

MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 SUB COMMITTEE

**MINUTES OF THE MEETING HELD ON THURSDAY 10 SEPTEMBER
2020**

Present: Councillors Joy (Chairman), J Sams and Springett

21. APOLOGIES FOR ABSENCE

There were no apologies.

22. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

23. ELECTION OF CHAIRMAN

RESOLVED: That Councillor Joy be elected as Chairman for the duration of the meeting.

24. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

25. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

26. EXEMPT ITEMS

RESOLVED: That all items on the agenda be taken in public as proposed.

27. APPLICATION TO VARY A PREMISE LICENCE UNDER THE LICENSING ACT 2003 FOR HUSH HEATH WINERY, HUSH HEATH ESTATE, FIVE OAK LANE, STAPLEHURST, KENT, TN12 0HX.

The persons participating in the hearing were identified as follows:

Chairman – Councillor Joy
Committee Member – Councillor Springett
Committee Member – Councillor J Sams

Legal Advisor – Mr Robin Harris

Online Facilitator – Mr Ryan O’Connell

Democratic Services Officer – Miss Oliviya Parfitt

Applicant – Mr Richard Balfour-Lynn and Mrs Lesley Balfour-Lynn,

For the Applicant:

Mr Richard Balfour-Lynn – Owner of Hush Heath Winery
Mrs Leslie Balfour-Lynn – Owner of Hush Heath Winery
Sarah Easton - Winery Manager at Hush Heath Winery

Witnesses to be called by the Applicant:

Councillor John Perry – Staplehurst Ward Councillor and Vice-Chairman of Staplehurst Parish Council
Councillor Patrick Riordan – Chairman of Staplehurst Parish Council.

For the Objectors:

Mr Philip Kolvin QC – Acting on behalf of Angus Codd and Andrea Hodgkiss, Kim and Sally Humphrey, Alison Clark, Richard and Natasha Davidson-Houston, Amanda and Bernard Tipples, Frank and Ann Tipples, Dawn Lye, David Taylor and Nicola Feakin.

Witness to be called by the Objectors – Mrs Natasha Davidson-Houston

All parties confirmed that they were aware of the Sub-Committee hearing procedure and had each received a copy of the hearing procedure document.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination conducted within a reasonable timeframe.
- Any persons attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee over the Instant Messaging facility any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this is not possible, they may be permitted to speak at the Chairman's Invitation.

The Sub-Committee confirmed that they had read all the papers.

The Chairman enquired whether any draft conditions had been agreed between the applicant and other parties; no draft conditions had been agreed.

The Legal Advisor outlined the variation application that had been received from Hush Heath Winery, which included an extension of hours and an amendment to the conditions of the licence held by the applicant. It was noted that 13 objections were received.

The applicant was invited to make their opening remarks and referenced the impact of the Coronavirus pandemic on his business which would lose approximately £925k this year. The reduction in sales to the tourist industry was of particular significance due to the businesses' agricultural nature as a winery. The variation application had been submitted to allow for increased flexibility to enable the business to continue its operation. It was noted that prior to Covid-19, Mr Balfour-Lynn had previously informed local residents that there was no intention to amend the premises licence under which the business operated.

Mr Balfour-Lynn referenced the importance of the Winery for the local economy, which included employing local residents and the lack of both redundancies and salary reductions experienced by his employees during the pandemic. Specific reference was made to the adult clientele that visited the winery, who were often visiting the local area and Kent county and that the business had experienced demand for further wine-and-dine experiences.

Mr Balfour-Lynn informed the Committee that in January 2020 he had purchased a vehicle to collect visitors from Marden train station, due to local resident dissatisfaction with visitors being collected from Staplehurst train station by coach and driven along the narrow, local roads. It was confirmed that no complaints had been received by the Council or the Police in relation to the winery since the license was last amended in March 2019. The changes to the winery's shop opening times and online advertising request on the business' website were referenced.

The applicant's witnesses were invited to address the Sub-Committee.

Councillor Riordan spoke in favour of the application and referred to the minutes of the Staplehurst Parish Council meeting held on 10 August 2020, which endorsed the application and the importance of the Winery in the local community.

Councillor Perry spoke in favour of the application. The importance of the rural economy, local employment opportunities, the business' clientele and its agricultural nature were mentioned. The impact of the Covid-19 pandemic and the applicant's attendance to Staplehurst Parish Council's Road Safety Group meetings were referenced.

In response to a query from the panel, the applicant reiterated that customers had expressed demand for wine-and-dine experiences which is why the variation application had been submitted.

Mr Philip Kolvin QC was invited to make the opening remarks on behalf of the objectors represented and noted that this was the fourth licence application within two years. The rural surroundings in which the Winery

and its neighbours were situated, to the locations flat surface and the impact of sound travelling from the venue, the lack of street lighting in the local area and narrow roads were highlighted. Mr Kolvin QC stated that the variation application focused on the use of the premises for evening activities similar to those conducted in a hospitality, rather than agricultural, venue.

It was noted that the Applicant's current licence allowed for 12 special events per year, which would increase to allow 168 evening events per year if the variation application was granted in totality. The request to allow product sales until 11p.m. and to advertise the sale of alcohol on the business' website were also mentioned, in light of the Sub-Committee's previous decisions on the licence conditions.

Particular attention was drawn to the documentation supplied to the sub-committee on behalf of the objectors Mr Kolvin QC represented. This documentation related to the 2013, 2018 and 2019 sub-committee meetings that had taken place, in what was perceived as attempts to relax the licence conditions previously set by the sub-committee. In all three instances, the supply of alcohol that had been restricted to tasting samples only, the extremely remote location and restricted visitor access had been referenced by the applicant.

Through a hearing held in September 2018, the visitor tasting room was included within the area for which licensable activities took place. The decision and minutes of that hearing were referenced, whereby the applicant confirmed that there was no intention of having more than 12 events per annum.

An application for a minor application variation was submitted and rejected by the Council's officers in 2018 as a variation application was required instead.

Mr Kolvin QC reiterated that in 2019 the applicant had applied to remove the licensing condition whereby the supply of alcohol was limited to tasting samples and to amend Annex 4 of the premises licence. In relation to this hearing, three letters; two from Ms Easton and one from Mr Balfour-Lynn to the Council's Senior Licensing Officer and to local residents which stated, in part, that there was no intention of the Winery operating longer opening hours or becoming a restaurant or bar. It was noted that following the letter to residents, the applicant's solicitor would not engage with Mr Kolvin QC or his clients in respect of having draft conditions agreed before the March 2019 sub-committee meeting.

Mr Kolvin QC then referenced the determination and reasons provided as a result of the March 2019 sub-committee meeting, with the sub-committee informed that the applicant had only conducted one special event since the variation application was granted despite Mr Balfour-Lynn's request for greater flexibility. It was argued that the greater flexibility requested due to the Covid-19 pandemic was not a licensable objective need and that the £925k income loss had not been confirmed

through a statement of accounts. Mr Kolvin QC requested that the sub-committee Members reject the variation application.

Mrs Natasha Davidson-Houston spoke against the application. The witness lived close to the Winery and stated that as an agricultural and residential area, it was inappropriate for a night-time hospitality venue. The previous number of sub-committee meetings held in relation to the winery were referenced.

Mrs Davidson-Houston stated that the applicant had only used the special events provision once within the last 18 months, whilst the variation application would allow for a much higher volume of events if granted. Relaxations on the advertising restrictions in force would encourage more visitors, which would then increase the traffic flow along the local roads which were difficult to navigate and increase the noise generated. This would be greater in the winter months, with a lack of street lighting and pavements available.

It was noted that whilst the winery's minibuses travelled from Marden train station, individual cars and cabs often drive to the winery from Staplehurst station. Private tour companies would also arrange for coach trips to the winery using that route and there was no public transport available to and from the winery. Mrs Davidson-Houston reported two recent incidents to Staplehurst Parish Council, whereby vehicles coming out of the Winery had caused her to brake sharply.

The sub-committee were reminded that planning restrictions existed in the local area to restrict external lighting, with the winery permitted to use external lighting in certain areas at certain times. The safety of visitors without such lighting was highlighted. The large windows of the winery buildings enabled the light to be seen from homes within the local area.

Mrs Davidson-Houston reiterated that the applicant had given multiple assurances to residents that the Winery would have restricted opening hours and would not routinely open in the evenings. It was felt that the variation application submitted was in direct contradiction of these assurances and the sub-committee were asked to reject the application. It was repeated that the local area was not conducive to a tourist, hospitality venue which they believed the Winery would become.

In response to a question from the panel, Mr Kolvin QC clarified that darkness was also a licensing consideration in terms of the potential impact to nuisance and disturbance of amenity. This was relevant whereby the lighting from the winery would be seen from the windows and referenced the previously given permission to use carpark lighting for the twelve special events. The bends and narrow widths of the local roads from the winery were mentioned as a public safety concern.

The panel members confirmed that the closing hours of the shop, as part of the decision granted in 2019, had intended to be before the closing hours of the premises.

In response to question from the panel in relation to the incidents mentioned, Mrs Davidson-Houston confirmed that Staplehurst Parish Council had a dedicated email for traffic problems in the local area generally.

Mr Harris enquired whether the applicant or other parties had any conditions that could be proposed, to facilitate further discussion during the hearing.

Mr Kolvin QC stated that he could not comment on this request as the objectors which he represented were not present to indicate their wishes.

Mr Harris queried whether the hearing could be adjourned to allow for further discussion between the applicant and other parties, to which the applicant responded that he did not believe this would be possible. The applicant offered to limit the number of evening guests to 75 through bookings only, to sit indoors with dimmed lighting to mitigate the objector's concerns.

Mr Kolvin QC was invited to respond and stated that Mr Balfour-Lynn did not engage with residents prior to the submission of the variation application nor once objections had been received.

Mr Kolvin QC was invited to make their closing remarks and stated that the applicant's desire for flexibility was already reflected in the 12 annual special events and temporary events permitted within the current licence. Mr Kolvin QC encouraged the applicant to engage with local residents and re-referenced the increased number of evening events requested.

The limited hours in relation to off-licensing as previously decided by the sub-committee were referenced and the applicant's wishes to advertise online and through signage were noted.

Mr Balfour-Lynn was then invited to make his closing statement, during which he stated that he and his wife were responsible business owners and that their businesses has had to adapt over the last ten years. The impact of Covid-19 was reasserted.

It was stated that whilst the premises licence allowed special events, these were not common for the winery to undertake with educational wine dinners now preferred. It was noted that the Council had not received any complaints arising from any guests and staff, which if received and justified could lead to the premises licence being amended or withdrawn.

With reference to the advertisement of sales, the applicant stated that this would take place on the businesses website and that the shop would only remain open whilst the winery itself was open. The support from Staplehurst Parish Council was reiterated.

The panel asked the applicant why the conditions offered during the meeting were not originally suggested and whether this could have been

included in the variation application form. Mr Balfour-Lynn stated that the form was limited in scope and that he did not wish to put constraints on the business should it need to adapt at a later date.

The Legal Officer confirmed that there were no further matters to be raised or resolved.

The Chairman then adjourned the meeting for deliberation and requested that the Legal Officer remained to assist them. The panel would return to announce the decision at 2 p.m.

At 2p.m. the Sub-Committee returned and invited the legal officer to read out the decision with brief reasons. The sub-committee briefly adjourned and then returned to the meeting, in relation to the clarity requested that the alcohol be supplied within the extended hours with food ancillary to a full table meal.

It was confirmed that a written decision with full reasons would be provided within 5 working days. Parties were reminded of the right to review a premises license and the right of appeal to the Magistrates Court.

The meeting closed at 2.10 p.m.

RESOLVED: That the Sub-Committee's decision and reasons be detailed in the Notice of Determination attached as an Appendix to the Minutes.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

LICENSING ACT 2003 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

NOTICE OF DETERMINATION

Application Ref No: 20/01678/LAPRE

Applicant: Mr Richard Balfour-Lynn

Regarding **PREMISE LICENCE (VARIATION)**
Hush Heath Winery, Hush Heath Estate, Five Oak Lane,
Staplehurst, Kent TN12 0HX

Date(s) of hearing: 10th September 2020

Date of determination: 10th September 2020

Committee Members: Councillor Mrs Joy (Chairman), Councillor Mrs Sams and
Councillor Mrs Springett

Legal Advisor in attendance at hearing: Mr Robin Harris

Democratic Services Officer in attendance at hearing: Miss Oliviya Parfitt

Online Meeting Facilitator: Mr Ryan O'Connell

This was an application for:

Variation

for a

Premises Licence

A: Representations, evidence and submissions:

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

Applicant

Name: Mr R Balfour-Lynn

Witnesses: Cllr Perry, Cllr Riordan Staplehurst Parish Council

Responsible Authorities

Not applicable

Other Persons

Name: Represented by Mr P Kolvin QC (Angus Codd and Andrea Hodgkiss, Kim and Sally Humphrey, Alison Clark, Richard and Natasha Davidson-Houston, Amanda and Bernard Tipples, Frank and Ann Tipples, Dawn Lye, David Taylor and Nicola Feakin.)

Witnesses: Mrs N Davidson-Houston

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

In support – Staplehurst Parish Council

Objections – Ian and Liz Tipples, Guy and Janice Barkaway, Brenda Webb and Darryl Evans, Marcus Rennick

Together with all written representations received, from all above-named other persons represented by Mr Kolvin QC and as witnesses for the applicant, appearing in the agenda papers at appendix 3

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 - 36 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 & 9 which relate to premises licences & 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 17.9 which relates to prevention of crime and disorder

Chapter 17.16 which relates to the promotion of public safety

Chapter 17.19 which relates to the prevention of nuisance

Chapter 17.23 which relates to the protection of children from harm.

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

N/A

C: Determination:

The Committee has decided to: Grant the Application and

- Vary conditions appropriate for the promotion of the licensing objectives

Mandatory conditions remain; embedded conditions not applicable, current conditions at annexes 3 and 4 to be deleted and replaced with those below.

Hours:

Off sales (online)	00:00 – 00:00 (24 hours)
Off sales (shop)	10:00 – 17:00 November – March and; 10:00 – 18:00 April – October
Off sales (shop) (non special event*)	10:00 – 23:00 Fridays and Saturdays only
Off sales (shop) (special event)	10:00 – 24:00
On sales (non special event*)	10:00 – 19:00 Sunday to Thursday and;
On sales (non special event*)	10:00 – 23:00 Fridays and Saturdays only
On sales (special event*)	10:00 – 00:00
Late night refreshment	23:00 – 00:00
Live and recorded music	10:00 – 24:00
Opening hours (non special event*)	10:00 – 19:00 Sunday to Thursday and;

Opening hours (non special event*)	10:00 – 23:00 Fridays and Saturdays only
Opening hours (special events*)	10:00 – 00:00
Opening hours (online sales only no public attendance)	00:00 – 00:00

* as defined below

A special event (previously referred to as “event occasion”) is an event at which: recorded or live music is provided after 17:00 or late night refreshment is provided and are subject to the additional conditions imposed by condition 12 a-i.

A non special event with extended hours refers to Fridays and Saturdays where on and off sales are permitted until 23:00 subject to the conditions imposed by condition 13 a-f. All other non special events refer to occasions where there is not a special event or a non special event with extended hours.

The following conditions apply at all times:

1. The premises shall not be operated as a public house, restaurant, drinking establishment, nightclub, wedding venue or events venue (other than events ancillary to the winery use).
2. The licensable activities authorised by this licence and provided at the premises shall be ancillary to the main function of the premises as a winery.
3. There shall be good 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 officer upon request.
4. No customers will be left unsupervised on the premises.
5. Children will be kept under adult supervision at all times.
6. All hazardous materials will be kept under child proof lock.
7. A Challenge 25 proof of age scheme shall be operated at the premises, where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with PASS hologram.
8. The premises licence holder shall organise a meeting with residents living within 800 metres of the Hush Heath Estate once per calendar year to discuss any impact of the premises on the promotion of the licensing objectives. (See also informatives).

9. The sale of alcohol for consumption on the premises shall be restricted to products produced by Hush Heath Winery and shall not include spirits.'
10. The sale of alcohol for consumption on the premises shall be only to those attending the winery for the purposes of winery tours, tastings and vinicultural and vinicultural education.
11. There shall be no external advertising generally or at the premises, of the sale of alcohol for consumption at the premises, by the licence holder or any person instructed by or associated with him, including on any signs or any third party website. The website for the premises may advertise the services and hours that are available at the premises.

The following condition applies during special events as defined above.

12. Special Events may be held at the premises subject to:
 - a) Special Events shall be limited to 12 per calendar year.
 - b) Special Events shall not occur on consecutive weekends.
 - c) Special Events shall be notified by letter or email to neighbours within 800 metres of the premises a minimum of 7 days before the event.
 - d) The supply of alcohol shall be restricted to products produced by Hush Heath Winery and shall not include spirits.
 - e) After 23:00 live and recorded music and late night refreshment will be indoors only and windows and doors will be closed save for entry and exit.
 - f) Live and recorded music will end by 23:45.
 - g) All visitors to the premises will leave the premises and parking area by midnight.
 - h) Signage will be placed at the exits of the premises asking visitors to leave quietly and respect neighbours.
 - i) The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises, including on the exterior terrace, do so in an orderly manner and are supervised by staff so as to ensure that there is no nuisance to local residents.

The following condition applies during non special events with extended hours as defined above

13. Non Special Events (Extended hours on Fridays and Saturdays)
 - a) The extended hours to 23:00hrs apply only on Fridays and Saturdays, but are available all year round.
 - b) The premises may only be opened for extended hours on a Friday or Saturday where there are pre-booked activities.
 - c) The maximum number of customers during extended hours is limited to 60 persons.

- d) Licensable activities during extended hours will occur indoors only.
- e) The supply of alcohol during extended hours shall be ancillary to a full table meal only.
- f) Off sales during extended hours are only available to persons taking part in the pre-booked activities.

Informatives:

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

Any term or condition of the premises licence does not confer planning permission for the activity licensed and should any conflict arise implementation of the licence may put the licensee at risk of planning enforcement unless appropriate planning permission is obtained.

Any issues arising or complaints may be raised with the premises licence holder as they arise and not await an organised meeting, to facilitate constructive discussion at the time.

The premises licence holder is strongly recommended to engage fully with local residents prior to making any further applications.

Reasons for conditions:

Members of the Licensing Sub Committee considered that all the conditions attached to this licence are appropriate and proportionate to the scale of this premises and nature of its operation as a winery with tours, tastings and wine related education and activities, including a limited number of special events ancillary to its main function and the new addition following this hearing of extended hours for on and off sales that are permitted on Fridays and Saturdays. They are such as to continue to promote the licensing objectives, following the addition of extended hours on Fridays and Saturdays.

In respect of conditions previously in Schedules 3 and 4 to the premises licence granted on 28th March 2019, these have been transferred with very minor amendments to the conditions to form schedule 4 of this licence, for clarity.

The condition limiting extended hours to Fridays and Saturdays only was appropriate and proportionate to promote the licensing objective of preventing public nuisance. The Sub-Committee were of the view that three nights a week including a night during the ordinary working week could lead to public nuisance due to the increase in customers attending the premises later in the evening.

The condition limiting the number of customers allowed during extended hours was appropriate and proportionate for the same reason and also for the promotion of the

public safety objective, in respect of an increased volume of traffic, in so far as that is relevant. The Sub-Committee noted that the applicant requested 10 tables and in the current climate that sets a maximum of 60 people and that number going forwards was appropriate for the promotion of the licensing objectives.

The other on sales extended hours conditions are consistent with the conditions already on the licence in respect of the use of the facility being ancillary to the primary use as a winery and clarify that this remains the case during extended hours as they continue to promote the licensing objectives going forwards.

The condition relating to off sales during extended hours is appropriate and proportionate to promoting the licensing objective of preventing public nuisance and consistent with the conditions already on the licence in respect of the use of the facility being ancillary to the primary use as a winery and clarify that this remains the case during extended hours. The Sub-Committee confirmed that it was not mistaken when it set the hours for the shop previously and these hours remain unchanged.

The existing condition restricting advertising externally the sale of alcohol for consumption on the premises remains appropriate and proportionate to prevent public nuisance, as such advertising is reasonably likely to attract a number visitors seeking a premises selling alcohol rather than for wine tasting experiences provided as ancillary to services intended by the winery operation. However, the Sub-Committee considered the amendment to allow advertising of services and hours on the premises website to strengthen this condition as it would limit speculative visits to the premises and support the pre-booking condition.

The Sub-Committee felt that a further informative in respect of the premises licence holder engaging with residents prior to any application would be helpful.

Reasons for determination:

Having heard from Mr Kolvin, on behalf of many objectors, Mr Balfour – Lynn, the applicant and those in support of his application and read all the representations made, (see lists above), Members of the Sub Committee took account of the lengthy and detailed evidence where relevant to promotion of the licensing objectives and impacts relating to this variation application.

They also took into account that there were no representations from Responsible Authorities.

The Sub-Committee noted that there was no objection to online sales being 24 hours a day.

Members have carefully balanced the stated requirements of the applicant in operating his winery business and ancillary licensable activities against the concerns of

neighbours likely to be affected by uncontrolled licensable activities which have a reasonable likelihood of not promoting the licensing objectives.

Prevention of Crime and Disorder

The Sub-Committee noted that there were no representations under this licensing objective.

Protection of Children from Harm

The Sub-Committee noted that there were no representations under this licensing objective that would meet the definition in the guidance. However, reference to child safety generally, particularly on the roads was raised and was therefore considered under the public safety objective.

Public Safety

In respect of public safety, the Sub-Committee noted that the objectors' main concerns centred around the potential of this variation to create a substantial increase in visitor numbers, leading in turn to an increase in traffic on the small local roads, during evening hours which they state is the time of highest risk. A witness was able to point to a specific example of a vehicle departing the winery causing a hazard, which had been reported to the Parish Council.

Further, objectors were concerned regarding the safety of the public when moving around the site after dark, due to the potential planning limitations on the use of the external lighting at the premises.

In response, the applicant stated that they had a well run premises, there was no history of public safety issues at the site and where residents had raised concerns these had been responded to, for example by purchasing a minivan and routing this vehicle from Marden rather than Staplehurst. The applicant suggested conditions in relation to public nuisance which were also relevant to this licensing objective, namely a limitation on the number of customers and operating a pre-booking system.

The Sub-Committee noted that there was no representation from any responsible authorities on this issue and given the representation from the Parish Council, there was a range of opinion, even among local residents in respect of public safety on the roads.

No party produced expert evidence in respect of the proposed variation on visitor numbers or traffic flows.

The Sub-Committee was satisfied that there is adequate lighting available at the premises. The Sub-Committee draws attention to the informative regarding the relationship between planning and licensing that was made at the previous hearing and remains extant.

Taking into account all of the above, the Sub-Committee were of the view that the proposed variation was likely to increase visitor numbers in the evening. However, due to issues of road safety not being evidenced as occurring on the premises or the immediate vicinity of the premises, or linked to the proposed variation, it was considered that the public safety objective was not sufficiently engaged by the proposed variation to justify specific conditions under this objective, but, the Sub-Committee felt that conditions that were appropriate to the promotion of the prevention of public nuisance also assisted in respect of this licensing objective, in as far as it is relevant.

Prevention of Public Nuisance

The Sub-Committee noted that the objectors main concerns around this issue were related to a potential increase in visitors, which had the risk of increased noise and disturbance in an area which is both rural and tranquil and further, that the proposed variation was indicative of a move away from services ancillary to a winery towards an operation akin to a hospitality venue, with a more social experience, which would by its nature be a noisier enterprise.

The representations made both at the hearing and in advance of the hearing pointed to previous assurances by the applicant that there was no intention to change the existing licence.

Representations noted that the applicant had not used his quota of 12 special events but now wanted to increase late night openings 14 fold.

The applicant responded that the changes were not planned and that he had been genuine when he had given assurances previously. However, the impact of the Covid-19 pandemic required a response and there was also a change in the demand from customers, which as a business the premises had to respond to or the business could fail. The applicant noted that neighbouring properties would not be impacted by noise from inside the winery, due to the construction of the winery.

The applicant advised that he felt it unlikely that the hours would be exercised three nights a week, but that the business wanted there to be flexibility. He noted that he is the closest resident to the winery and that he also has an interest in limiting noise from the premises.

The applicant also proposed a condition on the maximum number of guests that could attend later in the evening, along with pre-booking and the suggestion of dimming the lights during the hours of darkness.

The Sub-Committee noted that there was no representation from any responsible authority in respect of this licensing objective.

The Sub-Committee noted the support of the Parish Council to the application.

Taking into account all of the above, the Sub-Committee considered that the application as originally made failed to adequately promote this licensing objective. However, with some of the modifications proposed by the applicant and appropriate conditions applied by the Sub-Committee the application could be approved in part and continue to promote this licensing objective.

The Sub-Committee felt that three nights a week, including an ordinary working day was likely to cause a public nuisance. However, a reduction to two weekend evenings with a limitation on the total number of customers and the further additional controls noted above, would be sufficient to promote this licensing objective and ensure that the licensable activities on the premises remained as ancillary to the primary use as a winery.

The Sub-Committee permitted off sales to run concurrently with the extended hours, but did not change the hours for other days of the week. The intention of 19:00 for on sales at the premises was stated in the previous application to be to allow flexibility for any visitors staying a little over time. This was not a mistake and has promoted the licensing objectives.

Members amended the no external advertising condition to allow advertising of services and hours on the premises website. They considered this to be appropriate and proportionate to promote the prevention of public nuisance.

PRINT NAME (CHAIRMAN): COUNCILLOR MRS JOY

Signed [Chairman]:

A copy of the original document is held on file

Date: 15 September 2020