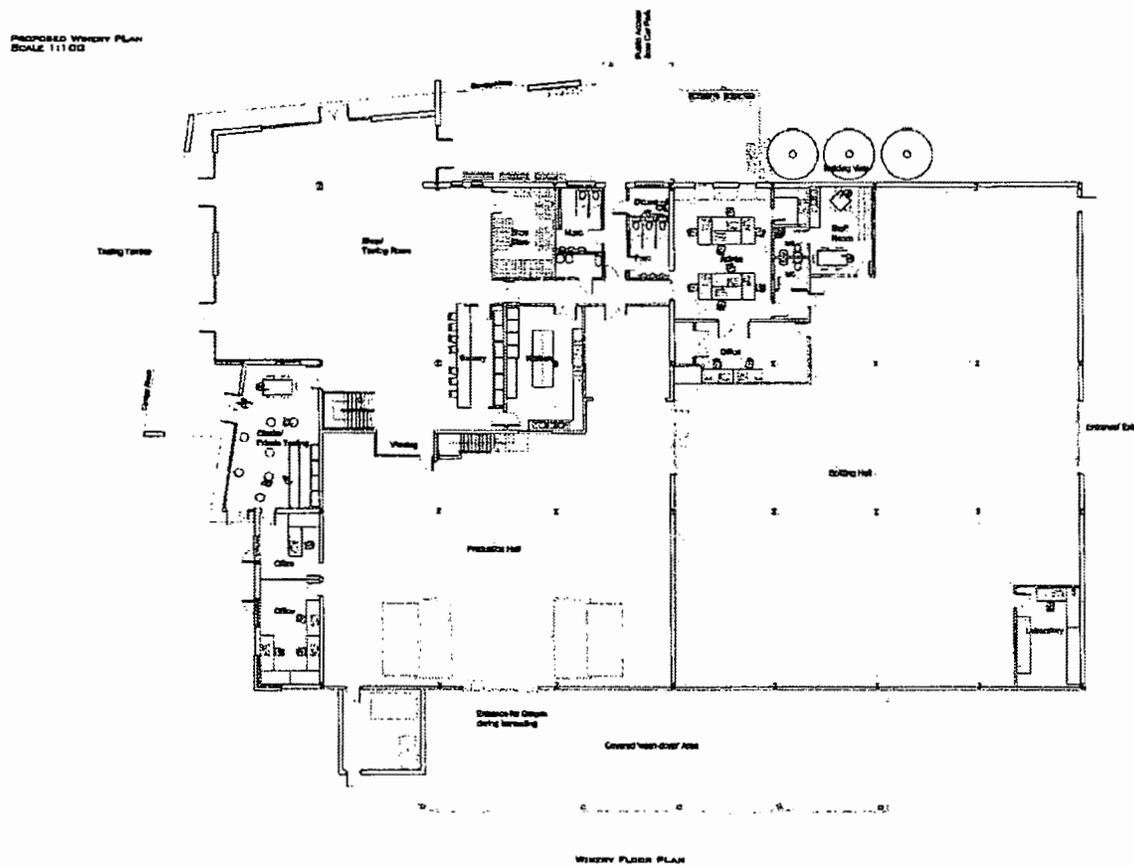


View of Winery from 'Five Oak Lane'



Scale

The proposed addition is similar in bulk and size to that of the existing Winery building. The new extension is raised 2m higher to allow a mezzanine level for storage rather than a separate building. This additional height also facilitates for taller tanks to store wine and cider before bottling, increasing efficiency.



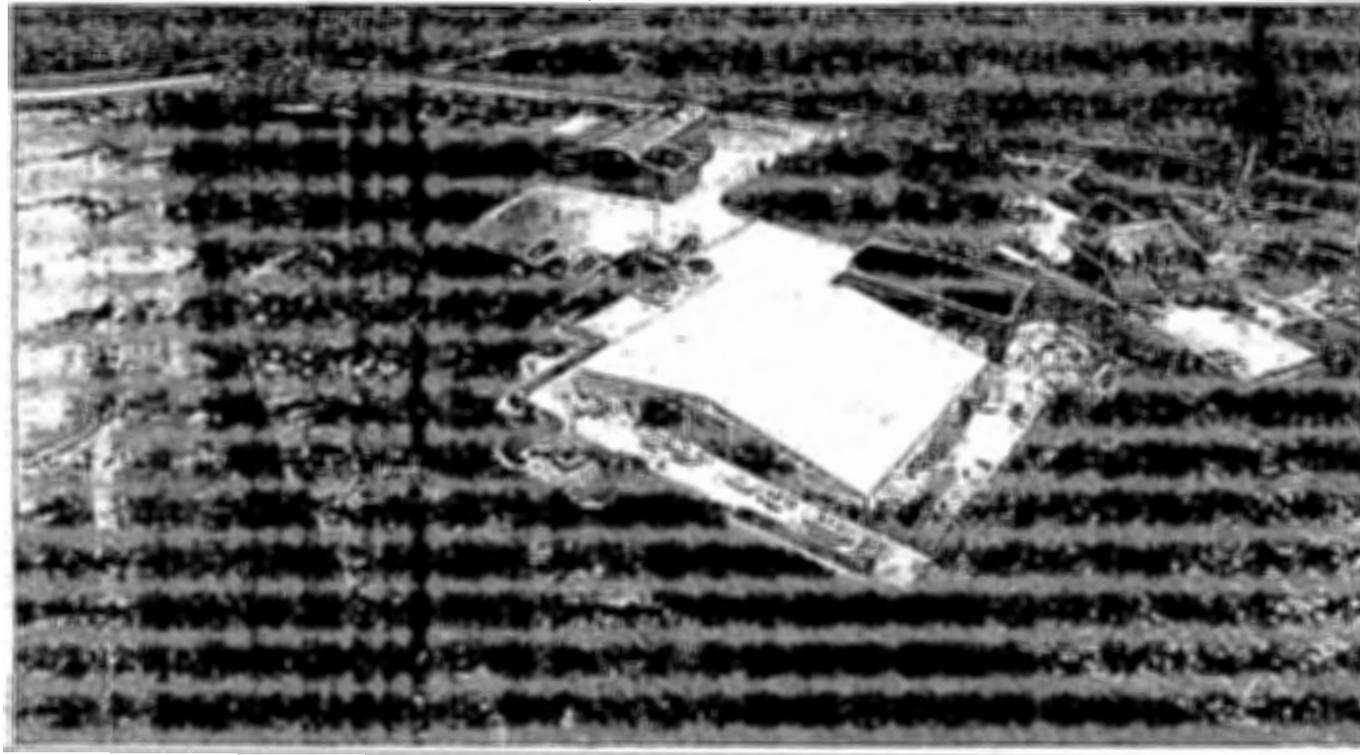
HUSH HEATH WINERY, FIVE OAK LANE, STAPLEHURST, KENT, TN12 0HT



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Landscaping

The extension of the Winery is intended to create as little disruption to the existing landscape as possible. The area adjacent to the existing car park and existing terrace area is grass and meadow grass. The newly planted 14no. trees to the south of the winery will be replanted adjacent to the new extent of the car park. Also any excavated soil during the works will be relocated on site, to the east near the junction of Wilden Park Road and Five Oak Lane, to create a low level embankment. See Ecology section for extent of landscaping to Hush Heath Winery.

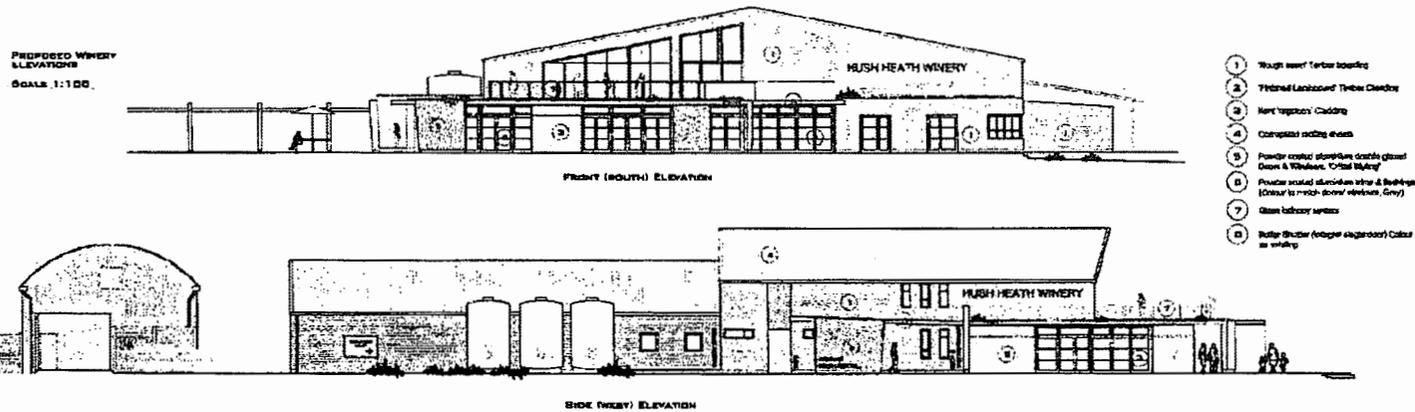


Aerial view of Existing Winery



Appearance

Primarily the extension of the Winery is a portal frame building clad with a similar timber 'ship lap' boarding as the existing building. However the south façade of the portal frame has one half glazed to throw natural light into the tasting areas of the new extension as well as allowing great views up to the 'Manor House' of the estate. Approaching the new Winery, through a run of timber 'pergolas', will be located a number of Large stainless steel vats that offer a view of what the new building is really about. The new extension is slightly raised higher than the existing to define it from the existing but more so to provide functional headroom within the mezzanine storage area. Growing out of the 'timber clad' portal frame building is a Contemporary single storey structure with ample glazing for views and light, new walls are also clad with 'Kentish' Ragstone to provide a strong textured aesthetic. The roof over this single storey area protrudes over the elevation to provide external cover/ shade as well as giving a first floor terrace area to the south section. All the glazing is to be powder coated aluminium in a 'Crittall Glazed' style. The conceptual idea for the new tasting rooms and ancillary areas is that of a simple 'Farm Shop' style; exposed structural elements painted, 'worn' wooden floor boards and shabby 'chic' interiors to provide a rustic, relaxed atmosphere.



South & East Elevations

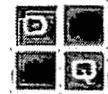
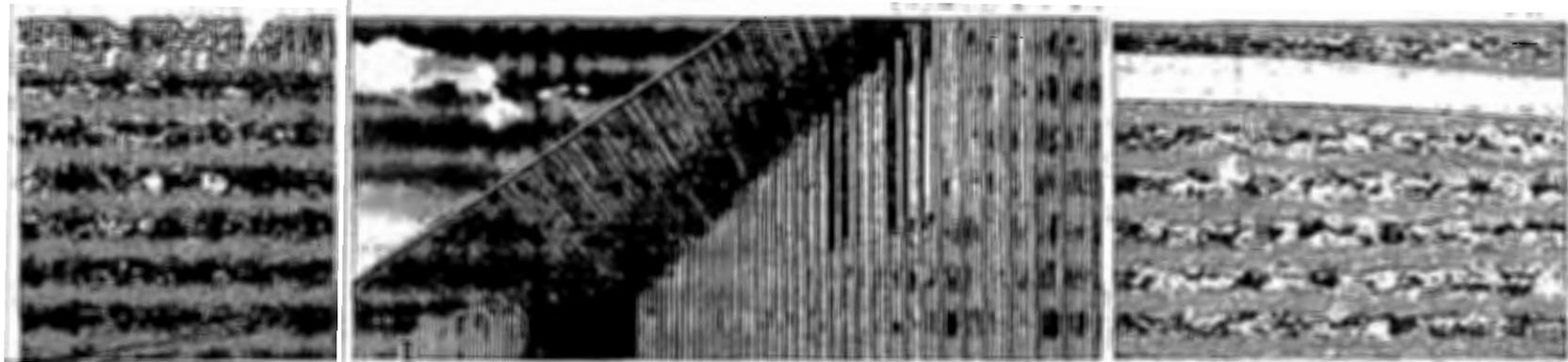
HUSH HEATH WINERY, FIVE OAK LANE, STAPLEHURST, KENT, TN12 0HT



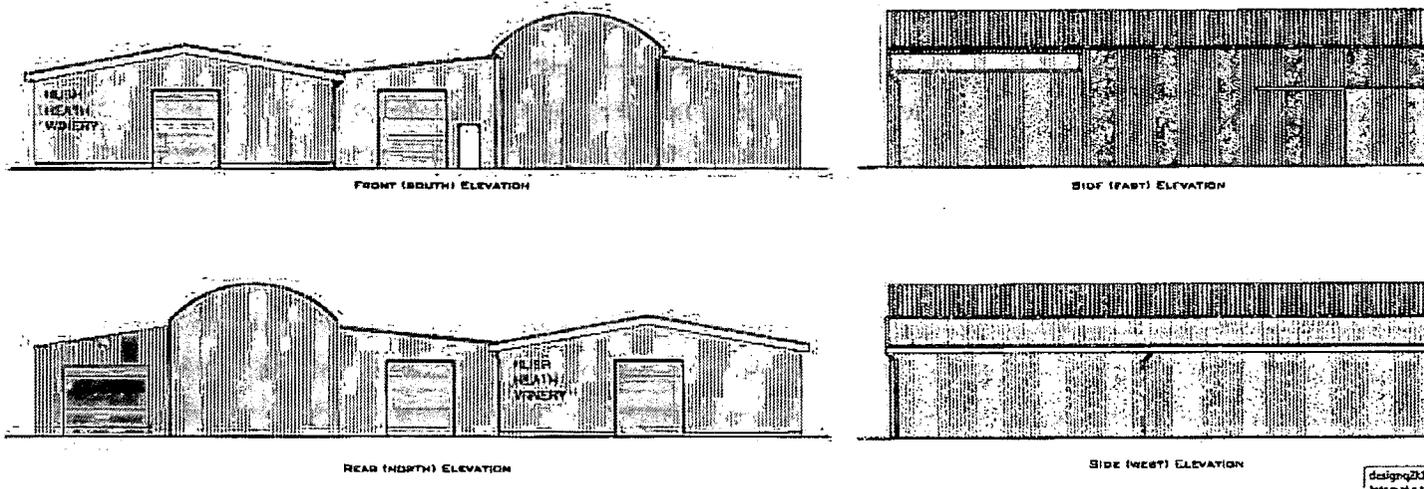
41



Conceptual Images



The new 'insulated' Bottle store will be clad in the same green corrugated sheets as the existing storage sheds to which it is located adjacent to.



Elevations of New Bottle Shed

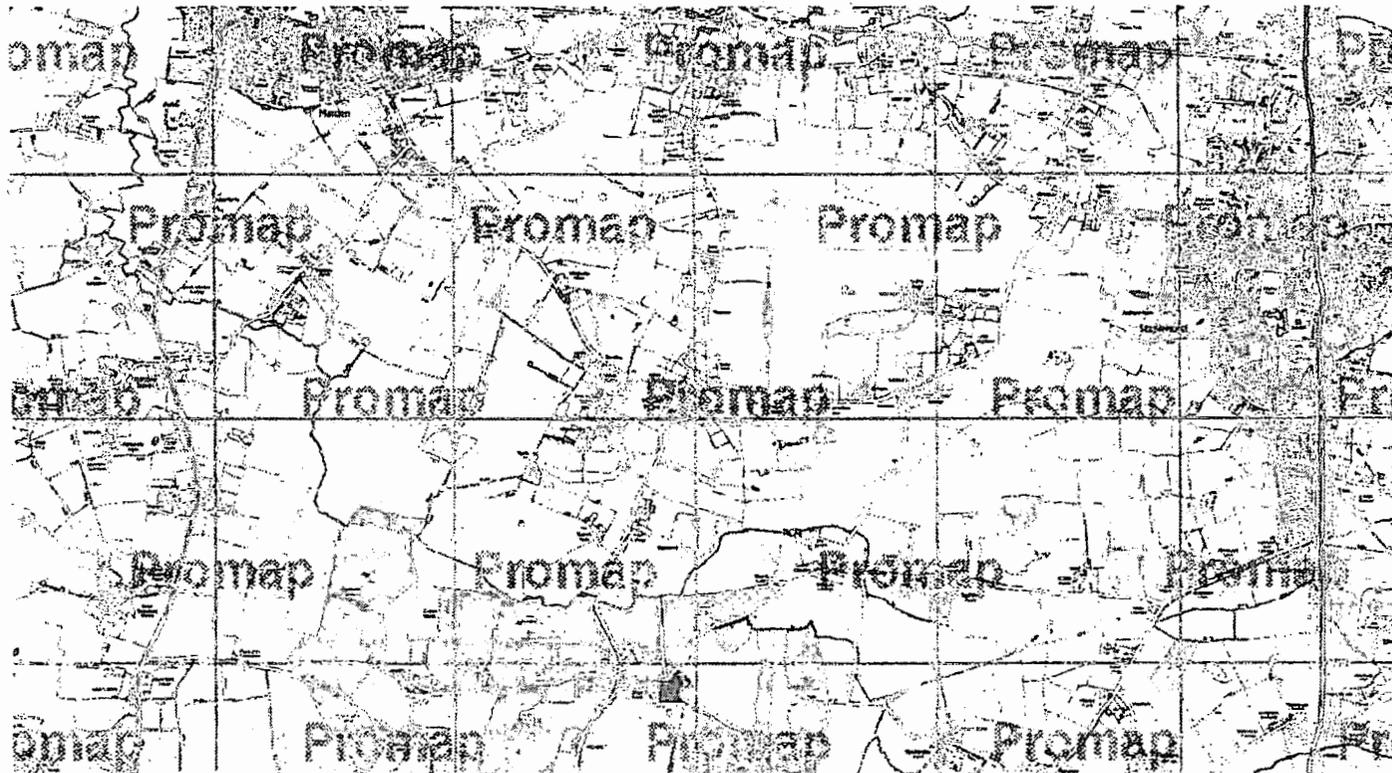
43



Access

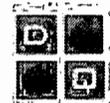
Transport Statement

As explained throughout this D&A statement, the expansion of Hush Heath is driven mainly by the need to create a well organised efficient award winning Winery not simply due to an increase in production or turn-over. This is highlighted effectively in the insignificant increase of vehicular movement to and from the Winery.



The winery is located off of 'Five Oak Lane' (C78, USRN 24200536) towards the junction with 'Wilden Park Road' (USRN 24208204). Five Oak Lane will take you to Staplehurst (2.1mils) and to the A229, North along Wilden Park Road will lead to Marden (2mils) and the B2079 and if you go South on Wilden Park Road this will lead to Goudhurst (3.4mils) and the A262.

- Vineyard Staff at present total 16 full-time and all live locally, 4 of who walk to work daily. This is expected to increase to 20+ staff following the new expansion.
- Refuse collection is once a week by a licensed commercial collector, if waste is to increase then the visits would remain the same but additional waste storage adopted.
- At present, Wine dispatch is via 2no. HGV's per week. This is estimated to possibly increase to 3no. per week.
- The increase in Car Park size (60No. Spaces proposed) is to allow for an increase in visitors, the majority of these will arrive in individual cars. A small number maybe in small mini buses.
- A number of cycle hoops will be provided for those visiting (or staff) by bicycle.
- Dedicated drop-off area will also be provided for DDA provisions.

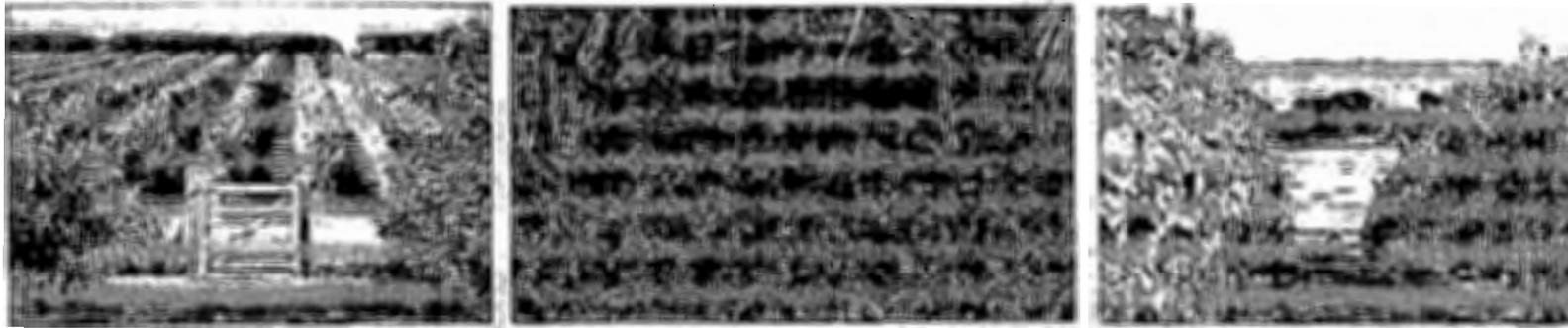


Ecology Statement.

The development of the Hush Heath Estate was started in the late 2001. At that time the land was in much need of professional management. All the barbwire fencing was removed to encourage wildlife back on to the Estate. The vineyards were planted and the land that was sectioned off has now been opened up into one large beautiful landscape. The woodlands that had not been touched in years are now maintained, and as a consequence the bluebells and white anemones have colonised the newly coppiced pieces of woodland, and the wildlife is thriving.

As the land opened up wildlife returned to the estate. Fallow and Roe deer roam freely. Barn owls, Tawney owls, Little owls, long eared owls and buzzards which had not been seen on the Estate for years are now regularly spotted. Insects and many varied fungi are prevalent around the Estate. This is due only to good management and constant attention to conservation.

The ancient English Oak woodlands are carefully maintained purely for conservation. We have a woodland management professional who periodically visits Hush Heath to advise on woodland conservation. The original Victorian rides (logging paths) that were once hidden by overgrown hedges and trees were cut back and cleared. There are now visible pathways that encourage natural light. This has allowed the woodland floor to come alive again and have created a natural habitat for both plants and wildlife.



There are many conservation strips around the woodland and arable land that have become natural meadows. These strips are predominantly left to grow as nature intended and as a result there are now many species of wild flowers and plants. This attracts butterflies and many insects that help with the pollination of the orchards and vineyards. Hush Heath also has a very healthy Bee population. There are 30 hives that are carefully managed and cared for as natural bee pollination is key to the health of the Orchards. The residential Bee population is incredibly important to the success of the harvest.





Maidstone Borough Council
Maidstone Planning Department
King Street
Maidstone
Kent
ME15 6JQ

Highways and Transportation
Ashford Highway Depot
4 Javelin Way
Ashford
TN24 8AD
Tel: 03000 418181
Date: 27 June 2017

Application - MBC/17/502611/FULL
Location - Hush Heath Winery Five Oak Lane Staplehurst TN12 0HT
Proposal - Proposed new processing hall, including visitor tasting room and administration offices. Extension to existing barn for the storage of bottles.

Ashley

Thank you for inviting me to comment on this application. I note the low level of goods vehicle movements associated, given in the Design and Access Statement. I note the car park is to increase to 60 spaces for visitors. No indication of current or forecast visitor attractions is given. Whilst mini-buses are mentioned I note that coaches are not. However it is not considered that this operation conflicts with peak time movements and the route to the Winery from Staplehurst (Five Oak Lane) is not considered to be experiencing undue traffic pressures. A low residential density is noted on Five Oak Lane I note that there is a low incidence of injury crash records on this road.

The proposal is essentially to improve its operation and given the modest scale I consider on behalf of this authority that I have no objection to this application. If it is possible in going forward to require the applicant to monitor visitor attraction numbers, made available for the planning authority, I consider that that would be useful.

I hope the above is helpful. If however I can be of any further assistance, please do not hesitate to contact me.

The following conditions may be appropriate:-

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.

- Use of a bound surface for the first 5 metres of the access from the edge of the highway.
- Provision and permanent retention of secure cycle parking facilities prior to the use of the site commencing in accordance with details to be submitted to and approved by the Local Planning Authority.

Should works be required in the highway a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

INFORMATIVE: It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Yours faithfully

Terry Drury
Senior Development Planner

CC
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From:Ashley Wynn
Sent:5 Jul 2017 09:24:35 +0100
To:Planning Comments
Subject:FW: Consultee Comments for Planning Application 17/502611/FULL

Ashley Wynn

Principal Planning Officer

Development Management

Maidstone Borough Council, Maidstone House, King Street, Maidstone, Kent ME15 6JQ

t: 01622 602551 f: 01622 602972 w: www.maidstone.gov.uk

e: AshleyWynn@Maidstone.gov.uk

From: Staplehurst Parish Council [mailto:planning@staplehurstvillage.org.uk]
Sent: 04 July 2017 16:30
To: Ashley Wynn
Subject: RE: Consultee Comments for Planning Application 17/502611/FULL

Dear Ashley,

Further to your email below I can confirm that Councillors took this as an urgent item at last evenings Planning Committee meeting.

Councillors RESOLVED to NOTE the new information, maintain SPC's SUPPORT of the proposal and AGREE with the Kent Highways' recommendation that visitor numbers be recorded.

Kind regards,

Deborah

Mrs DA Jenkins, Deputy Clerk & Finance Officer to
Staplehurst Parish Council, Parish Office, Village Centre
High Street, STAPLEHURST, Kent. TN12 0BJ

Tel: 01580 891761

assistantclerk@staplehurstvillage.org.uk

www.staplehurstvillage.org.uk

From: Ashley Wynn [<mailto:AshleyWynn@Maidstone.gov.uk>]
Sent: 03 July 2017 10:22
To: 'planning@staplehurstvillage.org.uk'
Subject: FW: Consultee Comments for Planning Application 17/502611/FULL

Hi

I note in your response to the application that details regarding traffic were omitted from the online report and I attach this for your information. KCC Highways have reviewed the application and their response is on the website and I just wanted to check in light of this missing information your no objection stance remained. I have made sure this report is uploaded to the web

Thanks

Ashley

To access our digital services please visit www.maidstone.gov.uk/service

Sign up to receive your Council Tax bill by email
<http://www.maidstone.gov.uk/emailbilling>

NOTES FOR TECH		
APPLICATION PROPOSAL		Ref No 17/502611/FULL
Proposed new processing hall, including visitor tasting room and administration offices. Extension to existing barn for the storage of bottles.		
ADDRESS Hush Heath Winery Five Oak Lane Staplehurst TN12 0HT		
RECOMMENDATION - Application Permitted		
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Hush Heath Winery AGENT Design Quarter UK Ltd
DECISION DUE DATE 05/09/17		PUBLICITY EXPIRY DATE 30/06/17

Officer Site Visit

RELEVANT PLANNING HISTORY (including relevant history on adjoining site)

09/0127 Erection of Winery and associated works
09/2169 Variation of conditions attached to 09/0127
13/0265 Use of Tasting room for general sale of wine and cider produced on the holding

DESCRIPTION OF SITE

The site is a winery known as Hush Heath which currently consists of a number of buildings including a store and processing area, a shop and tasting area and other ancillary buildings such as storage of produce and machinery/equipment which supports 50 acres of vineyards and 10 acres of apples which are harvested to provide wines and ciders to the market including several major supermarket chain and other notable clients. The site lies in the open countryside off Five Oak Lane to the south west of Staplehurst. The site lies within the Low Weald Character Area as defined in the local plan 2000 but this designation is not carried forward in the emerging plan.

PROPOSAL

The application relates to the extension of the existing winery building to provide for additional processing and storage floorspace as well as increased space for tasting and retail areas and other ancillary facilities such as staff and preparation area and meeting rooms. The application can be seen both as an extension and reconfiguration of existing floorspace as at present storage is being undertaken in less than ideal locations and it is clear further floorspace is required to support the business. The plans seek to allow the efficient processing of the produce from the fields to the bottle and will provide the requisite storage and other facilities which are required in respect of the growth of the business.

The application also includes the extension of the car park to 60 spaces and an extension to the existing storage building to the front of the site to create additional bottle storage. The wider site will be subject to landscaping includes a meadow area adjacent to the car park and new planting will take place along with ecological enhancements.

POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF): Section 1, 3, 4, 7, 11
National Planning Practice Guidance (NPPG):

Development Plan: ENV28,
 Emerging Maidstone Local Plan; SP17, DM1, DM2, DM3, DM, DM20 (SP21), DM34 (DM30),
 DM40 (DM36) , DM41 (DM37) *Modified policy numbers in brackets.
 Supplementary Planning Documents:

LOCAL REPRESENTATIONS

	COMMENTS RECEIVED	OFFICER RESPONSE
Parish/Town Council	<u>Staplehurst Parish Council</u> Supports application subject to KCC recommendation of recording vehicles <u>Marden Parish Council</u> Neither supported or objecting to the application	Covered in report
Residential Objections Number received:2	No concerns over plans themselves but raised issues over marquee, highway improvements and drainage	Not strictly objections but Covered in report
Residential Support Number received:0	None	n/a

CONSULTATION RESPONSES

KCC Highways ; No objections and advise recording of vehicle numbers would be useful

Southern Water No objections

MBC Environmental Health No objections and recommend a condition regarding plant and noise mitigation and EV Charging points within car park

APPRAISAL

EIA Screening

EIA Development	No
Comments	Site is schedule 2 by reason of its size over 0.5ha but it is considered the development would not be EIA development due to the scale and its relationship to the existing buildings.

Principle

The site is an established winery which has built up a reputation for producing quality English wines, ciders and other produce and currently has contracts with major corporate clients including major supermarkets. The applicant explains that with this growth and growing client base, there is a need for additional storage and processing floor space along with a need to update its visitor facilities to reflect its growing reputation. The winery processes produce which is derived from the wider estate and therefore the processing and storage of the grapes and apples to create food and drink is akin to an agricultural process albeit with additional facilities relating to visitors and ancillary office facilities which are solely dependent on this primary use.

Thus, whilst the development does not neatly fall within a use class, it can be considered to represent the expansion of an existing business within the wider countryside and one which is closely related to agriculture and countryside diversification. Policy DM37 of the emerging plan (as modified, previously DM41) states permission would be granted for the sustainable growth of businesses and that development will be permitted subject to landscape and highway considerations and only if development has a significant impact on the environment should the business be encouraged to relocate to an Economic Development Area. Policy DM40 (DM36 as modified) encourages agricultural development within the countryside subject to a criteria regarding need and impact on amenity and that new buildings are located adjacent to the existing buildings. As set out above, the vast majority of the proposed floorspace includes processing and storage directly assessed with the wine making, a use which could be considered an agricultural use and therefore it is also reasonable to assess the proposal under the policy. The scheme will follow this approach as the extensions will be located within the existing area of built form and there will be limited landscape or amenity impacts as set out below.

Having regard to the hybrid character of the application, whereby the majority of the floorspace is directly related to the agricultural use of the wider site and the element relating to retail and wine tasting (uses that could be considered to be ancillary to the primary use in any case) is small in scale in comparison, it is considered the scheme could be considered to meet the policies in question.

Design and Layout

The proposals seek to construct an extension to the existing winery building which is former agricultural building which is currently a pitched roof structure on a north-south axis and contains the processing/storage and a small retail/tasting area to the SW corner. Outside the building are outside tasting and drinking areas to the south of the building.

The proposals seek to replicate the form of the existing building albeit with a higher ridge height which will follow the existing pitch of the building. The extension will be clad in timber and larchboard timber with a corrugated roof profile to match the existing building. A single storey modern element will wrap around the SW corner and south of of the building which will have a terrace element above which will provide views over open countryside. The building will have limited fenestration with the exception of the south elevation which will include picture glazing panels and doors and windows full height panels at ground floor. New doors will located to the east elevation to provide access for vehicles to the operational parts of the new building. Internally the building will provide increased floorspace for processing and storage with an increased bottling hall and production hall, an administration area, with the south western part of the ground floor set aside to a tasting room with a mezzanine floor above providing space for meeting rooms, functions, storage as well as access to the tasting terrace

The extension to the existing storage building to the front of the site to create a new bottle store which will be designed in a similar style to the existing building and will be clad in matching materials and have a shallow pitched roof. The extension will be set down from the highest point of the existing building and will be considered acceptable in principle.

In terms of the site layout, the consolidation of the existing winery and production area within the extended building and the extension to the existing building on the frontage for a new bottle store will limit the spread of development and consolidate development amongst the existing built form. This will accord with the approach of Policy DM36 as modified. This will retain the openness of the site and limit the impact of these building. A new parking area will extend the existing parking area to the west although this will remain enclosed by existing grassland and planting which will be secured by planning condition. Therefore it is considered the scheme will accord with policy DM1 of the emerging plan.

Visual Impact

The site lies on the wider winery estate and whilst there are no public footpaths on or near the site, the site is located between Five Oak Lane to the north and Snoad Lane to the east. As one turns into Five Oak Lane from Wilden Park Lane to the west, the frontage of the site is relatively open and the storage building subject of the extension is visible from although due to the intervening buildings, views of the existing winery extension is more limited. However, whilst the extension will extend the length of the store building, it is considered this would be read in the context of the existing built form and is a typical agricultural building seen within rural areas. Furthermore, it is proposed to require new hedgerow planting along Five Oak Lane and tree planting which will soften its impact. In terms of the winery extension, it will not be visible from Snoad Lane and the intervening area of built form means views of the winery extension will be limited. It is also proposed to extend the car park area to the west of the existing winery building and to the south west of the bottling building. Whilst this extends the extent of hard surfacing on the site to create 60 parking bays and will more than double the existing car parking, the visual impact of the parking area can be mitigated through this new hedge and tree planting to this front boundary. The use of suitable surfacing materials will ensure the more informal appearance which is more suitable to the rural context. On this basis, the impacts on the landscape are considered to be limited and thus the development would be considered to accord with policy SP17 of the emerging plan and ENV28.

Ecology and Trees

The MBC Landscape department have reviewed the application and has no objections to the application. However, they note the incursion of the extension upon a recently planted landscape bed and advise that there should be sufficient new landscaping to mitigate its loss and native hedgerow planting adjacent to Five Oak Lane which should be secured long term management. The applicant has there would a comprehensive landscaping plan prepared for the site which would compliment existing planting on site.

The site is proposed on an area of existing hardstanding and a mown grassed area and therefore offers little potential for protected species. The applicant is seeking to include biodiversity enhancements within the building and wider site which will include swift boxes within the eaves and bat boxes within adjacent trees which will compliant the good work already carried out on the wider site in terms of wildlife enhancements.

It is noted there is an area of Ancient Woodland to the north and south east of the site although these areas are some distance from the beyond Five Oak Lane and Snoad Lane.

The development will have no impact on the integrity of these areas due to the separation distances from the proposed development site,

It is considered subject to the imposition of the appropriate conditions, the development will accord with policy DM1 and DM3 of the Maidstone Local Plan

Highways

Whilst the application could be seen in part as a consolidation and reorganisation of existing uses and additional ancillary facilities such as storage, it is logical to consider that the scheme will through the provision of enhanced visitor facilities and processing space that there will be an increase in vehicle numbers to the site. The applicant has forecast new staff to increase by around 5 staff and an additional HGV movement per week although it is acknowledged by the applicant that visitor movements may increase as a result of the development. This potential increase has been reviewed by KCC Highways and they have no objections to the scheme having regard to the quality of the approach roads and the likely increase in traffic. It is also notable that the level of HGV Traffic is not expected to increase significantly. KCC Highways submitted that they do request that the applicant maintain a register of visitor numbers for information and it is recommended this is encapsulated in a travel plan which can monitor visitor numbers and encourage sustainable travel where possible. A further highway condition is recommended regarding construction traffic and management.

Other matters

Due to the increase in floorspace, the development would be considered major development and the development should integrate SUDS within the scheme in order to accord with national policy. The applicant has submitted a drainage strategy which utilises the use of SUDS through the scheme and there is a sufficient certainty this can be secured in the final scheme. The site also lies within Flood Zone 1 and therefore is at a low risk of flooding. Thus the development will accord with the NPPF by locating development in areas at lowest risk of flooding and SUDS can be secured to restrict run off rates to the necessary run-off rates.

The site is considered to have sufficient separation distances from adjacent properties and having regard to the existing use, it is not considered the additional development would cause harm to the amenity of neighbouring properties. Due to the potential for new plant, notwithstanding the aforementioned separation distance, a condition has been placed in order to ensure no noise effects are caused to neighbouring properties.

Conclusion

The proposed extension to the existing winery and storage buildings are considered to be well designed additions to the site which will support the growth of this important local business. Its association with agriculture which is undertaken on the wider site and its acceptable impacts on landscape and rural character means in this instance the scheme can be supported in principle in relation to the relevant policies. The matters of design, landscape impact, ecology and highways are acceptable or can be made acceptable through the use of appropriate planning conditions. The development can therefore be considered to accord with the relevant policies and those of the NPPF and thus it is recommended planning permission is granted accordingly.

RECOMMENDATION – Application Permitted subject to the following conditions/reasons:

(1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

(2) The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on site proposed planting to mitigate any loss of amenity and biodiversity value and include a planting Spec, a programme of implementation and a 10 year management plan. The landscape scheme shall specifically address the need to provide a hedgerow and tree planting to the northern boundary adjacent to Five Oak Lane and to replace the existing landscaping to the south of the existing winery building. Following the approval of the details, the approved landscaping scheme shall then be implemented in the first planting season following occupation of the building and retained thereafter in accordance with the details and approved management plan

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

(3) The materials to be used in the development hereby approved shall be as indicated on the approved plans HH/P/07A and HH/P/09A unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development

(4) The development hereby approved shall not commence above slab level until, written details and samples of the materials to be used in the construction of the car park hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development and the setting of the listed building is maintained.

(5) Prior to the occupation of the building, the swift boxes shall be installed within the building as shown on the plan HH/P/07A and shall be retained thereafter.

Reason: In the interests of biodiversity.

(6) The development hereby approved shall not commence until a method statement for the construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel-cleaning facilities during the demolition, excavation, site preparation and construction stages of the development. The method statement shall also include details of the means of recycling

development hereby approved to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter;

Reason: To ensure an energy efficient form of development. Details are required prior to commencements as these methods may impact or influence the overall appearance of development

(13) Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and airconditioning) or ducting system to be used in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter. The scheme shall ensure that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 (in areas of low background sound levels a target of NR30 shall be achieved) as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever its operating. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority

Reason : To maintain the amenity of the locality and nearby properties

(14) The development hereby approved shall not be occupied until a minimum of two electric vehicle charging points have been installed within the site and these should be retained thereafter.

Reason: In the interests of reducing air quality impacts.

(15) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan HH/P/01
Proposed Site Plan HH/P/10A
Proposed Winery Elevations HH/P/07A
Proposed Bottle Store Elevations and floorplans HH/P/09A
Proposed winery floorplans HH/P/06A
Proposed Mezzaine Floorplan HH/P/06A
Design and Access Statement
Drainage Strategy Attridge

Reason: To clarify which plans have been approved.

(16) The retail element approved by this application shall remain strictly ancillary to the primary of the use of the site as a Winery

Reason: To ensure an appropriate scale of retail use having regard to its countryside location

INFORMATIVES

(1) Construction

As the development involves demolition and / or construction, I would recommend that the

applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

The Council's approach to this application

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was provided formal pre-application advice.

Case Officer Ashley Wynn

Case Officer Sign	Date
Ashley Wynn	31.08.2017

Hush Heath Winery
C/O Design Quarter UK Ltd
F.A.O Mr Nick Mumby
B6-B7 The Admirals Office
Main Gate Road
The Historic Dockyard
Chatham
ME4 4TZ



5 September 2017

PLANNING DECISION NOTICE

APPLICANT:	Hush Heath Winery
DEVELOPMENT TYPE:	Large Maj Office/R&D/Light Industry
APPLICATION REFERENCE:	17/502611/FULL
PROPOSAL:	Proposed new processing hall, including visitor tasting room and administration offices. Extension to existing barn for the storage of bottles.
ADDRESS:	Hush Heath Winery Five Oak Lane Staplehurst TN12 0HT

The Council hereby **GRANTS** planning permission subject to the following Condition(s):

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

MKPS – Working in Partnership with: Maidstone Borough Council
Please Note: All planning related correspondence for MBC should be sent to:
Mid Kent Planning Support, Maidstone House, King Street, Maidstone ME15 6JQ
Email: planningsupport@midkent.gov.uk
Access planning services online at: www.maidstone.gov.uk; or submit an application via
www.planningportal.gov.uk

- (2) The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on site proposed planting to mitigate any loss of amenity and biodiversity value and include a planting Spec, a programme of implementation and a 10 year management plan. The landscape scheme shall specifically address the need to provide a hedgerow and tree planting to the northern boundary adjacent to Five Oak Lane and to replace the existing landscaping to the south of the existing winery building. Following the approval of the details, the approved landscaping scheme shall then be implemented in the first planting season following occupation of the building and retained thereafter in accordance with the details and approved management plan

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

- (3) The materials to be used in the development hereby approved shall be as indicated on the approved plans HH/P/07A and HH/P/09A unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development.

- (4) The development hereby approved shall not commence above slab level until, written details and samples of the materials to be used in the construction of the car park hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development and the setting of the listed building is maintained.

- (5) Prior to the occupation of the building, the swift boxes shall be installed within the building as shown on the plan HH/P/07A and shall be retained thereafter.

Reason: In the interests of biodiversity.

- (6) The development hereby approved shall not commence until a method statement for the construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel-cleaning facilities during the demolition, excavation, site preparation and construction stages of the development. The method statement shall also include details of the means of recycling materials, the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

Reason: To ensure the construction of development does not result in highway safety.

- (7) The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

- (8) No development shall take place above slab level until details of cycling parking have been submitted and approved by the Local Planning Authority, The approved cycle parking shall be in place before the first use of the development and shall be retained permanently for use thereafter.

Reason: To promote sustainable modes of travel.

- (9) The development hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the extension and wider site. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

- (10) The development hereby approved shall not commence until a surface water drainage scheme for the site based on sustainable drainage principles. Where possible, and an assessment of the hydrological and hydro geological context of the development has been submitted to and approved by the local planning authority. The surface water drainage strategy should seek to implement a SUDS hierarchy that achieves to manage surface water on site in accordance with the details submitted by the Attridge Consulting Report April 2017. The submitted details shall incorporate inter-alia wildlife friendly drainage gullies and design feature. The development shall thereafter be carried out in accordance with the approved details.

Reason: To reduce the impact of flooding both to and from the proposed development and third parties and pursuant to the National Planning Policy Framework 2012.

- (11) No part of the development shall be occupied until a Sustainable Travel Statement, providing measures and incentives to encourage trips by alternative means to the private car has been submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be carried out in full;

Reason: In the interests of sustainable transport use.

- (12) The development shall not commence above slab level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter;

Reason: To ensure an energy efficient form of development. Details are required prior to commencements as these methods may impact or influence the overall appearance of development

- (13) Prior to the first use of the premises, details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter. The scheme shall ensure that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 (in areas of low background sound levels a target of NR30 shall be achieved) as defined by BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and the Chartered Institute of Building Engineers (CIBSE) Environmental Design Guide 2006. The equipment shall be maintained in a condition so that it does not exceed NR35 as described above, whenever its operating. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority.

Reason : To maintain the amenity of the locality and nearby properties.

- (14) The development hereby approved shall not be occupied until a minimum of two electric vehicle charging points have been installed within the site and these should be retained thereafter.

Reason: In the interests of reducing air quality impacts.

- (15) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan HH/P/01
Proposed Site Plan HH/P/10A
Proposed Winery Elevations HH/P/07A
Proposed Bottle Store Elevations and floorplans HH/P/09A
Proposed winery floorplans HH/P/06A
Proposed Mezzanine Floorplan HH/P/06A
Design and Access Statement
Drainage Strategy Attridge

Reason: To clarify which plans have been approved.

- (16) The retail element approved by this application shall remain strictly ancillary to the primary of the use of the site as a Winery

Reason: To ensure an appropriate scale of retail use having regard to its countryside location

Informative(s):

- (1) Construction

As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The applicant/agent was provided formal pre-application advice.

R. L. Jarman

**Rob Jarman
Head of Planning Services
Maldstone Borough Council**

IMPORTANT - YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES

NOTIFICATION TO APPLICANT FOLLOWING REFUSAL OF PERMISSION OR GRANT OF PERMISSION SUBJECT TO CONDITIONS

This decision does not give approval or consent that may be required under any act, bylaw, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority (LPA) to refuse permission for the proposed development, or to grant it subject to Conditions, then you can appeal to the Secretary of State (SoS) under Section 78 of the Town and Country Planning Act 1990. **Please see "Development Type" on page 1 of the decision notice to identify which type of appeal is relevant.**

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against the LPA's decision on your application, then you must do so within **28 days** of the date of service of the enforcement notice, or within **6 months [12 weeks in the case of a householder or minor commercial application decision]** of the date of this notice, whichever period expires earlier.
- If this is a decision to refuse planning permission for a **Householder** application or a **Minor Commercial** application and you want to appeal the LPA's decision, or any of the conditions imposed, then you must do so within **12 weeks** of the date of this notice.
- In all other cases, you will need to submit your appeal against the LPA's decision, or any of the conditions imposed, within **6 months** of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

The SoS can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The SoS need not consider an appeal if it seems to the SoS that the LPA could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

1) THE OWNER IS TO BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY AND THE LOCAL PLANNING AUTHORITY. THE LOCAL PLANNING AUTHORITY MAY NOT BE CONTACTED UNTIL THE LOCAL PLANNING AUTHORITY HAS BEEN ADVISED BY THE ARCHITECT THAT THE PROPOSED DEVELOPMENT IS TO BE SUBMITTED TO THE LOCAL PLANNING AUTHORITY FOR CONSIDERATION. THE ARCHITECT IS NOT TO BE RESPONSIBLE FOR OBTAINING ANY PERMITS OR APPROVALS FROM THE LOCAL AUTHORITY OR THE LOCAL PLANNING AUTHORITY.

AMENDED

Existing Buildings

REV DATE DESCRIPTION
 A 17 18th June 2010

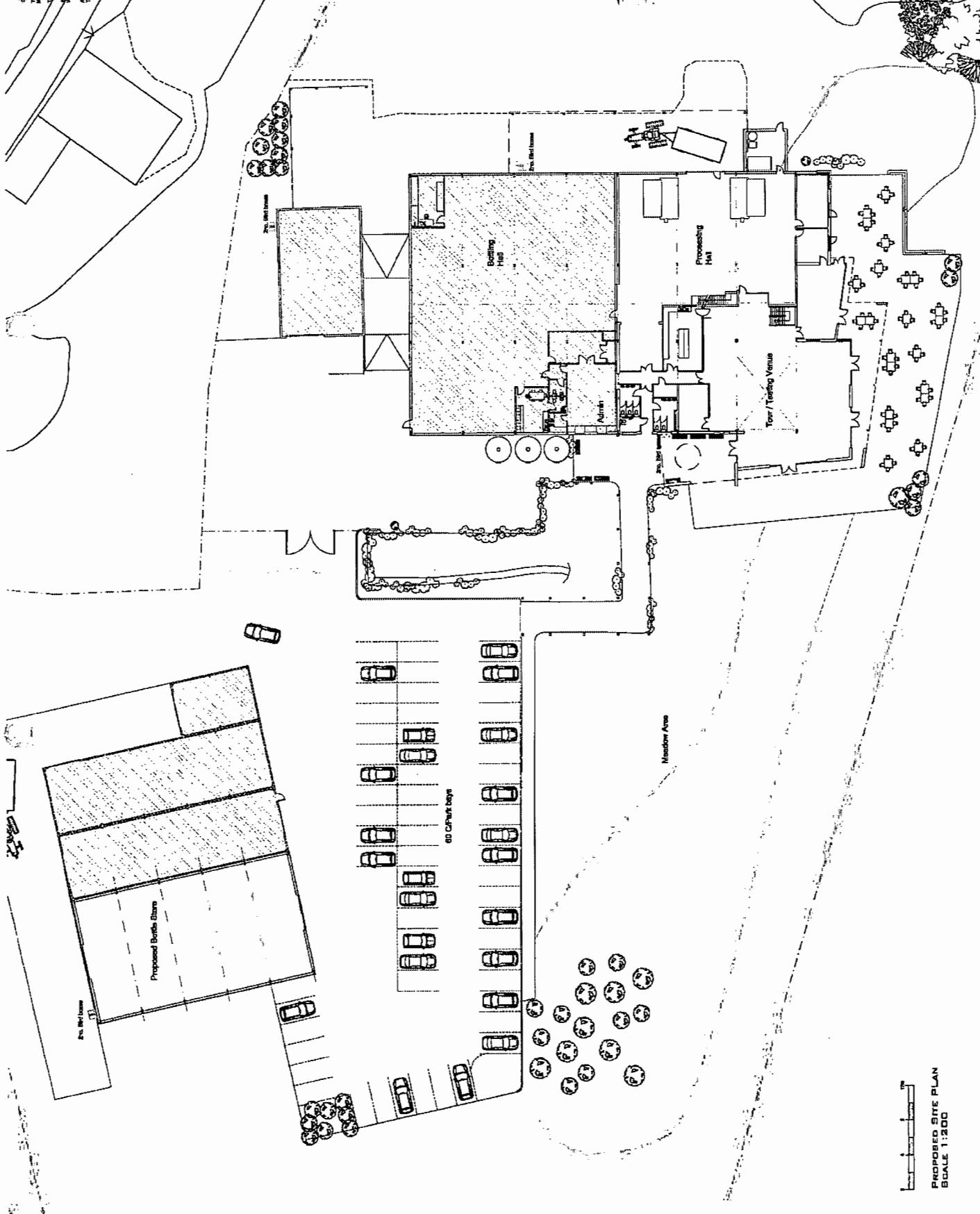
PROPOSED SITE PLAN

HUSH HEATH WINERY
 FIVE OAK LANE
 STAPLEHURST
 TN11 2 QHT
 GLEBE



DESIGN QUARTER (UK) LTD
 ARCHITECTS
 DESIGN QUARTER (UK) LTD
 100, BARKING ROAD, BARKING, ESSEX, SS16 5NF
 TEL: 0208 309 0000
 FAX: 0208 309 0001
 EMAIL: INFO@DQ.CO.UK
 WWW.DQ.CO.UK

DATE: 17/06/10
 DRAWING NO: 3-200
 PROJECT: HUSH HEATH WINERY
 SHEET: HHP/10 A



PROPOSED SITE PLAN
 SCALE 1:200



ECOLOGICAL ADVICE SERVICE

TO: Marion Geary
FROM: Helen Forster
DATE: 04 June 2018
SUBJECT: Hush Heath Winery, Staplehurst 18/502517/SUB

Thank you for requesting advice on this condition discharge from KCC's Ecological Advice Service. This service provides advice to planning officers to inform Maidstone Borough Council planning decisions with regard to the potential ecological impacts. Any additional information, queries or comments on this advice that the applicant or other interested parties may have must be directed to the Planning Officer who will seek further advice from us where appropriate and necessary.

Condition 9 states: The development hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the extension and wider site. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

We advise that sufficient information has been provided to discharge the condition.

The following information has been submitted as part of the condition discharge:

- Details of what measures are currently implemented within the wider site to benefit biodiversity
- Native species planting will be incorporated in to the planting plan of the development site.

We advise that this is sufficient to discharge the condition.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Helen Forster MCIEEM
Biodiversity Officer

This response was submitted following consideration of the following documents:

Planting Scheme; Design Quarter
Farm Environmental Plan; CLM

6. Development management policies for Maidstone Borough

Policy DM1 Principles of good design

6.1 Good design is the fundamental principle underpinning good planning. It has a very important impact upon the quality of the environment and the way in which places function. The NPPF places great emphasis upon raising the quality of the built, natural and historic environment and the quality of life in all areas. It attaches great importance to the securing of high quality design and seeks to ensure that all development contributes to making places better for all.

6.2 The council aspires to achieve high quality design throughout the borough, and policy DM1 seeks to manifest this aim and will be used to assess all development requiring planning permission. In order to achieve high quality design, the council expects that proposals will positively respond to and, where appropriate, enhance the character of their surroundings. It is important that development contributes to its context.

6.3 Key aspects of built development will be the scale, height, materials, detailing, mass, bulk and site coverage. These features should relate well, and respond positively, to the context in which they are seen. Good design should also address the functioning of an area, including accessibility to all, linkages to local services, and issues of crime. New development should integrate well into the built, natural and historic environment and should address the connections between people and places, including vehicle and pedestrian movement.

6.4 In establishing the use and designing the layout and site coverage of development, landscape shall be integral to the overall design of a scheme and needs to be considered at the beginning of the design process. In appropriate locations, local distinctiveness should be reinforced and natural features worthy of retention be sensitively incorporated. It is also important that all new development protects and enhances any on-site biodiversity and geodiversity features, or provides sufficient mitigation measures, and in areas at risk of flooding, inappropriate development should be avoided.

6.5 In assessing the appropriateness of design, the council will have regard to adopted Conservation Area Appraisals and Management Plans, Character Area Assessments and the Kent Design Guide, which provide specific information about local character and distinctiveness and give guidance on design principles. Regard will also be given to the Kent Downs Area of Outstanding Natural Beauty Management Plan.

6.6 Proposals which fail to take opportunities to secure high quality design will be resisted.

Policy DM 1

Principles of good design

Proposals which would create high quality design and meet the following criteria will be permitted:

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Maidstone Borough Council | Maidstone Borough Local Plan Adopted October 2017

6. Development management policies for Maidstone Borough

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Maidstone Borough Council | Maidstone Borough Local Plan Adopted October 2017

- i. Create designs and layouts that are accessible to all, and maintain and maximise opportunities for permeability and linkages to the surrounding area and local services;
- ii. Respond positively to, and where possible enhance, the local, natural or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage - incorporating a high quality, modern design approach and making use of vernacular materials where appropriate;
- iii. Create high quality public realm and, where opportunities permit, provide improvements, particularly in town centre locations;
- iv. Respect the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in, or is exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties;
- v. Respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worthy of retention within the site. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area;
- vi. Provide a high quality design which responds to areas of heritage, townscape and landscape value or uplifts an area of poor environmental quality;
- vii. Orientate development, where possible, in such a way as to maximise the opportunity for sustainable elements to be incorporated and to reduce the reliance upon less sustainable energy sources;
- viii. Protect and enhance any on-site biodiversity and geodiversity features where appropriate, or provide sufficient mitigation measures;
- ix. Safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access;
- x. Create a safe and secure environment and incorporate adequate security measures and features to deter crime, fear of crime, disorder and anti-social behaviour;
- xi. Avoid inappropriate new development within areas at risk from flooding, or mitigate any potential impacts of new development within such areas whereby mitigation measures are integral to the design of buildings;
- xii. Incorporate measures for the adequate storage of waste, including provision for increasing recyclable waste;
- xiii. Provide adequate vehicular and cycle parking to meet adopted council standards; and
- xiv. Be flexible towards future adaptation in response to changing life needs.

Account should be taken of Conservation Area Appraisals and Management Plans, Character Area Assessments, the Maidstone Borough Landscape Character Guidelines SPD, the Kent Design Guide and the Kent Downs Area of Natural Beauty Management Plan.

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Policy DM2 Sustainable design

6.7 Recognition of climate change and its contributing factors will be an important consideration in the future of development across the borough. New developments should wherever possible incorporate mitigating measures, while still achieving the high quality designs that make the borough a desirable place to live and work.

6.8 The Climate Change Act 2008 sets two legally binding targets, a 34% reduction in greenhouse gas emissions by 2020, leading to an 80% emissions cut by 2050, both of which are set against a 1990 baseline. Maidstone Borough Council adopted the Kent Environment Strategy in 2011, which itself seeks a 60% cut in greenhouse gas emissions (measured as CO2 equivalent) against 1990 levels by 2030.

6.9 In terms of water efficiency, all new homes already have to meet the mandatory national standard set out in the Building Regulations (of 125 litres/person/day). The NPPG states that, in relation to new housing development, local planning authorities have the option to set additional technical requirements exceeding the minimum standards required by Building Regulations in respect of water. Maidstone is situated within an area of serious water stress⁽¹⁶⁾. Development should therefore plan positively to minimise its impact on the already serious water stress in the region, and on the natural water cycle resources and promote water efficiency. For this reason, Policy DM2 seeks the tighter Building Regulations optional requirement of 110 litres/person/day in relation to new dwellings. The Building Research Establishment Environmental Assessment Method (BREEAM) is the most appropriate/recognisable assessment methods by which to judge and require increased sustainability standards in new non-residential developments. In relation to water, non-residential developments will be expected to reach a minimum of the Very Good BREEAM standard.

6.10 In terms of energy efficiency and carbon emissions for residential development, this will be achieved through a strengthening of the energy performance requirements in Part L of the Building Regulations (incorporating carbon compliance, energy efficient fabric and services). For non-residential uses, proposals should achieve a minimum of the Very Good BREEAM standard.

Policy DM7 Non-conforming uses

6.47 Some uses may be detrimental to the quality of the environment and a nuisance to neighbouring land users. The Borough Council therefore seeks to ensure that new development is appropriately sited and mitigated so that it does not cause a nuisance through noise or other disturbance to users in the local area.

6.48 It is recognised that certain uses may be more appropriate at rural sites, because there may be a lower number of sensitive users nearby, or due to land requirements, such as catteries and kennels, waste or recycling uses (which are normally a matter for determination by the County Council), as well as recreation uses including shooting and motor sports.

6.49 Policy DM1 ensures that development respects the amenities of occupiers of neighbouring properties and uses and should be read in conjunction with this policy.

Policy DM 7

Non-conforming uses

Proposals for development which could create, intensify or expand noisy or noxious uses, or which could potentially generate volumes or types of traffic unsuited to the local area, will only be permitted where they do not, by way of their operation, cause nuisance to residents or users in the vicinity, and where anticipated adverse impacts on the local road network can be mitigated in accordance with Policy DM21. Proposals will also be required to meet other requirements set out elsewhere in this plan.

Policy DM8 External lighting

6.50 Lighting can be an important factor of good design. Appropriate types and levels of lighting can contribute positively towards a sense of place, whilst poorly designed lighting schemes can damage local amenity and biodiversity interests. The NPPF seeks to limit light pollution in locations which are particularly sensitive to light, such as intrinsically dark landscapes.

6.51 The council recognises that carefully designed external lighting can enhance the night-time economy and have benefits for security and the viability of recreational facilities. However, inappropriate and excessive external lighting can not only be both visually obtrusive and inefficient in energy terms, but can also damage rural character in areas containing little built development, and can have highway safety implications for drivers. Protected species, such as bats, tend to avoid well-lit areas and lighting schemes should ensure that ecological issues are fully considered in their design.

6.52 The council will seek to secure well-designed lighting schemes, which are suitable for their environments. External lighting should play its role in achieving sustainable development. Where appropriate the recommendations within the

6. Development management policies for Maidstone Borough

Institute of Lighting Engineers Technical Report Number 5 will be considered as a guide to maximum levels of luminance. Low level bollard lighting will be supported where appropriate. The council will also encourage the use of PIR motion sensor lighting for business development and public buildings, in order to provide energy efficiency savings.

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Policy DM 8

External lighting

1. Proposals for external lighting which meet the following criteria will be permitted:
 - i. It is demonstrated that the minimum amount of lighting necessary to achieve its purpose is proposed;
 - ii. The design and specification of the lighting would minimise glare and light spillage and would not dazzle or distract drivers or pedestrians using nearby highways; and
 - iii. The lighting scheme would not be visually detrimental to its immediate or wider setting, particularly intrinsically dark landscapes.
2. Lighting proposals that are within or are near enough to significantly affect areas of nature conservation importance, e.g. Special Areas of Conservation, Sites of Special Scientific Interest, National Nature Reserves, County Wildlife Sites and Local Wildlife Sites will only be permitted in exceptional circumstances.

Policy DM9 Residential extensions, conversions and redevelopment within the built up area

6.53 The following policy relates to residential extensions, conversions and redevelopment within the built up area. Policy DM31 deals with conversions of rural buildings in the countryside and Policy DM32 with rebuilding and extending dwellings in the countryside.

6.54 The conversion of larger residential properties to self-contained flats and houses in multiple occupation (HMOs) aids the provision of accommodation for smaller households and contributes towards a mix and choice of homes, advocated by the NPPF. HMOs differ from self contained flats as bedrooms/bed sitting rooms are private but other facilities, such as bathrooms and kitchens, are shared. The NPPF also places emphasis upon the quality of new residential development and requires a good standard of amenity to be provided for all existing and future occupants of land and buildings.

6.55 The council wishes to ensure that new residential units are attractive, high quality places to live, which respond positively to the local area. Good quality development should be of a scale and layout which provides attractive and comfortable places to live. The intensified use of dwellings to create smaller

Policy SP17 Countryside

The countryside

4.94 Maidstone borough is predominantly rural with a large proportion of the population living in villages as well as on the fringes of the urban area. Much of the rural landscapes are of high quality with valuable agricultural and ecological resources within the borough. The countryside areas are highly accessible to those living and working in the urban areas, complemented by a wide and well-used public rights of way network. They also act as a major asset to attract new investment into the borough. However this proximity to the urban area brings with it pressures arising from an increased level of demand for houses, recreation and jobs in the countryside.

4.95 The countryside is defined as all those parts of the plan area outside the settlement boundaries of the Maidstone urban area, rural service centres and larger villages with defined settlement boundaries and is depicted on the policies map. The countryside has an intrinsic character and beauty that should be conserved and protected for its own sake. However there is also a need to ensure a level of flexibility for certain forms of development in the countryside in order to support farming and other aspects of the countryside economy and to maintain mixed communities. This needs to be mitigated in a way that maintains and enhances the distinctive character of the more rural parts of the borough.

Rural economy

4.96 Maidstone's rural economic character is diverse and complex in nature. The number of rural and agricultural businesses found within villages and rural service centres and the wider countryside account for a significant proportion of all firms in the borough. Small businesses are a particular feature of rural areas, as is homeworking, home-based businesses and live-work units.

4.97 Agriculture remains an important influence, fulfilling a number of important and varied roles in the countryside, contributing to the local economy, and managing and maintaining much of the valued landscapes. It benefits from the fact that much of the soil within the borough comprises the most high grade and versatile agricultural land. However, in line with other businesses, agriculture needs to be able to react to new and changing markets and developments in technology. A more recent trend in agriculture is the response to demand for produce to be available on a year round basis. This leads to land being put under intense pressure for almost industrial scale development that can have an adverse impact on the wider landscape and natural assets, such as wildlife, soil and water resources that require protection within the landscape. Another trend is the increasing interest in smaller-scale renewable energy installations. Further advice and guidance on the landscape implications of these activities will be given in the Landscape Character Guidelines SPD.

4.98 Many rural businesses have begun to diversify away from traditional rural activities primarily through the re-use of farm and other buildings for commercial non-agricultural purposes. This has not only helped to retain economic activity within rural areas but has enabled a number of farms to remain operational. Tourism is of great importance to the local rural economy with the countryside providing ample leisure and open-air recreational opportunities. As well as



4 . Strategic Policies

sustaining many rural businesses these industries can be significant sources of employment and can help support the prosperity of rural settlements and sustain historic country houses, local heritage and culture. To a lesser degree, the winning of minerals such as sand and chalk has also taken place as a diversification activity, but these activities are largely confined to relatively small-scale sites on the North Downs and Greensand Ridge.

4.99 The local plan will continue to recognise the importance of supporting small-scale rural business development. Its priority is to locate these businesses within the defined rural service centres. However, there are employment sites already located outside of these settlements and it is important to offer these businesses a degree of flexibility.

Small villages

4.100 The attractiveness of the countryside is partly due to its scattered settlement pattern and buildings. The overall settlement pattern across the borough is characterised by a large number of small villages scattered across the countryside surrounding a handful of larger, more substantial settlements. It is important these settlements retain their individual identities as there can be a delicate balance between settlement proximity and separation.

4.101 A small area to the west of the borough lies within the Metropolitan Green Belt (MGB), incorporating the villages of Nettlestead and Nettlestead Green. The fundamental aims of the MGB are to prevent urban sprawl and to assist in safeguarding the countryside from encroachment. The local plan will support sustainable development within the MGB provided it is not harmful to the open character of the designation in accordance with the NPPF.

4.102 The rural settlements rely heavily on community-focused services. Community facilities such as clinics, health centres, day centres, playgrounds, playing fields and sports facilities, children's nurseries and schools, village halls and places of worship, together with local village services, particularly with respect to village shops, post offices, healthcare facilities and public houses are essential if small rural settlements are to remain vital and viable.

4.103 For sustainability reasons, the local plan priority is to locate new or improved community facilities in defined rural service centres and larger villages. However, in small villages new facilities may be permitted to serve the local community provided a clear need is demonstrated. The local plan will resist the loss of any community facility that meets an essential community need and which is not available or reasonably accessible elsewhere. In all cases, another beneficial community use should be sought before permission is granted for the removal of these facilities.

4.104 There has been a continued decline in local village services and the local plan will continue to resist any further losses. Any proposal for the re-use or re-development of an existing local village service will be required to be supported by clear evidence of non-viability, such as marketing the building or facility for a period of time to test whether another community interest, operator or owner could be found.

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Policy DM7 Non-conforming uses

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Specific projects linked to Policy PW1 in a general order of preference and the further work required

7.10 Improved Village Centre

Feasibility study to understand the cost/benefit of redeveloping the site through demolition, rebuild, conversion or refurbishment with the aim of creating a community hall fit for purpose. An improved village hall and/or village centre is a priority for the village and so will also be a priority for any s106 and/or CIL contributions; and the present Village Centre site should be protected as being in community use.

7.11 Improved drainage infrastructure

All new developments to use best practice techniques in mitigating against further drainage problems.

7.12 Investment in the school

Continued investment in the primary school. Land search required for a suitable site to be safeguarded for another education site, subject to land ownership and support from Kent County Council.

7.13 Better retail opportunities

Development of two retail clusters, one in the village heart, another at the railway station. Feasibility study, to including land owner agreements, needed at the station.

7.14 Investment in the medical centre, sports facilities + the library

Continued investment in medical facilities and the library in the village heart. Focus new sports investment at facilities in Jubilee Field subject to funding applications.

7.15 Buses, parking + traffic

Rationalisation of parking provision in the village heart, better crossing points and better bus services. Landowner agreements needed.

7.16 Better broadband communications

Use the expected growth of the village, to be managed through the neighbourhood plan, to argue for better telecommunications and broadband technology in Staplehurst. Cooperation of utility companies needed.

POLICY PW2

PROPOSALS FOR NEW DEVELOPMENT IN THE COUNTRYSIDE BEYOND THE EXTENDED VILLAGE ENVELOPE WILL BE ASSESSED IN TERMS OF THE POTENTIAL IMPACT OF THE DEVELOPMENT UPON THE VISUAL SETTING AND LANDSCAPE FEATURES OF THE SITE AND ITS SURROUNDINGS, THE POTENTIAL IMPACT UPON THE BIODIVERSITY OF THE AREA AND OTHER RELEVANT PLANNING CONSIDERATIONS, SUCH AS THE IMPACT OF TRAFFIC AND NOISE. PROPOSALS WHICH FAIL TO DEMONSTRATE THESE IMPACTS CAN BE SATISFACTORILY ADDRESSED WILL NOT BE SUPPORTED.

Policy Supporting Text

7.17 The neighbourhood plan strongly supports the protection of the wider countryside outside the areas identified for new development. See page 18 for map showing the village envelope. There is, therefore, a presumption against the development of any land other than those sites identified as suitable for development within this neighbourhood plan. The proximity of Staplehurst to the countryside is an important part of the identity of the village. Greater access to this countryside through improvements to the rights of way network will be sought from the developers of the new built areas of the village.

7.18 The countryside is well-loved by the local community and is often cited as a key reason why recent incomers to the village moved here from elsewhere. It is also an important attraction for tourism, an increasingly important part of an active rural economy. Maintaining and enhancing the biodiversity of the countryside is an integral part of this protection. The introduction of green corridors, both between and within new and existing areas of development, will be encouraged in the design of new development areas. These green corridors must link to the wider countryside. The introduction of easy-to-access recreational routes to help demarcate the interface between the built areas of the village and the wider countryside beyond will also be actively encouraged.

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What we've been up to...

Since October 2017, we have been carrying out a major expansion and development of our Winery and Visitor Centre at Hush Heath Estate. We are proud to now offer the following new facilities:

- A 200-seater tasting room
 - Cellar-Door shop
- A commercial kitchen ideal for weddings and corporate events
- A large roof-top terrace bar overlooking newly planted vineyards
 - Viewing areas into the Winery
 - Extensive visitor parking

We are also incredibly excited to reveal that we have doubled the size of our state-of-the-art Winery itself. This, along with new vineyard plantings on the Estate (now 130 acres), will enable us to achieve our target of producing 500,000 bottles a year.

Sign up to our newsletter to receive updates on our new build, [click here...](#)

[Taken from HHW's website on 15 February 2019].

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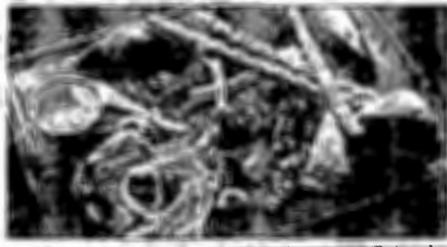
FROM THE DAIRY

Kentish cheeses: Winterdale Shaw, Kentish Blue, Golden Cross & Lord of the Hundreds. Grapes, marinated figs, celery sticks, fruit chutney, crackers & bread roll.



FROM THE FARM

Mix charcuterie, artichokes, mixed olives, English mustard, bread roll, cornichons & balsamic onions.



FROM THE FIELD

Grilled vegetables, mixed olives, cucumber sticks, marcona almonds, artichokes, beetroot humous, crackers, bread roll & caper berries.



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The new Hush Heath Winery Christmas Shop will be open to the public from 24th November to 24th December 2018. Our cellar door will be festively decorated, including a spectacular 12ft Christmas tree, garlands and Christmas lights, it is sure to be a magical shopping experience.

The shop will be open 7 days a week from 10am to 6pm.

You can enjoy a complimentary glass of Balfour and a mince pie while you shop.

We are offering 25% off all cases of wine, and you will receive a free bottle of Leslie's Reserve if you sign up to our Wine Club.

Hush Heath Winery, Five Oak Lane, Staplehurst, Tunbridge, Kent TN12 0HT

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[Taken from HHW's website on 15 February 2019]

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Our corporate venue hire packages are available for companies and individuals hosting between 25 and 200 guests. Requests are considered independently.

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T1a

Invitations for two to exclusive members only events throughout the year

As a valued wine club member, you will receive invitations for two to a variety of private events throughout the year. These are great opportunities to learn more about wine production here at Hush Heath, and also to meet and socialise with other wine club members.

These events include the very popular summer evening cocktail party, held at our state-of-the-art winery, with canapes and specially made cocktails created with our wines. In Autumn, members can look forward to the equally popular Annual Winemaker's Dinner; a four-course gourmet meal paired with our award-winning wines and hosted by our expert winemakers. (£50pp supplement)

[Taken from HHW's website on 15 February 2019]

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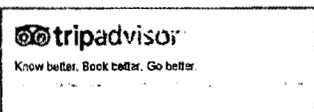
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(+44) 0333 405 0192**ENQUIRIES AND RESERVATIONS**[Home](#)[British Pullman](#)[Excursions](#)[Calendar](#)[Special Offers](#)**THE BELMOND BRITISH PULLMAN - CASTLES, STATELY HOMES AND GARDENS 2019.**

The magnificence of Britain's heritage is ever present with a wealth of sights to stir the imagination. Fortified strongholds speak, with a power that endures over the centuries, of more turbulent times when they formed the settings of strategy and siege. Travel in aristocratic style to some of our most noble houses and marvel at breathtaking interiors filled with irreplaceable antiques, glorious artworks and ancestral treasures.

Imposing architecture that once protected and defended the realm from its enemies now stands silent and proud, ready for your leisurely inspection. Explore dark dungeons that once rang with the sounds of torture and discover great lofty halls where matters of life and death were hotly debated in ancient times and where the sights and smells of glorious banquets once filled the air.

Stately homes that form part of our great British heritage are available for you to explore. The stately country garden is justly regarded as the epitome of Englishness.

Beautifully maintained lawns, immaculate floral gardens resplendent in their seasonal colours and collections of trees and shrubs that are the envy of the world are yours to view at leisure.



View some of the most enduring and gloriously atmospheric structures the United Kingdom has to offer with a choice of luxurious day excursions on the Belmond British Pullman, sister train to the Venice Simplon-Orient-Express.

Arundel Castle**from £425 per person****Recommended Insurance from £9.88 per person**

Set high on a hill in West Sussex, with magnificent views across the South Downs, Arundel Castle is one of the longest inhabited country houses in England. It still retains many of the original features such as the gatehouse, crenellated Norman keep, barbican and the lower part of Bevis Tower. Enjoy the grandeur of the finely preserved interior with its fascinating furniture, tapestries and rare collection of paintings by renowned artists including Van Dyck, Gainsborough and Canaletto.

(Smart day wear is appropriate. You are asked not to wear jeans. Please remember you will be outdoors for part of your time at Arundel Castle).

Includes :

Set within its own idyllic microclimate, Hush Heath Winery has been producing some of England's finest sparkling wines and ciders for over a decade. With a history dating back to 1503, the exquisite Tudor-framed Hush Heath Manor is the family home of the Balfour-Lynn's. The Manor nestles into the hill, overlooking the vineyards and estate with magnificent views across the Weald of Kent. Hush Heath is spread over 400 acres of land, encompassing impressive apple orchards, vineyards, farmland and a forest of ancient oaks. This diversity lets them grow and hand pick every ingredient they use, resulting in award-winning products of the highest quality.

(Smart day wear is appropriate. You are asked not to wear jeans. Please remember you will be outdoors for part of your time at Hush Heath Winery).

Includes : Brunch with Bellini is served on your outward journey. On arrival at Maidstone, you will be met by guides for the coach transfer to Hush Heath Winery. Here you have a guided tour of Hush Heath Estate, including a wine tasting session and a wine blending exercise. A glass of chilled champagne is served as you board the train followed by a four-course dinner with wine.

From :	Outward	Return
London Victoria	09:40 London Victoria 12:00 Maidstone	17:30 Maidstone 20:00 London Victoria
Departures 2019 :	June 31.	September 6.

Leeds Castle

from £418 per person

Recommended Insurance from £9.88 per person

Set in the heart of Kent, Leeds Castle has been home to many of England's most important historical figures. Explore the fairy tale castle and calm oasis of parkland surrounding it. Originally built in 1119 as a Norman stronghold, Leeds Castle has had a dramatic history that has seen the building evolve to match the tastes of the time. One of its most notable residents was King Henry VIII, who transformed the castle into a beautiful home for his first wife, Catherine of Aragon.

(Smart day wear is appropriate. You are asked not to wear jeans. Please remember you will be outdoors for part of your time at Leeds Castle).

Includes : Brunch with Bellini is served on your outward journey. On arrival at Maidstone, you will be met by guides for the guided coach transfer to Leeds Castle. Here you are free to explore the "loveliest castle in the world" at your leisure. A glass of chilled champagne is served as you board the train followed by a four-course dinner with wine.

From :	Outward	Return
London Victoria	09:40 London Victoria 12:00 Maidstone	17:30 Maidstone 20:00 London Victoria
Departures 2019 :	June 31.	September 6.

Longleat

from £425 per person

Recommended Insurance from £9.88 per person

Longleat is an English stately home and the seat of the Marquesses of Bath, set adjacent to the village of Homingsham near Warminster. The house is set in over 1,000 acres of parkland landscaped by Capability Brown and was the first stately home to open to the public, and also claims the first safari park outside Africa. Board the Belmond British Pullman for an adventure to this stately house and the world-famous Safari Park. Prepare to be amazed by hundreds of animals in their natural surroundings before exploring one of the best examples of high Elizabethan architecture in Britain.

(Smart day wear is appropriate. You are asked not to wear jeans. Please remember you will be outdoors for some of the time at Longleat).

Includes : Brunch with Bellini will be served on the outward journey aboard the British Pullman. Enjoy a guided coach tour to Longleat House where you have free time to explore the house, grounds and safari park. Rejoin the British Pullman for your return journey to London. A glass of chilled champagne is served as soon as you board the train, followed by a delicious four-course dinner accompanied by half a bottle of wine.

From :	Outward	Return
London Victoria		



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Tastes & Flavours of Kent

A favourite holiday embracing wine, cheese and beer in the wonderful Kent countryside together with hearing of the smugglers who inhabited the marshes many years ago.

VIEW IMAGES >>



- Detailed Overview
- Tour Itinerary
- Other Information
- Pick-up Points
- Departure Dates

Monday

We depart and make our way to Kent and arriving in the afternoon at our hotel for the next 4 nights stay with dinner, bed and breakfast.

Tuesday

For our first visit today we head for Staplehurst and Hush Heath Estate and vineyards. Here we enjoy a guided tour and can learn all aspects of grape-growing before visiting the winery where the production process of still and sparkling wine is explained. We finish with a tutored tasting of six Hush Heath Estate wines and ciders. Leaving the vineyard we have a short drive to the Goudhurst Inn, part of the Hush Heath Estate, for a Ploughmans Platter lunch. Leaving here we visit the Winterdale Cheese Farm for a guided tour of the dairy and cave, followed by cheese tasting and cream tea.

Wednesday

This morning we head for the land of mysterious marshes and smugglers. First we come to New Romney, a Cinque Port since 1155 but the Great Storm of 1287 changed the course of the River Rother and made New Romney an inland town. Next we visit Lydd where in the 18th and 19th centuries the town was notorious for the activities of 'owlers' (Local smugglers hooting to each other at dead of night). Have a look at All Saints Church - The Cathedral of the Marsh, which has a soaring 132ft tower, and at 199ft is Kent's longest church, parts of it date back to Roman times. As we head inland spot the tower of St Mildred's Church at Tenterden. Horatio, Lord Nelson's daughter by his mistress Emma Hamilton, was at one time the vicar's wife. Known as the 'Jewel in the Weald' the town makes an ideal place to finish the day.

Thursday

We begin with a ride to historic Fauersham which nestles between the rural gently sloping Downs and the austere North Kent marshes and is one of southern England's most charming towns. It now has over 475 listed buildings and a wide selection of independent shops. We have time for lunch here before we leave for our afternoon visit to the Shepherd Neame Brewery for a guided 'behind the

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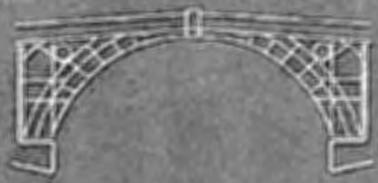
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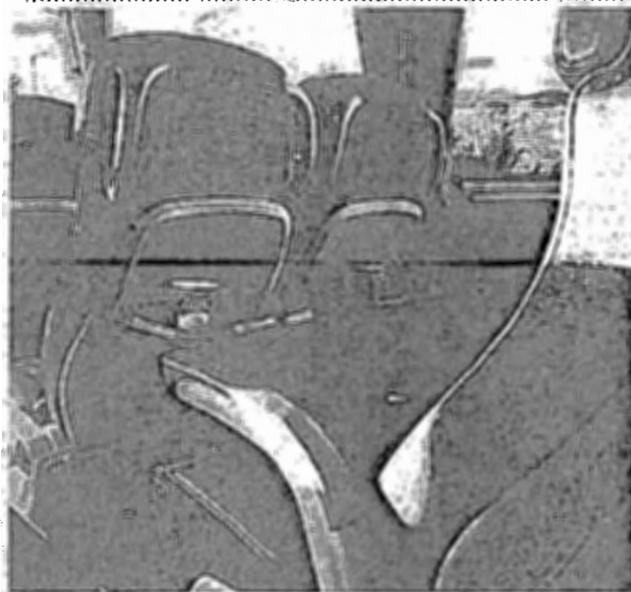
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For your comfort, coaches are equipped with reclining seats, blinds, dustan, air-conditioning and toilets.

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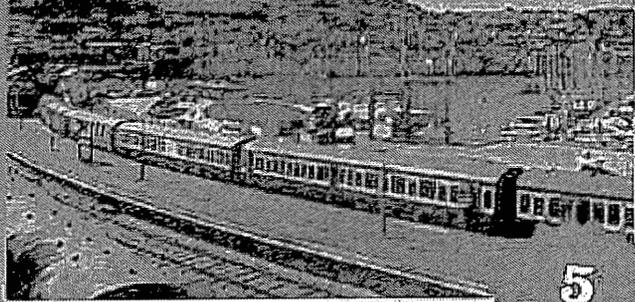
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51 ALL SEATS NON-SMOKING													
52	47	43	39	35	31			19	15	11	7	3	○
53	48	44	40	36	32			20	16	12	8	4	



Sailing and Steaming in delightful Devon

ENGLAND



5 Days

15th July 2019 5 Days HB £485pp
No Single room supplement | Insurance £21.00pp

Sail and steam on and around beautiful Devon, sample the delights and nostalgia of the famous South Devon Steam Railway, an original branch line of the Great Western railway, cruise along the River Exe and the delightful naval port of Dartmouth.

ITINERARY

DAY 1.

We depart Shropshire in the morning travelling to Devon and arriving late afternoon at Headland Hotel, in plenty of time to relax and settle in before dinner.

DAY 2.

Our day begins with a Devon coastal tour. Following the shore road, we pass through Teignmouth and Dawlish and continue north to the Cathedral City of Exeter. We have time to obtain lunch before we enjoy a cruise around the River Exe discovering the history, beauty and wildlife of the river.

DAY 3.

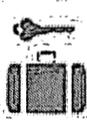
This morning we drive into Newton Abbot where today is market day. Leaving Newton Abbot we have a ride to Buckfastleigh. Here we join the South Devon Railway. Originally a Great Western Railway branch line, the line hugs the Dart estuary on the journey to Totnes.

DAY 4.

We head into the South Hams region of Devon this morning. First, we take a break in Kingsbridge, before heading to delightful Dartmouth, where you can enjoy a lovely stroll along the busy harbour, or just sit and watch the boats.

DAY 5.

After breakfast we board our coach and begin our journey home, arriving back in Shropshire later in the day.



Headland Hotel, Torquay

Majestically overlooking Meadfoot Beach and the sea, set on the headland, the Headland Hotel was originally built for the Romanoff's, the Russian Royal Family. All bedrooms are en suite and have television, hairdryer and tea/coffee making facilities. The hotel has a lift.

What's Included

- 4 nights stay at the Headland Hotel, Half Board
- Hotel entertainment each evening
- Executive Coach Travel
- Porterage
- South Devon Railway
- River Exe Cruise
- Our exclusive Door 2 Door home pick up service



Tastes & Flavours of Kent

18th July 2019 5 Days HB £489pp
Single room Supplement £100.00pp | Insurance £21.00pp

Known as "The Garden of England" Kent is a county of many contrasts from historic Canterbury with its famous Cathedral to the historic naval dockyard and marshlands of the south. Coast and countryside are attractions in themselves, with 350-miles of beautiful shoreline dotted with idyllic sandy and shingle beaches, chalk downland and haunting marshes.

ITINERARY

DAY 1.

We depart Shropshire in the morning travelling south east to Kent and arriving in the afternoon at Hilton Maidstone Hotel.

DAY 2.

We head for Staplehurst and Hush Heath Estate and vineyards. Here we enjoy a guided tour and can learn all aspects of grape-growing before visiting the winery. From here we visit the Winterdale Cheese Farm for a guided tour of the dairy and cave, followed by cheese tasting and cream tea.

DAY 3.

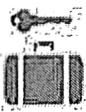
We begin today with a ride to historic Faversham. Nestling between the rural gently sloping Downs and the austere North Kent marshes. Afterwards we round off the visit with Hop Pickers Afternoon Tea.

DAY 4.

This morning we head for the land of mysterious marshes and smugglers. First on our list of visits is New Romney, then onto Lydd and Tenterden, known as the Jewel in the Weald.

DAY 5.

After breakfast we bid farewell to our hosts and board our coach and begin our journey home to Shropshire.



Hilton Maidstone Hotel

The Hilton Hotel stands on the outskirts of Maidstone. Hotel facilities include indoor swimming pool, sauna and fitness centre. All bedrooms are en suite, and have television, telephone, hairdryer and tea & coffee making facilities. The hotel does not have a lift, rooms are ground and first floor only.

What's Included

- 4 nights stay at the Hilton Maidstone Hotel, Half Board
- Executive Coach Travel
- Hush Heath Estate and Vineyards tour and tasting
- Winterdale Cheese Farm tour, tasting and Kent cream tea
- Shepherd Noame Brewery 'Behind the scenes' tour, tasting and Hop Pickers afternoon tea.
- Our exclusive Door 2 Door home pick up service



 This job is no longer available

Events Manager- Hush Heath Estate, Kent

Recruiter Hush Heath Winery
Location Tonbridge
Salary Not specified
Posted 23 Jan 2019
Closes 28 Jan 2019
Sector Catering & Hospitality
Contract Type Permanent
Hours Full Time

Hush Heath Estate is one of England's leading wine producers and create award winning wines and ciders in Staplehurst, Kent. The beautiful 400 acre estate is home to our vineyards, apple orchards and state of the art winery. In 2018 we substantially increased the size of our winery and launched our 200 seater tasting room, a one of a kind in the UK and we are looking to substantially grow our visitor numbers by holding events throughout the year. This will include private, corporate and public events. Hush Heath Estate is an exciting, vibrant and growing wine Estate where there are always opportunities to develop and progress and an exciting opportunity has arisen for a full time Events Manager to join our team. Key Responsibilities Corporate Proactively selling Corporate Packages and partnerships Running of Corporate Events from dealing with the client face to face to ensuring the event itself is followed through until the end Corporate Gifting Responding to all corporate enquiries Putting together quotations for bespoke corporate events, liaising with our executive chef to ensure that any food requirements are well planned and costed correctly, including staff Events

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Running of winery events alongside the retail manager (i.e Open Weekends etc) Leading all events and ensuring that everyone knows their function, co-ordinating efficiently liaise with clients to find out their exact event requirements produce detailed proposals for events (including timelines, suppliers, legal obligations, staffing and budgets) negotiate prices for items that may need to be hired in manage and coordinate suppliers and all event logistics (e.g, catering, travel) liaise with sales and marketing to publicise and promote the event manage all pre-event planning, organising guest speakers etc handle client queries and troubleshoot on the day of the event to ensure that all runs smoothly and to budget manage a team of staff, giving full briefings organise facilities for car parking, traffic control, security, first aid, hospitality and the media make sure that insurance, legal, health and safety obligations are followed oversee the dismantling and removal of the event and clear the venue efficiently produce post-event evaluation to inform future events research opportunities for new clients and events General requirements A minimum of two year's event management experience in a high-quality establishment. • Have a proven track record in achieving sales targets and KPIs • Have a desire to provide fantastic service to our

clients/customers to help create memorable event every time • Have excellent telephone skills and a keen eye for detail to ensure contracts and client proposals are accurate • Excellent organisation and event operations skills with the ability to effectively prioritise and multi task • A good working knowledge of Word, Excel, Outlook and related PC packages is essential for this role • Strong English communication skills (verbal, listening, writing) • Effective decision-making skills • Ability to acquire and maintain relationships with clients and colleagues This job was originally posted as www.caterer.com/job/84689030

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Kent's Hush Heath Winery unveils plans to triple output in five years

13 JUNE 2018

JANE RYAN

Drinks: Drinks, Sparkling, Wines Location: England, UK

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Hush Heath is looking to the future, and seeing no sign of the thirst for English wine abating. With that in mind the small Kentish brand has

UPCOMING EVENTS

Famille Helfrich Portfolio Tast

25 February @ 10:00 am - February @ 5:00 pm

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26 February @ 1:00 pm - 3 pm

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The WineBarn Oxford College Portfolio Tasting

expanded, adding in 130 acres of vineyard and a new winery set to start production in August this year.

It's not just the amount of wine Hush Heath is looking to expand, however. It's also increasing how many visitors can come through the winery each year by building a new shop, a 200-seater tasting room and an upstairs terrace bar.

'We've seen our numbers grow to 20,000 each year and we couldn't accommodate the requests we were getting with the space we had.

With the new building we should be able to have 50,000 visitors,' owner Richard Balfour-Lynn told Imbibe.

Richard Balfour-Lynn

The new vineyards are planted on land already owned by the family estate and will take three to four years to mature grapes for winemaking, so the growth will be staggered, but over the next five years Hush Heath will go from 150,000 bottles per year up to 500,000 bottles.

The new acreage will comprise predominantly of the three sparkling wine grape varieties already planted across much of the

estate: Chardonnay, Pinot Noir and Pinot Meunier.

'To stay relevant we had to grow. We'll always be a boutique winery, we'll never be as big as the likes of Chapel Down or Nyetimber, rather I see us akin to a grower champagne. But English wine has a huge demand and is actually quite a small production on the whole. We sell everything we make. We've just got to ensure by expanding that it's still a quality end product,' said Balfour-Lynn.

Sparkling wine isn't the only focus though. Balfour-Lynn says the company is really growing the still side of the business, and sees a huge

📅 27 February @ 12:00 pm - 2:00 pm
📍 St Aldates
Oxford, OX1 1DP United Kingdom

The WineBarn Cambridge College Portfolio Tasting

📅 28 February @ 12:00 pm - 2:00 pm
📍 Trumpington St
Cambridge, CB2 1RL United Kingdom

Wines from Spain 2019 Annual Tasting

📅 7 March @ 10:00 am - 5:00 pm
📍 20 Fenchurch St
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94

potential in the UK for still wine. In addition the cider and sparkling apple wines are seeing their demand grow too.

'Our challenge as an industry is to maintain the quality of English wine, the global enthusiasm for which has been astonishing, and we are only at the beginning of the English wine story – rather like the Champagne houses in 1900,' he said.

While you're here...

Have you registered for the on-trade's favourite drinks show yet? **Imbibe Live** is taking place on **2 and 3 July at Olympia**

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If you don't already know, Imbibe Live is the innovative and interactive annual exhibition for anyone who sources, buys or serves drinks in the licensed on-trade. From sommeliers to buyers and from managers to publicans and bartenders, this essential date in the drinks calendar will see the industry's finest come together.

Register today: www.imbibe.com/live

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English sparkling wine English wine hush heath kent wine winery

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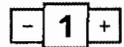
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See behind the scenes at Forman's Smokehouse and celebrate a union of the finest smoked salmon and English wines.

A century ago, the unrivalled flavour of fresh Scottish salmon transformed an East End street food into a gourmet sensation served at top restaurants all over the world. The London Cure was born – H. Forman & Son, a fourth-generation family owned concern, is the last remaining of the original London smokehouses. Lance Forman upholds and continues that tradition today.

Discover why *Forman's* smoked salmon is truly artisan. Listen to Lance Forman talk about the history of producing the world-famous London Cure smoked salmon followed by a *visit to* the on-site *smokehouse*, where you'll see the unique salmon smoking process and a carving demonstration from resident Guinness World Record holder, Darren Matson.

We then invite you to join us for a celebration of the finest Smoked Salmon & English Wines. Lance and the Winemaker from top English vineyard, Hush Heath will conduct a tutored tasting & pairing of six salmons and six wines.

11.00 – 11.15am	<i>Arrival. Tea & coffee will be served</i>
11.15 – 11.45am	<i>Lance Formans talk</i>
11.45 – 12.30pm	<i>Smokehouse Visit</i>
12.30 – 2.00pm	<i>Tutored Hush Heath tasting & salmon pairing</i>

At the end of the visit there is the opportunity to purchase the salmons and wines you have tasted at a discounted rate. Please note that you will be standing in a refrigerated area during for 45 minutes. We recommend layers of clothes and low-heeled, closed toe shoes.

Venue: *H. Forman & Son, Stour Road, Fish Island, London, E3 2NT*

Date: *Saturday 9th March 2019*

Cost: *£52.50 for one, £100 for two*

Related products

Smokehouse Tours £39.95

Select Size/Type

39 in stock

APPROXIMATE £ PER HEAD - £39.95

- 1 +

ADD TO BASKET

Salmon £155.95 - £237.00 Carving Masterclass

Select Size/Type

£155.95

90 in stock

- 1 +

ADD TO BASKET

Forman & Field Tea Towels £9.95 - £24.95

Select Size/Type

£9.95

- 1 +

ADD TO BASKET

Artisan du Chocolat Voyage de Chocolats £49.95 - £89.95

Select Size/Type

£49.95

- 1 +

ADD TO BASKET

NEED ANY HELP? CALL US

MONDAY-FRIDAY 9AM-5PM (GMT)

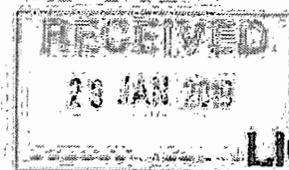
0203 601 5464



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Insert name and address of relevant licensing authority and its reference number (optional)

Maidstone Borough Council
 The Licensing Partnership
 PO Box 182
 Sevenoaks
 Kent
 TN13 1GP

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.

~~XXXX~~ Richard Balfour-Lynn
 (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 18/02446/LAPRE

Part 1 - Premises Details

Postal address of premises or, if none, Ordnance Survey map reference or description Hush Heath Winery Hush Heath Estate Five Oak Lane Staplehurst	
Post town Staplehurst	Post code TN12 0HT
Telephone number at premises (if any)	01622 832794
Non-domestic rateable value of premises	£ N/A Agricultural holding

Part 2 - Applicant Details

Daytime contact telephone number	[REDACTED]	
E-mail address (optional)	[REDACTED]	
Current postal address if different from premises address	Hush Heath Manor Hush Heath	
Post town	Cranbrook	Post code TN17 2NG

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? Yes No

If not, from what date do you want the variation to take effect?

DD		MM		YYYY			

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1) Yes No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

Please see attached notes

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 see guidance note 3) Please tick all that apply

- 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 late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both - please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>	
Day	Start	Finish		Outdoors	<input type="checkbox"/>	
Mon			Please give further details here (please read guidance note 5)	Both	<input type="checkbox"/>	
Tue						
Wed				State any seasonal variations for performing plays (please read guidance note 6)		
Thur						
Fri						
Sat				Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sun						

B

Films Standard days and timings (please read guidance note 8)			Will the exhibition of films take place indoors or outdoors or both - please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>	
Day	Start	Finish		Outdoors	<input type="checkbox"/>	
Mon			Please give further details here (please read guidance note 5)	Both	<input type="checkbox"/>	
Tue						
Wed				State any seasonal variations for the exhibition of films (please read guidance note 6)		
Thur						
Fri						
Sat				Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sun						

C

Indoor sporting events Standard days and timings (please read guidance note 8)			Please give further details (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			State any seasonal variations for indoor sporting events (please read guidance note 6)
Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 7)			
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			Will the boxing or wrestling entertainment take place indoors or outdoors or both - please tick (please read guidance note 4)	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			Please give further details here (please read guidance note 5)	
Thur			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 6)	
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 7)	
Sat				
Sun				

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place indoors or outdoors or both - please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish	Both <input type="checkbox"/>		
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the performances of live music (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both - please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish	Both <input type="checkbox"/>		
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Thur					
Fri			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 (please read guidance note 7)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 8)			Will the performance of dance take place indoors or outdoors or both - please tick (please read guidance note 4)	Indoors <input type="checkbox"/>	Outdoors <input type="checkbox"/>	Both <input type="checkbox"/>
Day	Start	Finish				
Mon			Please give further details here (please read guidance note 5)			
Tue						
Wed			State any seasonal variations for the performance of dance (please read guidance note 6)			
Thur						
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 7)			
Sat						
Sun						

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing			
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both - please tick (please read guidance note 4)	Indoors <input type="checkbox"/>	Outdoors <input type="checkbox"/>	Both <input type="checkbox"/>
Mon			Please give further details here (please read guidance note 5)			
Tue						
Wed			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 6)			
Thur						
Fri			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 7)			
Sat						
Sun						

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place <u>indoors or outdoors or both - please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 5)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption <u>- please tick</u> (please read guidance note 9)	On the premises	<input type="checkbox"/>
Day	Start	Finish		Off the premises	<input type="checkbox"/>
Mon	1000	2400	State any seasonal variations for the supply of alcohol (please read guidance note 6)	Both	<input checked="" type="checkbox"/>
Tue	1000	2400			
Wed	1000	2400			
Thur	1000	2400	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 7)		
Fri	1000	2400		Please see attached Rider.	
Sat	1000	2400			
Sun	1000	2400			

K

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 10).

Hours premises are open to the public
Standard days and timings
 (please read guidance note 6)

Day	Start	Finish
Mon	1000	2400
Tue	1000	2400
Wed	1000	2400
Thur	1000	2400
Fri	1000	2400
Sat	1000	2400
Sun	1000	2400

State any seasonal variations (please read guidance note 6)

It has and will continue to be the Winery's general practice to close at 5pm (November - March inclusive) and 7pm (April - October inclusive) although the Variation will enable them to sell alcohol until 7pm (Monday - Sunday inclusive) although that will be the exception rather than the rule. The Winery will continue to take off-sales as permitted under their current licence for the purposes of online transactions and have a maximum 12 events per year which is when the premises will be open later than those times and as currently permitted under the existing licence.

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 7)

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.

Remove the condition "the supply of alcohol on the premises will be limited to tasting samples only." (Annex 3 of existing licence).

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

M

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 and e) (please read guidance note 11)

Hush Heath Winery has had a Premises Licence since 2010 and has received no complaints from Responsible Authorities or any other person or organisation and throughout that period has maintained the highest standards having regard to the four licensing objectives. The Winery is located in an extremely remote area with excellent parking facilities, good security and track record of no problems or complaints.

b) The prevention of crime and disorder

This will continue as it has since 2010 with limited opening hours, good security, alarms and CCTV cameras. There will be no unsupervised access. The typical visitor to the premises is 35 years plus and "sophisticated". The main purpose of the Winery's business is production of wine but the business wishes to enhance the visitor experience following significant investment into the 2018 extension. The high standards set by the Applicant and the Hush Heath Estate will continue. Visitors typically have tasted wine following a tour of the vineyards, taken in the beautiful views, and walked the stunning estate and this will continue, although visitors will be able to purchase alcohol which is Hush Heath Produce only. Hush Heath is not a public house or restaurant. It is a Winery producing its own alcoholic drinks and only these will be sold and supplied and comprise sparkling wine, still wine, cider and beer.

c) Public safety

The Winery which forms part of the Bush Health Estate carries out HSELP which ensures public safety and the staff are well trained in this. Staff are also first aid trained and have identified fire and other hazards and any other safety. Additionally there is good security and CCTV cameras.

d) The prevention of public nuisance

All staff are well trained and follow the "Challenge 25" rules under the supervision of the Designated Premises Supervisor. In view of the very high standards set by the Applicant and the Bush Health Estate and because the Winery is not a public house, night club or similar establishment the Variation will have limited impact (if any).

e) The protection of children from harm

The typical visitor is 35 years of age plus, although children will be allowed under parental or adult supervision and they must at all times be accompanied. Hazardous materials located on the premises are kept under child proof lock.

Checklist:

Please tick to indicate agreement.

- I have made or enclosed payment of the fee; or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- 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 UNDER SECTION 133 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 5 - Signatures (please read guidance note 12)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	29.01.19 <i>DM</i>
Capacity	PRODUCER AND PREMISES LICENCE HOLDER <i>DM</i>

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 14). 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 15)

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)	

Notes for Guidance

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy.
2. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports - defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts - are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
 - Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
 - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
 - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
4. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
 5. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
 6. For example (but not exclusively), where the activity will occur on additional days during the summer months.
 7. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
 8. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
 9. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
 10. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
 11. Please list here steps you will take to promote all four licensing objectives together.
 12. The application form must be signed.
 13. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
 14. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.
 15. This is the address which we shall use to correspond with you about this application.

Rider to Part 3 – Variation

The Applicant first obtained the Premises Licence in 2010 and has since that time operated the Winery without any complaints or issues raised by any of the Responsible Authorities or indeed any other person or organisation. The Winery forms part of a 400 acre family owned Tudor estate which has family values at its core. The estate combines stewardship and conservation and the estate are passionate about the Winery and their position in the local community. The Licence was varied last in 2018 following a state of the art improvement and extension to the tasting room and visitor facilities at the Winery. Only Hush Heath alcoholic drinks will be sold at the premises (both on and off sales) and these comprise sparkling wine, still wine, cider and beer. The proposed variation will allow visitors to purchase alcoholic drinks. Both the roof and ground floor terrace areas face away from residential property located in Five Oak Lane. The premises will continue to operate as currently permitted but the proposed Variation will enhance the visitor experience with the sale and supply of alcohol allowed up to 7pm (Monday – Sunday inclusive) although it has and will continue to be the Winery's general practice to close at 5pm (November – March inclusive) and 6pm (April – October inclusive). The proposed Variation only applies to the day to day on-sales and is not applicable to the 12 events per year or off-sales allowed under the current licence. Consequently the premises will continue to be licensed until 12 midnight for off-sales (which is required for online orders that are processed) and for a maximum of 12 events per year.

The proposed Variation is:-

1. Remove the condition "the supply of alcohol on the premises will be limited to tasting samples only".
2. Annex 4 – Conditions attached after a Hearing by the Licensing Authority:-

Be amended to read "supply of alcohol (by way of on-sales) will be permitted on all other occasions Monday to Sunday inclusive between the hours of 10.00 hours and 19.00 hours (this does not affect the 12 events allowed or off-sales under the current licence. (Consequently the premises will continue to be licensed until 12 midnight for off-sales (which is required for online orders that are processed) and for a maximum of 12 events per year).

3. The remainder of Annex 4 to continue.

Rider to Part 4 – Operating Schedule Section J
Supply of alcohol – Non Standard timings

The premises will continue to operate as currently permitted but the proposed variation will allow for on-sales between 1000 - 1900 Monday - Sunday inclusive (and for the avoidance of doubt these hours are not applicable to the 12 events per year or off-sales currently permitted. (Consequently the premises will continue to be licensed until 12 midnight for off-sales (which is required for online orders that are processed) and for a maximum of 12 events per year).

It is the Winery's current practice to close during the months November - March inclusive at 5pm and during the months April - October 6pm and this practice is likely to continue as a general rule.

Print Version

Close Window

Print

Summary

Reference	18/02446/LAPRE
Type	Variation
Category	Premises Licence
Status	Current Licence
Applicant	Mr Richard Balfour-Lynn
Trading Name	Hush Heath Winery
Address	Hush Heath Winery Hush Heath Estate Five Oak Lane Staplehurst Tonbridge Kent TN12 0HX
Issue Date	Fri 07 Sep 2018
Expiry Date	Not Available
Case Officer	Lorraine Neale

Important Dates

Date Application Received	Thu 05 Jul 2018
Date Application Validated	Thu 12 Jul 2018
Expiry Date for Consultations	Thu 09 Aug 2018
Hearing Date	Mon 03 Sep 2018
Date Issued	Fri 07 Sep 2018
Renewal Date	Not Available
Representation Expiry Date	Thu 09 Aug 2018

Committee

Licensing Sub Committee at
MBC 03 Sep 2018

Meeting Date

Opening Hours

Time Period	From	To
Every day	10:00 AM	12:00 AM
Not Available	Not Available	Not Available
Not Available	Not Available	Not Available
Not Available	Not Available	Not Available
Not Available	Not Available	Not Available
Not Available	Not Available	Not Available

Not Available Not Available Not Available
 Not Available Not Available Not Available

Activities

Activity	Location Indoors/Outdoors	Alcohol Consumed	Capacity	Time Period	From	To
Live music		Both	0	Every Day	10:00 AM	12:00 AM
Recorded music		Both	0	Every Day	10:00 AM	12:00 AM
Sale or Supply of Alcohol		Both	0	Every Day	10:00 AM	12:00 AM
Late Night Refreshment		Both	0	Every Day	11:00 PM	12:00 AM

Conditions

Condition

The supply of alcohol

- Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

The supply of alcohol

(a) at a time where there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Price of alcohol condition

Mandatory conditions in force from 28 May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b) "permitted price" is the price found by applying the formula? $P = D + (D \times V)$

where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. - (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Mandatory
Condition sale of
alcohol**

Mandatory Conditions in force from 01 October 2014

1.7 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises?

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to?

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3.? (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either?

(a) a holographic mark, or

(b) an ultraviolet feature.

4. The responsible person must ensure that?

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures?

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c)where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

There shall be CCTV coverage of all licensed areas. The CCTV system will be kept in good working order and any images captured will be kept for a minimum of 30 days and supplied to a Police Officer or Local Authority Licensing Officer upon request.

No customers will be left unsupervised on the premises.

The supply of alcohol on the premises will be limited to tasting samples only.

Children will be kept under adult supervision at all times.

All hazardous materials will be kept under child proof lock.

Challenge 25 is in operation at the premises

Not applicable Not applicable

o Recorded music, live music and late night refreshment will take place after 17:00 hours on not more than 12 occasions in any calendar year ("events").

o Such event occasions will not occur on consecutive weekends.

o Any event occasion will be notified to neighbours within 800m of the premises a minimum of 7 days before the event.

o After 23:00 hours live and recorded music and late night refreshments will be indoors only and windows and doors will be closed save for entry and exit.

o Live and recorded music will end by 23:45 hours.

o All visitors to the premises will leave the premises and parking area by 00:00.

o On event occasions signage will be placed at the exits of the premises asking visitors to leave quietly and respect neighbours.

Contacts

Contact Type Licensing Applicants

Name Mr Richard Balfour-Lynn

Address Private Address

Contact Type Designated Premises Supervisors

Name Ms Victoria Claire Ash

Address Private Address

Related Information

There are 2 documents associated with this licence.

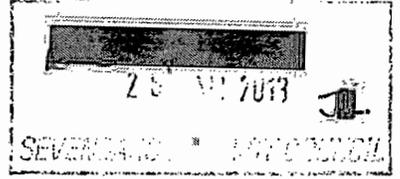
There are 3 cases associated with this licence.

There is 1 property associated with this licence.

13/00231/LA PRE

Maldstone Borough Council

The Licensing Partnership
PO Box 182
Sevenoaks
Kent
TN13 1GP



Application for a premises licence to be granted 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 Richard Balbour - Lynn
(insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 - Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
HOSH HEATH WINERY HOSH HEATH ESTATE FIVE OAK LAKE JUNCTION OF SNOWD LANE STAPLEHURST			
Post town		Post code	TN120HX

Telephone number at premises (if any)	01622 832 794
Non-domestic rateable value of premises	£ N/A Agricultural holding

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as
Please tick yes

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)

- iii. as an unincorporated association or please complete section (B)
- iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - o statutory function or
 - o a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)
Surname BALFOUR-LYNN		First names RICHARD		
I am 18 years old or over				<input checked="" type="checkbox"/> Please tick yes
Current postal address if different from premises address		[REDACTED ADDRESS]		
Post Town		Postcode		[REDACTED POSTCODE]
Daytime contact telephone number		[REDACTED TELEPHONE NUMBER]		
E-mail address (optional)		[REDACTED EMAIL ADDRESS]		

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)
Surname		First names		

Please give a general description of the premises (please read guidance note 1)

Fully functioning winery with equipment to press grapes and make sparkling + still wines as well as cider. All product is marketed under our brand and predominantly uses apples and grapes grown on the estate. The building is a converted agricultural barn.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N/A

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

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)

wedding venue.

Supply of alcohol (if ticking yes, fill in box M)

A

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

8

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

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Tue			
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 5)
Fri			
Sat			
Sun			

D

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

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	10:00	24:00	Please give further details here (please read guidance note 3) WITHDRAWN	Both	<input checked="" type="checkbox"/>
Tue	10:00	24:00			
Wed	10:00	24:00	State any seasonal variations for the performance of live music (please read guidance note 4)		
Thur	10:00	24:00			
Fri	10:00	24:00	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	10:00	24:00			
Sun	10:00	24:00			

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place <u>indoors or outdoors or both</u> – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	10:00	24:00	Please give further details here (please read guidance note 3)	Both	<input checked="" type="checkbox"/>
Tue	10:00	24:00			
Wed	10:00	24:00	State any seasonal variations for the playing of recorded music (please read guidance note 4)		
Thur	10:00	24:00			
Fri	10:00	24:00	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 (please read guidance note 5)		
Sat	10:00	24:00			
Sun	10:00	24:00			

G

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

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment you will be providing</u>		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)</u>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here (please read guidance note 3)</u>		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)</u>		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)</u>		
Sun					

Provision of facilities for making music Standard days and timings (please read guidance note 6)			<u>Please give a description of the facilities for making music you will be providing</u>		
			<u>Will the facilities for making music be indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors <input type="checkbox"/> Outdoors <input type="checkbox"/> Both <input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue			<u>State any seasonal variations for the provision of facilities for making music</u> (please read guidance note 4)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri					
Sat					
Sun					

J

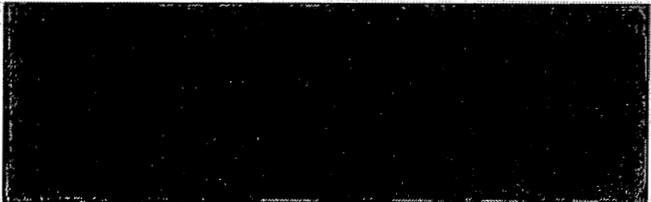
Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (see guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
			Please give a description of the facilities for dancing you will be providing			
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon						
Tue						
Wed						
Thur						
Fri						
Sat						
Sun			State any seasonal variations for providing dancing facilities (please read guidance note 4)			
			Non standard timings. Where you intend to use the premises for the provision of facilities for dancing entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)			

Only as part of a possible wedding (see page 10)

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	10:00	24:00			
Tue	10:00	24:00			
Wed	10:00	24:00			
Thur	10:00	24:00			
Fri	10:00	24:00			
Sat	10:00	24:00			
Sun	10:00	24:00			
			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)		

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name	Victoria Ash
Address	
Postcode	
Personal Licence number (if known)	licence Pending
Issuing licensing authority (if known)	Walden County Council

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)

No

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	11:00	17:00	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) In the event of a wedding
Tue	11:00	17:00	
Wed	11:00	17:00	
Thur	11:00	17:00	
Fri	11:00	17:00	
Sat	11:00	17:00	
Sun	12:00	17:00	

P Describe the steps you intend to take to promote the four licensing objectives:

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

Hush Heath Estate is a family owned farm + winery maintained to the highest of standards with limited access to the public, good security, good parking and in an extremely remote area. The principles of security + safety will be attended with in all dealings with the public.

b) The prevention of crime and disorder

Limited opening hours. Good security, alarms + CCTV cameras. No unsupervised access.

c) Public safety

Winery and vineyards form part of Hush Heath Estate which carries out an annual independently evaluated farm audit called CMI Farm Audit. This audit includes health + safety + safety for the public visiting the estate.

d) The prevention of public nuisance

The supply of alcohol will be restricted to members of the public ~~to~~ tasting samples.

e) The protection of children from harm

Only allowed on the estate with parental or adult supervision. At all times they will be accompanied. All hazardous materials will be kept under child proof lock.

Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- 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 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	[REDACTED]
Date	11 January 2013
Capacity	PROPRIETOR

For joint applications signature of 2nd applicant 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 postal 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)			

our dog. My children enjoy cycling on these roads and my husband cycles to and from home to reach Staplehurst village and the train station for work. The lanes are also used by children riding ponies and those using pony traps. This is a quiet peaceful area in a remote, rural setting with much local wildlife, including bats (a protected species), breeding owls and deer.

The proposed variation would cause a nuisance to residents in the local area because:

- a) The change in visitor experience proposed in this application will lead to an increase in cars, coaches and delivery vehicles. The winery has already erected signage on the premises for "Coach Parking", an advert has been placed in the local press to recruit a full time Events Manager, and the Winery is promoting the premises as a venue for corporate and public events on their website. This demonstrates the intention of the winery to expand the business on a much more ambitious scale than is reflected in the notes to this application. The narrow roads leading directly to the premises are wholly unsuitable to support any increase of traffic. The noise of the increased traffic, likely congestion from the increase in vehicles, and particularly the demonstrated intention of the winery to attract visitors arriving as part of an organised party on larger coaches will cause noise and congestion on the narrow rural roads which are the only access routes to the site.
- b) It is impossible for larger vehicles to pass oncoming traffic without driving up onto the verges in many places on Five Oak Lane and the other lanes nearby. Large vehicles using the lanes in this way churn up the verges and put pressure on the sides of the ditches leading to collapse in places. This blocks the waterways and increases the risk of flooding on the roads and to surrounding properties. This area is known to flood and clear waterways are essential for protecting our homes from flood and for maintaining clear access on the roads. Recently substantial work was undertaken by the Highways Department to repair these ditches but there were no reinforcing or further measures taken to support an expansion in traffic that will follow granting this application, particularly of larger vehicles which cause greater damage.
- c) The extended opening hours requested in the application will mean that increased traffic to and from the Winery will be using the narrow roads leading to the site during peak time in the afternoon – between 4pm and 7pm is when many local residents are returning home from school and work by car but also walking on foot from the bus stop on the main road (A229) or cycling back from Staplehurst train station. Additional traffic on the narrow lanes at this time will cause significant disruption to local residents trying to get home.
- d) The surface of the road is very uneven and often requires surface repairs. The road is built on unstable, heavy clay that is prone to sinking. It is not a high-quality road surface suitable for larger traffic volumes. Heavy traffic, especially from larger vehicles such as coaches, is likely to cause further damage to the road surface creating more nuisance for local residents that rely on these roads to access their homes, and more potholes risking damage to local cars.
- e) If successful, the application would enable the operation of the winery to be expanded and lead to an increased number of visitors to the site and for longer operating hours.

This would increase noise levels and increase the periods of noise, disturbing local residents. The application submitted is unclear about the operations carried out on site for the online retail purposes stated. If the hours of operation are permitted to be extended until midnight the premises could be used for warehousing operations which will generate noise into the night and may necessitate late night delivery vehicles arriving/departing the site. In a rural area close to residential properties such wide-ranging permission to operate until midnight seven days a week is unreasonable.

- f) Visitors will be encouraged to stay for longer periods as they will be able to drink alcohol on site which will further increase the scale of operations and generate increased noise. More noise will be generated in open air areas through the increased use of the extensive outside seating areas, visitors congregating outside for smoking breaks, visitors arriving/departing through the outdoor car park areas, and use of the large "Hush Heath Winery" branded marquee structure that has been present on site for many months. These activities will generate noise that cannot be contained so will travel further. This will cause increased nuisance to residents in a wider area as well as those in the immediate vicinity of the winery.
- g) The consumption of alcohol on site will encourage a wholly different type of visitor experience and facilitate different social activities which are likely to generate more noise and high spirits than the sample tasting, tours and retail activities currently on site. This will damage the peaceful character of this quiet rural setting and will be much more likely to disturb the quiet enjoyment of local residents.
- h) It is likely that there will be greater noise from machinery such as heating / air conditioning units in the visitor areas in order to support the expanded operations. This will further spoil the quiet rural nature of the location. Noise from existing machinery can already be heard along the lanes surrounding the winery premises.

2) Risk to public safety

As described above, we live close to the winery and these roads are not suitable for a substantial increase in car traffic and certainly not for higher volumes of larger vehicles transporting coach parties or making deliveries. The only roads leading to / from the site are the winding, narrow, country lanes with deep ditches on each side of the road as described above. A change in visitor experience facilitated by granting this application would directly lead to an increase in traffic on local roads that are not suitable for this purpose. Therefore, the proposals in this application directly pose an increased risk to pedestrians and cyclists, and drivers of vehicles using the roads.

These highway safety risks were expressly recognised by the Council as part of the planning application process. The Council imposed conditions to limit opening hours and limit the supply of alcohol to tasting samples only to specifically address the risks to highway safety.

The application poses a risk to public safety because:

- a) The proposals made by the applicant are to enable expanded operations that would increase the number of vehicles and attract larger vehicles such as coaches to the site. There is not sufficient space for vehicles to pass oncoming traffic safely in several areas of the roads

leading directly to the winery from the main road and the winding nature of the roads restrict visibility of oncoming traffic.

- b) The lack of pavements and safe crossing places, and narrow roads place pedestrians at greater risk if traffic is increased directly as a result of expanded visitor activities at the Winery. Where verges are present these are very muddy and slippery and close to overhanging branches from hedges and trees. This means that when vehicles approach from each direction and try to pass on single lane and narrow stretches of the road there is little safe space available by the road for pedestrians. I have personally experienced this when pushing my pushchair on the road, with cars not leaving enough room for pedestrians or nearly hitting us with their wing mirrors as they squeeze past. This risk will be increased with an increased number of visitors to the winery who are unlikely to be familiar with these road conditions.
- c) As a rural area, this location is unsuitable for street lighting. The increased volume of traffic generated by expanding the activities at the premises poses greater risks to the public using the roads around the Winery, especially in the winter months when the Winery is open to the public but daylight is restricted. This is particularly the case in the weeks leading up to Christmas when the Winery operates extended opening hours (which were not acknowledged in this application) later into the dark evenings.
- d) The extended opening hours requested in the application coincide with the peak travel time on Five Oak Lane (4pm-7pm Mon-Fri). This is the time when most local residents return home from school and work and will travel home along Five Oak Lane from the main road (A229). The extended opening hours proposed would mean that traffic to and from the Winery would also be using Five Oak Lane and the surrounding narrow roads during this time. The variation to allow consumption of alcohol on the premises is requested to drive up visitor numbers so the volume of traffic will also be greater. This will increase the traffic on the narrow roads at the busiest time increasing the risk of traffic accidents. At peak time (4pm-7pm Monday – Friday) the volume of cars on Five Oak Lane and other surrounding local roads is highest, but there are also children and other residents walking home on foot from the bus stops on the A229 at the bottom of Pinnock Lane (which becomes Five Oak Lane) and cycling back from Staplehurst train station. The extra traffic generated particularly during the extended opening hours of the Winery would immediately put these local residents at substantial risk of harm, particularly during the darker winter months.
- e) The planning conditions prohibit external lighting at the site. Permitting the extension of operating hours as requested in this application would mean the site will be at times open to the public after daylight hours, particularly during the winter months. As external lighting is prohibited this will prevent the winery from operating safely outside of daylight hours, particularly if visitors are moving around the site under the influence of alcohol consumed on site.

3) Unclear and inaccurate information provided by the applicant

a) Unclear and inaccurate information on operating times

The information on operating times provided by the applicant is vague and inaccurate. The application states that the hours of opening to the public during the winter will be limited to the existing hours and states these as 10am-5pm. This is not the case. The Winery already opens for extended hours for many weeks leading up to Christmas, remaining open for sales to the public until 6pm. Allowing the applicant to have wide-ranging permission to supply alcohol on the terms requested will permit the winery to incrementally extend their operations. The notes in the application are not accurate and will not provide any kind of safety net to limit the operations of the Winery. Whilst I object fully to granting permission to supply alcohol for consumption on site at any time, should the Council decide to grant permission conditions should clearly restrict the opening hours to 10am-5pm during the winter months.

The current application does not give sufficient information about what the late-night online retail activities would involve on the site during the hours of 10am-midnight. The application does not give information about the level of staff / deliveries / machinery operation that would be present during this time. Without this information we cannot assess the potential level of public nuisance. The variation should not be granted without providing this information and giving local residents the opportunity to consider and comment on it.

b) Insufficient information on mitigation of risks associated with the change of use

Hush Heath Winery currently only has permission to run an operation open to the public based on tours and tastings. However, the Winery is currently advertising for a full time Events Manager to be employed on the premises to manage substantial public and corporate events. Permitting the supply of alcohol for consumption on site will also change the nature of the Winery so that it becomes a destination venue for the public to enjoy drinking alcohol. This represents a wholly different commercial proposition and will appeal to a larger and broader customer base. Granting this variation will facilitate this change in operations. The limited information contained in the notes to this application does not address this change of use or the clear intention of the winery to operate on a much larger scale. The application fails to provide sufficient information about the management of nuisance and risks to public safety from larger-scale public and corporate events with alcohol permitted to be consumed on site. This change of use poses new risks which are substantially different to the risks posed by individual public visitors attending for tours and tastings, and these risks are not adequately addressed in the application.

4) Conflict with existing planning conditions for Hush Heath Winery

There are a number of conditions in place as part of the planning consent for the winery. This license application is in direct conflict with these existing planning conditions. The planning conditions were put in place by the Council to protect the safety of local residents and to protect us from public nuisance. These conditions include:

- a) Retail use must be secondary to the winery to protect the character of the local countryside and minimise nuisance to local residents

- b) No retail sales to the public after 6pm and no sales at all on Sundays or bank holidays to safeguard enjoyment by local residents of their homes and prevent harm to highway safety;
- c) Prohibited exterior lighting around the property to protect the visual character of the rural area.

The licence process and planning process must support each other and granting this application would undermine the planning consent and conditions already in place.

Yours sincerely

Natasha Davidson-Houston

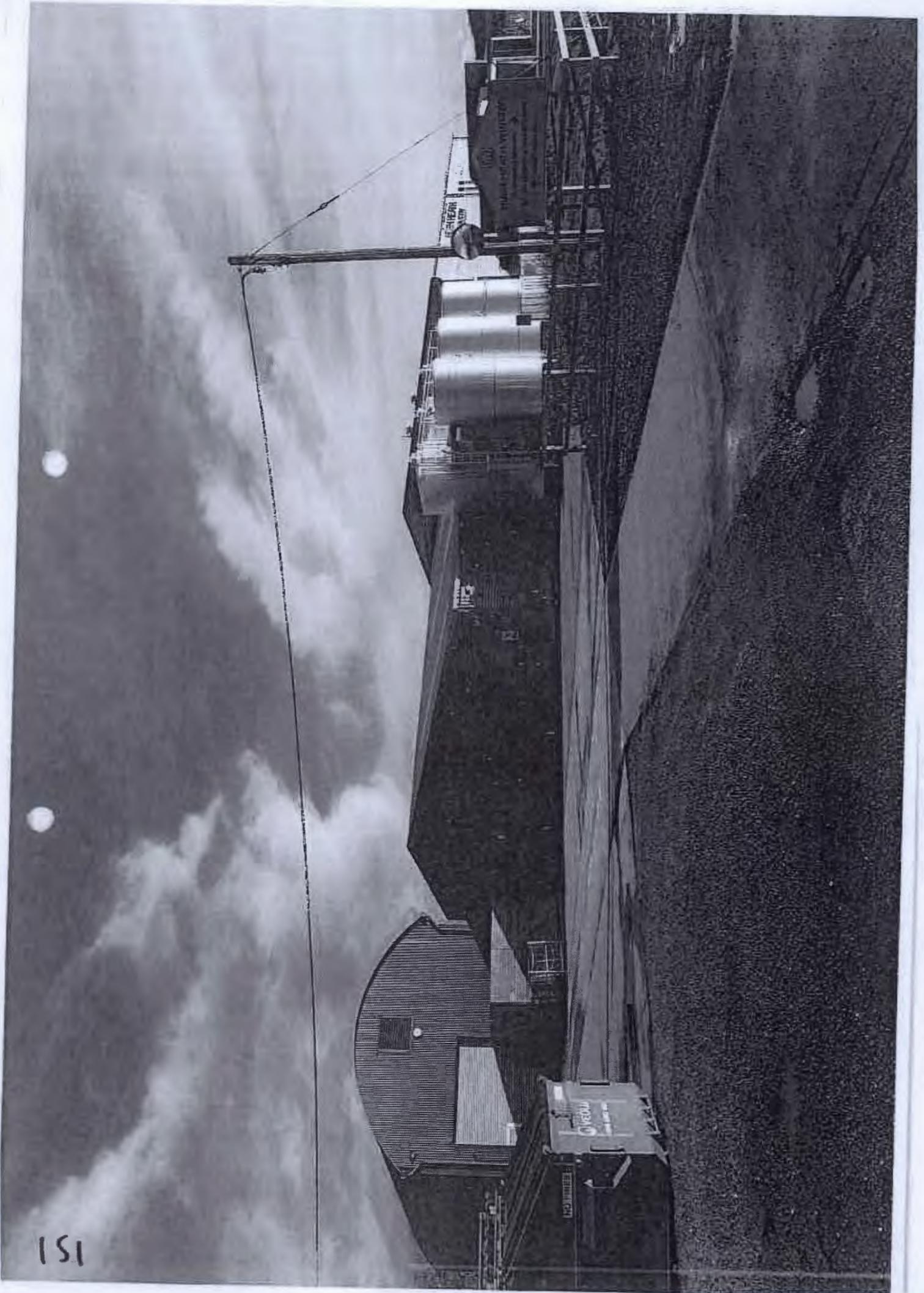


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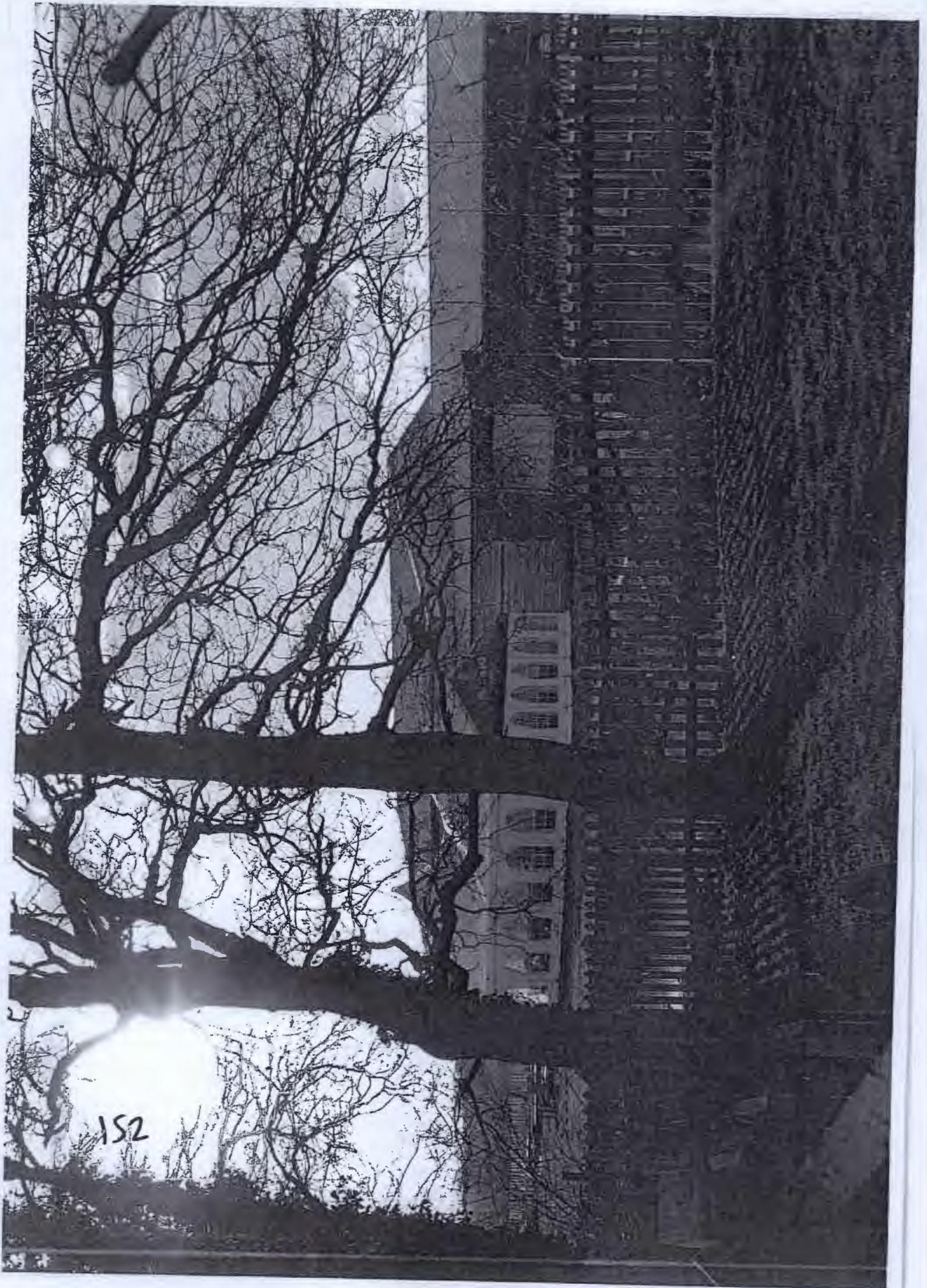


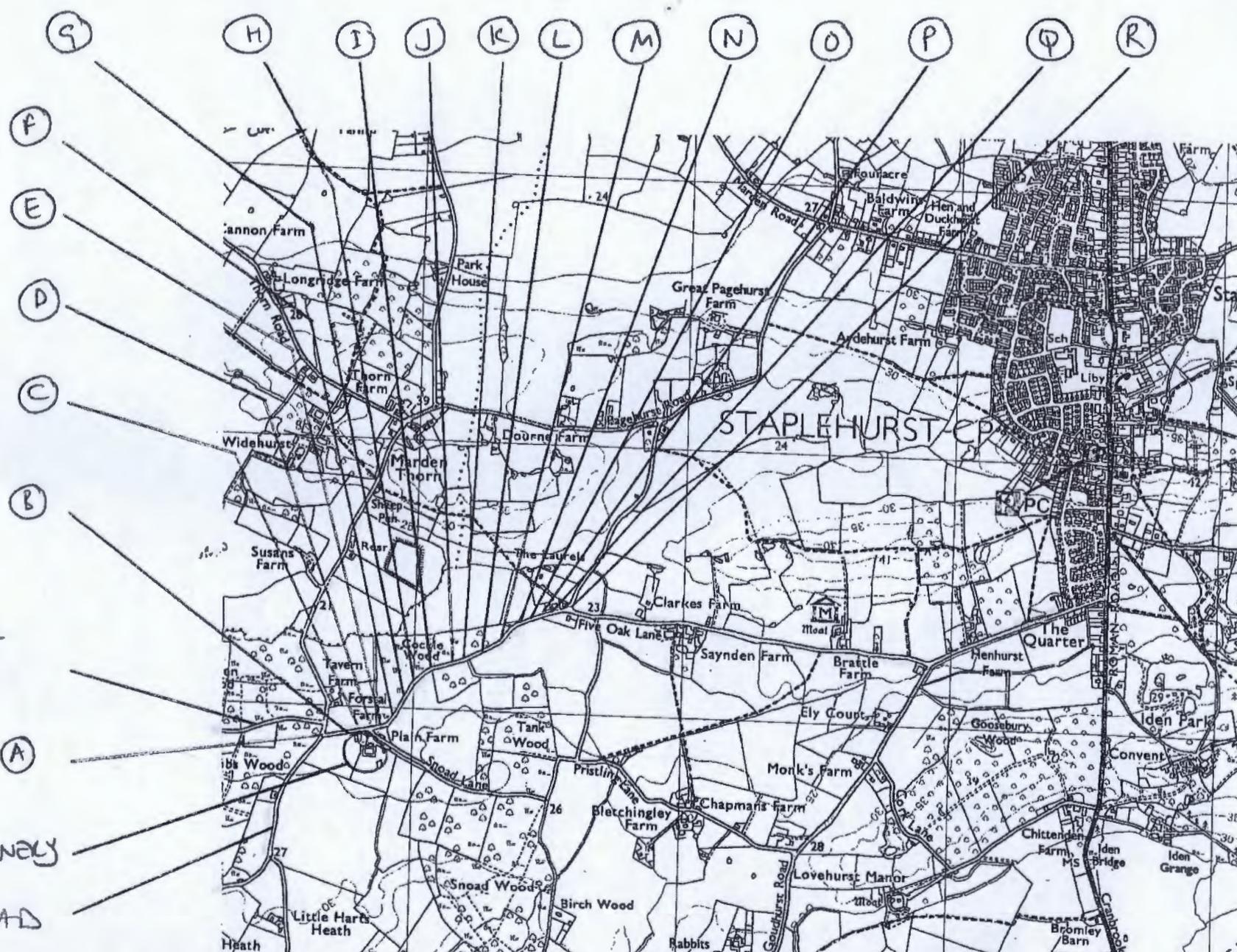
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151





(S) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R)

(F)

(E)

(D)

(C)

(B)

SHERDENEN LANE

(A)

HUSH HEATH WINDY

WILDEN PARK ROAD

152

20D

OS Map showing points on Five Oak Lane where the photographs were taken (moving west to east along Five Oak Lane from Wilden Park Road).

A: The junction of Wilden Park Road and Five Oak Lane (looking east, and towards HHW).
A: Five Oak Lane, looking east.

B: Five Oak Lane, looking east (showing car entering the winery).
B: Five Oak Lane, looking east (showing car).

C: The entrance to HHW.

D: Five Oak Lane, looking west (taken from the junction with Snoad Lane).
D: Five Oak Lane, looking east (taken from the junction with Snoad Lane).

E: Five Oak Lane, looking east (showing blind corner).

F: Five Oak Lane, looking west (showing blind corner).

G: Five Oak Lane, looking east.
G: Five Oak Lane, looking east.

H: Five Oak Lane, looking east (with car).

I: Five Oak Lane, looking east to the bridge.
I: Five Oak Lane, looking east to the bridge.
I: Five Oak Lane, looking east to the bridge (with car).
I: Five Oak Lane, looking east across bridge (with car).

J: Five Oak Lane, looking east.
J: Five Oak Lane, looking east (with car).

K: Five Oak Lane, looking west.
K: Five Oak Lane, looking east.
K: Five Oak Lane, looking west.

L: Five Oak Lane, looking east (with car).

M: Five Oak Lane, looking west.
M: Five Oak Lane, looking east (with cyclist).

N: Five Oak Lane, looking west.
N: Five Oak Lane, looking east (with car).

O: Five Oak Lane, looking east.
O: Five Oak Lane, looking east (with car).
O: Five Oak Lane, looking east (with car).

P: Five Oak Lane, looking east (with car).

Q: Five Oak Lane, looking west (with car).
Q: Five Oak Lane, looking west (with cars).

R: The junction of Five Oak Lane and Five Ash Lane.



SWISS COUNTRY
WINERY

(A)

155



(A)

156



(A)

156



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⑤

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E

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(f)

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⑨

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⑨

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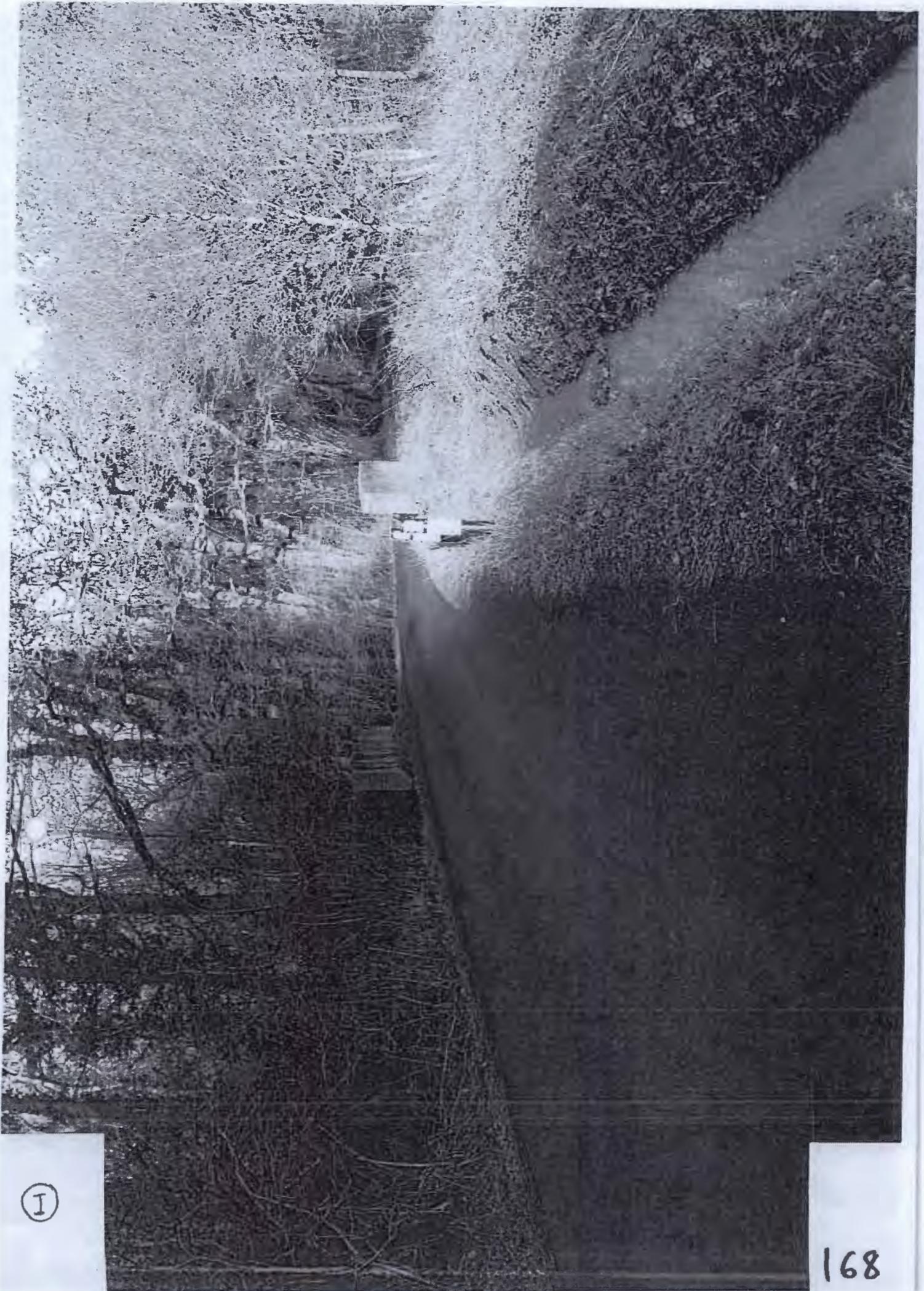
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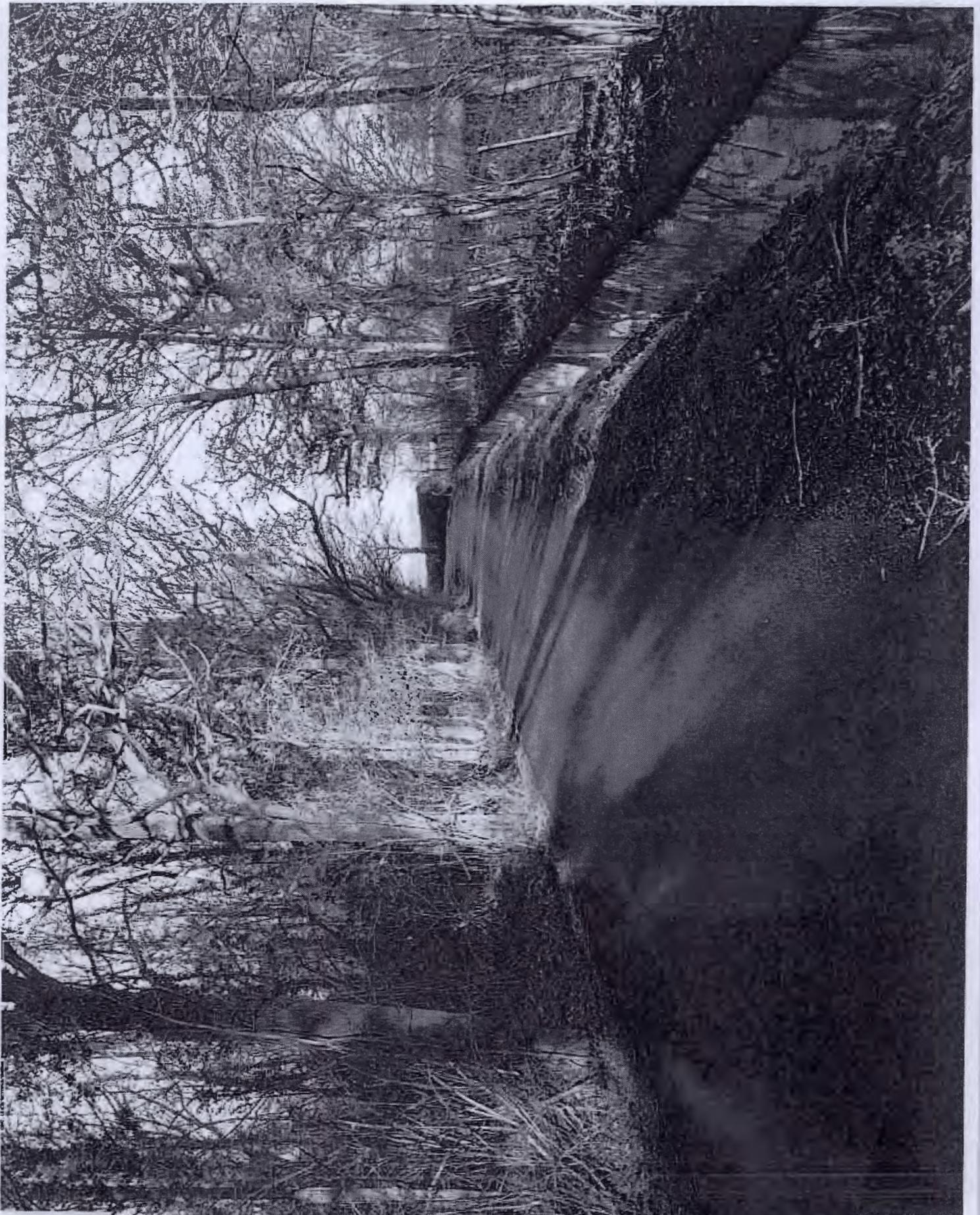
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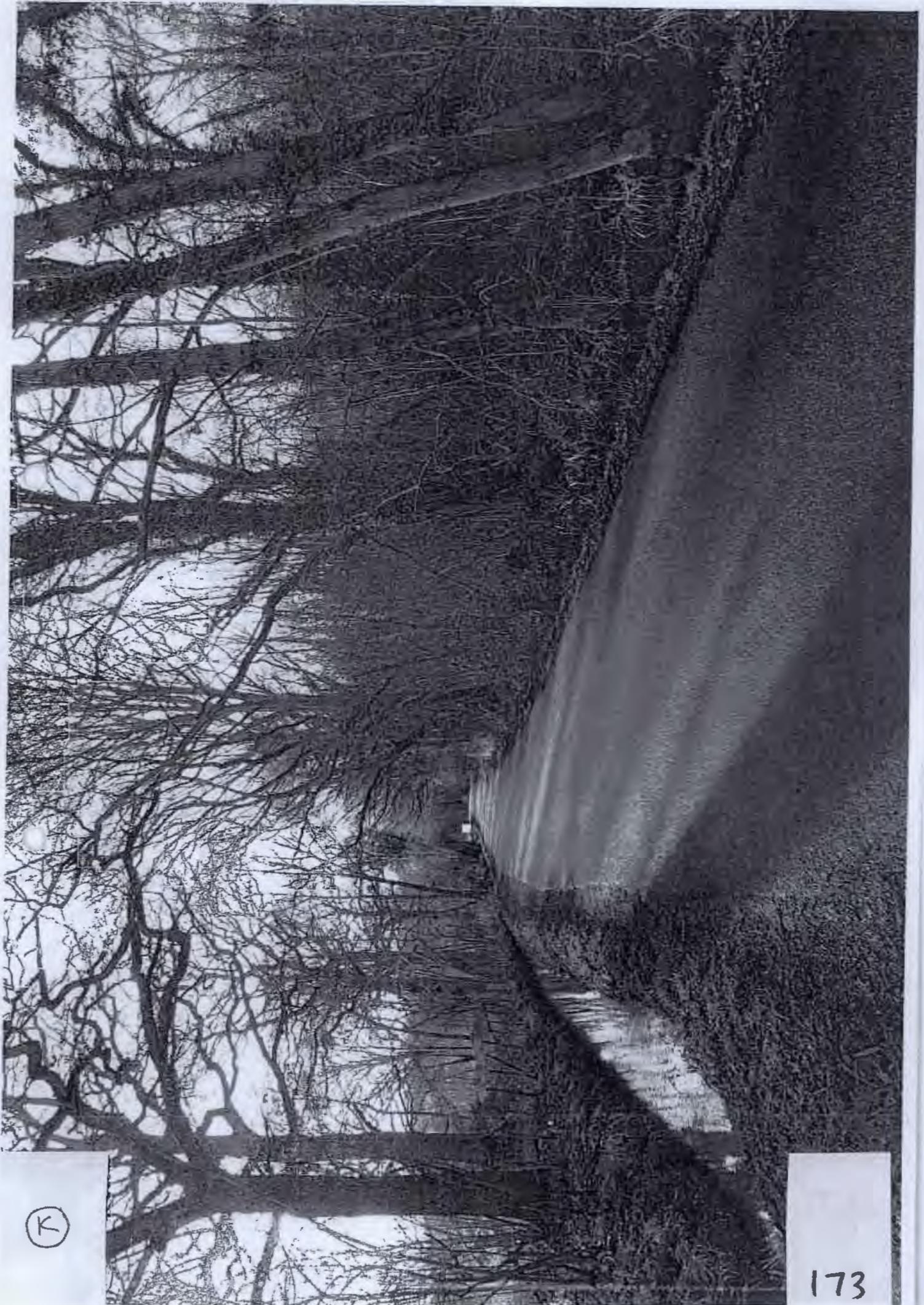
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(K)

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(K)

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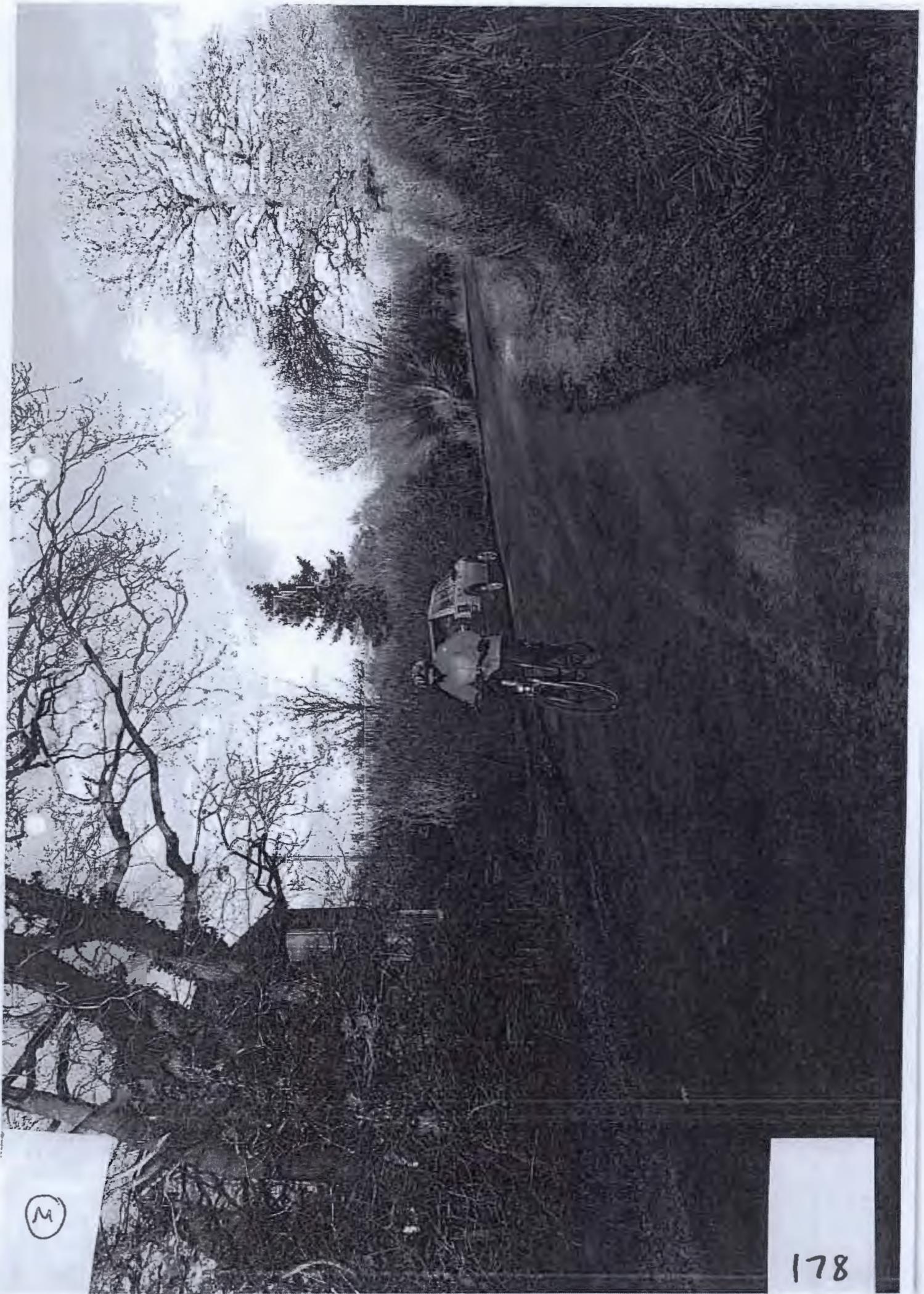
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(M)

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(M)

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(2)

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(N)

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0

182



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183



(P)

184



⑨

185



Q

186



(R)

187

From: anne tipples [
Sent: 26 February 2019 18:04
To: Lorraine Neale
Subject: Re: Hush Heath Winery 18/502517

Oh my I forgot to say I object to the license application.

Hi Lorraine,

Sorry for that, so yes I object to the license application for a Hush Heath Winery.

Its the size and conditions of the roads leading to the winery that will cause road / public safety esp the blind corner coming from Staplehurst that people always cut short, making it a hazard for other road users. Then there is the small bridge coming from Marden which is only fit for one car, no one seems to slow down when approaching it, so again another safety issue for road users in cars and on foot.

If the amount of road traffic that is meant to be going to the winery in the coming year I am sure there will be some accidents and cars going in the ditches.

The building of the winery was only meant to be wine tasting,

If he wants a licence to sell wine etc then what next,,

Signed Anne Tipples

