

LICENSING ACT 2003 SUB COMMITTEE MEETING

Date: Thursday 10 September 2020
Time: 10.00 am
Venue: Remote Meeting:

PLEASE NOTE In order to access this meeting please dial 14101622 602700 and then enter the conference ID which is 3141238. We ask that you dial 141 in order to anonymise your telephone number.

If you are asked for a PIN number at any point, please press the # key. You will then be held in a lobby until the facilitator allows you into the meeting.

You may leave the meeting at any point and re-join by repeating the instructions shown above.

Membership: Councillors Joy, J Sams and Springett

Councillor Garten (Substitute Member)

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

<u>AGENDA</u>	<u>Page No.</u>
1. Apologies for Absence	
2. Notification of Substitute Members	
3. Election of Chairman	
4. Disclosures by Members and Officers	
5. Disclosures of Lobbying	
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information	
7. 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.	1 - 104

ALTERNATIVE FORMATS

The reports included in Part I of this agenda can be available in alternative formats. For further information about this service, or

Issued on Wednesday 2 September 2020

Alison Broom

Alison Broom, Chief Executive

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out more about the work of the Committee, please visit
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Agenda Item 7

Agenda Item No: 1 - Summary of Report

Licence Reference: 20/01678/LAPRE

Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)

Date: 25th August 2020
Report Title: HUSH HEATH WINERY, HUSH HEATH ESTATE, FIVE OAK LANE,
STAPLEHURST, KENT , TN12 0HX

Application for: A premises licence to be varied under the
Licensing Act 2003

Report Author: Lorraine Neale

- Summary:**
1. The Applicant – Mr Richard Balfour-Lynn
 2. Type of authorisation applied for: To vary a premises licence under the Licensing Act 2003. (Appendix A)
 3. Licensable Activities and hours:

		Current Hours		Hours: New Application	
E)	Live Music (Indoors & Outdoors)	Mon - Sun	10:00-24:00	No Change	No Change
F)	Recorded Music (Indoors & Outdoors)	Mon - Sun	10:00-24:00	No Change	No Change
L)	Late Night Refreshment (Indoors & Outdoors)	Mon - Sun	23:00-24:00	No Change	No Change
M)	Supply of alcohol (On & Off the premises)	Off sales Mon – Sun (Online & Special Events x 12	10:00-24:00	Off sales Mon – Sun Online Special Events x 12	24 hour No Change
		Off sales Shop - Mon – Sun Nov-Mar	10:00-17:00	Off sales Shop Sunday-Wed	10:00-19:00
		Apr-Oct	10:00-18:00	Thurs-Sat	10:00-23:00
		On sales Mon – Sun		On sales Mon – Sun	
		Special Events x12	10:00-24:00	Special Events x12	No change
		Non special	10:00-19:00	Non special Sun -Wed Thurs – Sat	No Change 10:00-23:00
O)	Opening Hours (online and special Events x12 Non special events	Mon – Sun	10:00-24:00	Online Special Events x 12	24 hour No Change
		Mon - Sun	10:00-19:00	Non special Sun -Wed Thurs – Sat	No Change 10:00-23:00

The variation also seeks to remove the condition "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 website" and replace it with the condition "There shall be no external advertising generally, of the sale of alcohol for consumption at the premises, by the licence holder or any person instructed by or associated with him."

Affected Wards:	Staplehurst
Recommendations:	The Committee is asked to determine the application and decide whether to vary the premises licence.
Policy Overview:	The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.
Financial Implications:	Costs associated with processing the application are taken from licensing fee income.
Other Material Implications:	<p>HUMAN RIGHTS: In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “responsible authorities” and/or “other persons” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.</p> <p>LEGAL: Under the Licensing Act 2003 the Licensing Authority has a duty to exercise licensing control of relevant premises.</p>
Background Papers:	Licensing Act 2003 DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended Maidstone Borough Council Statement of Licensing Policy
Contacts:	Mrs Lorraine Neale at: lorraineneale@maidstone.gov.uk – tel: 01622 602528

Agenda Item No. 1

Report Title: Hush Heath Winery, Hush Heath Estate, Five Oak Lane, Staplehurst, Kent , TN12 0HX

Application to: Vary a premises licence under the Licensing Act 2003.

Purpose of the Report

The report advises Members of an application to vary a Premises Licence under the Licensing Act 2003,(Appendix 1), made by Mr Richard Balfour-Lynn for Hush Heath Winery, Hush Heath Estate, Five Oak Lane, Staplehurst, Kent , TN12 0HX in respect of which 13 responses have been received from other persons (Appendices 3 & 4).

Issue to be Decided

Members are asked to determine whether to :

Grant the application as applied for, or

Grant the application and modify conditions of the licence, or

Reject all or part of the application

Background

1. The relevant sections are Part 3 S13 and 34 – 36 of The Licensing Act 2003 and section 4 of The Licensing Act 2003 in particular the Licensing Objectives:

The prevention of crime and disorder;
Public Safety
The prevention of public nuisance; and
The protection of children from harm

2. The application has been correctly advertised in the local press and notices displayed on the premises for the required period.
3. There were no representations received from responsible authorities.
4. 13 responses were received from other persons.
5. The table below illustrates the relevant responses which have been received

	Responsible Authority /Interested Party	Licensing Objective	Associated Documents	Appendix
	Objections			
1	Kim and Sally Humphrey	Public Nuisance Public Safety	E-mail	3
2	Angus Codd and Andrea Hodgkiss	Public Nuisance Public Safety	E-mail	3
3	Frank and Anne Tipples	Public Nuisance Public Safety	E-mail	3
4	Ian and Liz Tipples	Public Nuisance		3
5	Guy and Janice Barkaway	Public Nuisance Public Safety	E-mail	3
6	Brenda Webb and Darryl Evans	Public Nuisance	E-mail	3

		Public Safety		
7	Bernard and Amanda Tipples	Public Nuisance Public Safety	E-mail	3
8	Dawn Lye	Public Nuisance Public Safety	E-mail	3
9	Alison Clark	Public Nuisance Public Safety	E-mail	3
10	Richard and Natasha Davidson-Houston	Public Nuisance Public Safety	E-mail	3
11	David Taylor and Nicola Feakin	Public Nuisance Public Safety	E-mail	3
12	Marcus Rennick	Public Nuisance Public Safety	E-mail	3
	Support			
13	Councillor Patrick Riordan – Staplehurst Parish Council		E-mail	4

The objectors are concerned that this application represents a substantial change to activities at the premises by offering routine late-night hospitality, together with the shop selling alcohol, ultimately increasing visitor numbers. This increase in visitors and the hours of operation for certain licensable activities at the Winery could have significant adverse disturbance effect on nearby residents. There are also public safety concerns around the increase to late night traffic on what are narrow unlit lanes and the danger it poses to motorists and pedestrians on dark nights.

The premises has a current licence, Appendix 5 and current plans Appendix 2. The current licence holder is the applicant

6. The current licence hours are as per the licence attached at appendix G and set out at 3 of the summary above. The application. also seeks to remove the condition “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 website” and replace it with the condition "There shall be no external advertising generally, of the sale of alcohol for consumption at the premises, by the licence holder or any person instructed by or associated with him."
7. **Members are advised that applications cannot be refused in whole or in part, or conditions attached to the licence unless it is appropriate to do so to promote the licensing objectives.;**
8. **Relevant sections of The Guidance issued under section 182 of The Licensing Act 2003;**
Chapters 8 (8.42 onwards) & 9 Premises Licences & Determining Applications
Chapter 10 Conditions.
Relevant policy statements contained in the Licensing Authority’s Statement of Licensing Policy:
Relevant policy statements contained in **the Licensing Authority’s Statement of Licensing Policy:**

17.16 Public Safety
17.19. Prevention of Public Nuisance

3.1 CONDITIONS TO PROMOTE PUBLIC SAFETY.

The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.

3.2 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

3.3 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

Where appropriate an operating schedule should specify occupancy limits for the following types of licensed premises:

- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the primary activity is the sale of alcohol
- (ii) Nightclubs
- (iii) Cinemas
- (iv) Theatres
- (v) Other premises where regulated entertainment is likely to attract a large number of people.
- (vi) Where conditions of occupancy have arisen due to representations received.

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.

9. Options

Legal options open to members -

Grant the variation application as applied for., or

Grant the variation and modify conditions of the licence, or

Reject all or part of the application.

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough

Section 17 of the Crime and Disorder Act 1988 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can prevent, crime and disorder in its area".

12. Implications Assessment

The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal/challenge is increased.

13. Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life

- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to Fair Hearing
- Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices

14. **Conclusion**

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

15. **List of Appendices**

Appendix 1	Application Form
Appendix 2	Plan of Premises
Appendix 3	Representations –Other persons
Appendix 4	Staplehurst Parish Council comments
Appendix 5	Current Premises Licence
Appendix 6	Plan of area
Appendix 7	Human Rights Articles
Appendix 8	Order of Proceedings

16. **Appeals**

The applicant or any other person(objector) may appeal the Licensing Act 2003 Sub Committee’s decision within 21 days beginning with the day on which the Appellant is notified. All/any appeals must be lodged with the Magistrates’ Court. Parties should be aware that they MAY incur an Adverse Costs Order should they bring an appeal.

Contact: Email:	Senior Licensing Officer lorryneale@maidstone.gov.uk
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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	<input type="text"/>
<input type="text"/>	Richard Balfour-Lynn	Form Reference	Richard Balfour-Lynn/
DOB	NINO	Notes	
<input type="text"/>	<input type="text"/>	Caps Reference	<input type="text"/>
TEL	01622 832794		
Email	<input type="text"/>		
Customer Address			
Hush Heath Winery Hush Heath Estate Five Oak Lane Staplehurst Tonbridge Kent TN12 0HX			
Date Form Started	16/07/2020 11:49:21		
Date of E-signing	<input type="text"/>		
Date Submitted	<input type="text"/>		
Validation Ref	<input type="text"/>		
Occupancy type	<input type="text"/>		
Advisor Name (who started form)	<input type="text"/>		
Advisor Department	<input type="text"/>		
Self-Service	<input type="text"/>		

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

19/00380/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

£ 24250.00

Part 2 - Applicant Details

Title

Mr

Surname

Balfour-Lynn

Firstnames

Richard

Daytime contact telephone number

01622 832794
Email address
(optional)
Current postal
address
if different from
premises address
**Hush Heath Manor
Hush Heath Hill
Cranbrook
Kent**

Post Town

10 Postcode

TN17 2NG

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)

1. We would like to change the off sales (shop) to coincide with our opening hours (non special events).
Our shop and tasting room are integrated as one unit and therefore they both operate together (see attached drawing and photographs).

2. We wish to change our opening hours (non special events) for Thursday , Friday and Saturday evenings to close at 23.00 .
We wish to offer visitors a wine and food pairing experience on up to three nights a week.
Please note we do not wish to change the use of the premises.

3. We would like to amend the condition referring to external advertising of the sale of alcohol for consumption on the premises to read as per below:
"There shall be no external advertising generally, of the sale of alcohol for consumption at the premises, by the licence holder or any person instructed by or associated with him."

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)			<u>Will the performance of a play take place indoors or outdoors or both - please make selection with an "x"</u> <u>(please read guidance note 2).</u>	Indoors	
Day	Start	Finish		Outdoors	
Mon			<u>Please give further details here</u> (please read guidance note 3)	Both	
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> <u>(please read guidance note 5)</u>		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			<u>Will the exhibition of films take place indoors or outdoors or both - please make selection with an "x"</u> <u>(please read guidance note 2).</u>	Indoors	
Day	Start	Finish		Outdoors	
Mon			<u>Please give further details here</u> (please read guidance note 3)	Both	
Tue					
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 4)		
Thur					
Fri			<u>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</u> <u>(please read guidance note 5)</u>		
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)			<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 (please read guidance note 5)</u>
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both - please make selection with an "x" (please read guidance note 2).</u>	Indoors	
Day	Start	Finish		Outdoors	
Mon			<u>Please give further details here</u> (please read guidance note 3)	Both	
Tue					
Wed					
Thur			<u>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)</u>		
Fri					
Sat					
Sun					

To complete this part, choose this option on Page 4

E

Live music Standard days and timings (please read guidance note 6)			<u>Will the performance of live music take place indoors or outdoors or both - please make selection with an "x" (please read guidance note 2).</u>	Indoors		
Day	Start	Finish		Outdoors		
Mon			<u>Please give further details here</u> (please read guidance note 3)	Both		
Tue						
Wed				<u>State any seasonal variations for performance of live music</u> (please read guidance note 4)		
Thur						
Fri				<u>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)</u>		
Sat						
Sun						

F

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both - please make selection with an "x" (please read guidance note 2).</u>	Indoors		
Day	Start	Finish		Outdoors		
Mon			<u>Please give further details here</u> (please read guidance note 3)	Both		
Tue						
Wed				<u>State any seasonal variations for playing recorded music</u> (please read guidance note 4)		
Thur						
Fri				<u>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)</u>		
Sat						
Sun						

G

To complete this part, choose this option on Page 4

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				Both	
Tue				Please give further details here (please read guidance note 3)	
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				Outdoors	
Tue				Both	
Wed				Please give further details here (please read guidance note 3)	
Thur			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Fri					
Sat			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)		
Sun					

To complete this part, choose this option on Page 4

I

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			Please give further details here (please read guidance note 3)	Both	
Tue					
Wed			State any seasonal variations for provision of late night refreshment (please read guidance note 4)		
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 5)		
Sat					
Sun					

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	00:00	23:59			
Tue	00:00	23:59	<u>State any proposed seasonal variations for the</u> supply of alcohol (please read guidance note 4) We wish to change the timings for off sales (shop) to: 10.00- 23.00 Thursday- Saturday We wish to change the timings for on sales (non special events) to: 10am-23.00 Thursday- Saturday The 24 hour timings are for our webshop only		
Wed	00:00	23:59			
Thur	00:00	23:59			
Fri	00:00	23:59			
Sat	00:00	23:59	<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	00:00	23:59			
				Both	X

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)

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	19:00	
Tue	10:00	19:00	

L

Wed	10:00	19:00	<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>Non standard opening times to include on sales and off sales for Thursday - Saturday to be 10.00-23.00 .</p>
Thur	10:00	23:00	
Fri	10:00	23:00	
Sat	10:00	23:00	
Sun	10:00	19:00	

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

1. We would like to change the off sales (shop) to coincide with our Opening hours (non special events). Our shop and tasting room are integrated as one unit and therefore they both operate together (see attached drawing and photographs).
2. We wish to change our opening hours (non special events) for Thursday , Friday and Saturday evenings to close at 23.00 . We wish to offer visitors a wine and food pairing experience on up to three nights a week. Please note we do not wish to change the use of the premises.
3. We would like to amend the condition referring to external advertising of the sale of alcohol for consumption on the premises to read as per below:
 "There shall be no external advertising generally, of the sale of alcohol for consumption at the premises, by the licence holder or any person instructed by or associated with him."

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 Winery has had a premises licence since 20th March 2013 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 has excellent parking facilities, good security and a track record of no problems or complaints. The principals of security and safety will continue to be extended in all dealings with the public.

b) The prevention of crime and disorder

Hush Heath Estate continue to have good security, alarms and CCTV cameras. There will be no unsupervised access. Staff are well trained and ensure that a refusal recording system is in operation and all staff involved in the sale of alcohol are fully trained in the system. CCTV Equipment is well maintained and in good working order, correctly time and date stamped, recordings are kept on the hard drive for a period of 31 days and can be handed to Police upon reasonable request. The DPS or appointed members of staff are capable and competent at downloading CCTV footage in a recordable format to the Police and Local Authority upon reasonable request.

c) Public safety

The Winery forms part of Hush Heath Estate which carries out HACCP thus ensuring public safety, and our staff are trained in this. Staff are also First Aid trained and we have a designated first aid area should an event occur. All staff involved in the sale or supply of alcohol are trained in the "Challenge 25" Scheme, and such training is recorded. All guests are supervised and we can confirm that there have been no instances of problems at the winery or indeed externally. It should be noted that since we received our amended licence on 4th April 2019 we have held a number of evening events, all without complaints and with no incidents or problems.

d) The prevention of public nuisance

As above, we follow the Challenge 25 rules and our staff are trained in the safe serving of alcohol and do not serve anyone who has had too much to drink. All staff involved in the sale or supply of alcohol are trained in the "Challenge 25" Scheme and such training is recorded. All customers are requested to leave the premises quietly as per our signage on exit.

e) The protection of children from harm

The typical visitor is 35 years of age plus, although children are allowed under parental or adult supervision during the day and must at all times be accompanied. Hazardous materials located on the premises are kept under child proof lock. There will be no children under 10 allowed on the premises during our extended opening hours. i.e 19.00-23.00 Thursday -Saturday

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

I/WE UNDERSTAND THAT IT IS AN OFFENCE, UNDER SECTION 158 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 AMMOUNT

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:

Submission Ref:

Applicant Name: **Richard Balfour-Lynn/**

21

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.

Since the grant of our licence on the 20th March 2013 we have received confirmation from the Maidstone licencing officer that no complaints have been received concerning the prevention of crime and disorder, public safety, public nuisance or risks concerning children. Indeed the only question raised to the Maidstone licencing officer related to a plant sale, for fundraising that we carried out for a local charity. No action was taken by the licencing officer on this matter. We have complied with all aspects of our licence and we can confirm that there are no outstanding planning or regulatory issues concerning the operation of the winery.

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.

Notes for Guidance

1. 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 for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. 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.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. 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.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. 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, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

XML Specific

Application Type

Licence Case Type

Licence Status

XML Template

CAPS Reference

Payments request

CallingAppID

CallingAppRef

PaymentSourceCode

Customer Message

Empty text area for Customer Message

Response response

PaymentAuthorisationCode

IncomeManagementReceiptNumber

OriginatorsReference

CardScheme

CardType

PaymentAmount

ResponseCode

ResponseDescription

Number of payment lines

Service Message

Empty text area for Service Message

Payment 1

Receipt Number

DueDate

PaymentType

Pay Description

XML Description

PaymentDue VAT

Paid

Payment Date

Fund

Reference

Payment 2

Receipt Number

DueDate

PaymentType

Pay Description

XMLDescription

PaymentDue VAT

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Payment Date

Fund

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Payment 3

Receipt Number

DueDate

PaymentType

Pay Description

XML Description

PaymentDue VAT

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Payment Date

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Reference

Payment 4

Receipt Number

DueDate

PaymentType

Pay Description

XML Description

PaymentDue VAT

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Payment Date

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Payment 5

Receipt Number

DueDate

PaymentType

Pay Description

XML Description

PaymentDue VAT

Paid

Payment Date

Fund

Reference

Case Overview

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Mobile Number	<input type="text"/>		

Case Notes

CRM Integration

CRM Case Ref

Form History

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 16/7/2020 12:43:37 | Submitted | (,) | Application to Vary a Premises Licence (1.0).wdf, 54118, Licence Inc Bexley, new | Ref: 054118-00716-DC7L2TG
 16/07/2020 12:37:37 | Received on Remote Server
 16/7/2020 12:43:37 | Submitted | (,) | Application to Vary a Premises Licence (1.0).wdf, 54118, Licence Inc Bexley, new | Ref: 054118-00716-DC7L2TG

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Hush Heath Estate
Five Oak Lane
Staplehurst
Tonbridge
Kent TN12 0HX"/>
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Date Record Started	<input type="text"/>		
Date Last Modified	<input type="text"/>		

Current User

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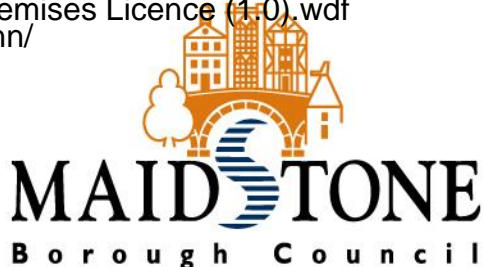
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Pages that override forced error checking	<input type="text"/>									
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LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

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

NOTICE OF DETERMINATION

Application Ref No:

Applicant: Mr Richard Balfour-Lynn

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

Date(s) of hearing: 28 March 2019

Date of determination: 28 March 2019

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

Legal Advisor in attendance at hearing: Mrs J Bolas

Democratic Services Officer in attendance at hearing: Mrs C Matthews

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, Ms S. Easton, Cllr Brice, Mr D Curtis-Brignall,
Cllr Greer

Responsible Authorities

Not applicable

Other Persons

Name: Represented by Mr P Kolvin QC (Ms Amanda Tipples, Mr B Tipples Mr & Mrs Stanley, Mr & Mrs Davidson-Houston, Ms Stallman, Ms Hardwick, Mr Rennick, Mr & Mrs Humphrey, Mr Codd & Ms Hodgkiss, Mr F & Mrs Anne Tipples, Ms Martin- Clark, Mr Taylor & Ms Feakin).

Witnesses: Mrs N Davidson-Houston

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

In support – Helen Grant MP

Objections - Mr & Mrs Ewbank, Mr Crumpling, Mr Buller, Mr Edmondson, Mr Twyman,
Mr & Mrs Eccles, Mr & Mrs Vesma, Mr Beevor,

Together with all written representations, from all above-named other persons represented by Mr Kolvin QC and as witnesses for the applicant, appearing in Appendix C of the meeting agenda.

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 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

Chapter 8 & 9 which relates 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)	10:00 – 00:00
Off sales (shop)	10:00 – 17:00 November – March and; 10:00 – 18:00 April – October
On sales (non special event)	10:00 – 19:00
On sale (special event)	10:00 – 00:00
Opening hours (non special event)	10:00 – 19:00
Opening hours (special events)	10:00 – 00:00
Opening hours (online sales no public attendance)	10:00 – 00:00

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.

The premises shall not be operated as a pub, restaurant, drinking establishment, nightclub, wedding venue or events venue (other than events ancillary to the winery

use).

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.

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.

No customers will be left unsupervised on the premises.

Children will be kept under adult supervision at all times.

All hazardous materials will be kept under child proof lock.

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.

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).

The sale of alcohol for consumption on the premises shall be restricted to products produced by Hush Heath Winery and shall not include spirits.'

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 viticultural education.

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 website.

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.

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.

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. They are such as to continue to promote the licensing objectives of prevention of public nuisance and public safety, following addition of the amendment to hours and permitted sale of alcohol for consumption on the premises without restriction to tasting samples only.

In respect of conditions previously in Schedules 3 and 4 to the premises licence granted on 3 September 2018, these have been transferred with very minor amendments to the conditions to form schedule 4 of this licence, for clarity.

The conditions restricting operation of the premises, licensable activities to those ancillary to the winery function ,type of alcohol that may be sold and supervision of those drinking or smoking outside the premises are considered appropriate and proportionate to promote the licensing objective of prevention of public nuisance. By ensuring limitations on unrestricted licensable activities at the premises creating a venue attracting significantly more visitors for general activities where there would be a reasonable likelihood of public nuisance arising from noise and disturbance with

attendant nuisance to nearby residents from music, clientele in spaces outside the premises and arriving/leaving.

The condition restricting advertising externally the sale of alcohol for consumption on the premises was also considered appropriate and proportionate for the same reasons, as such advertising is reasonably likely to attract a number visitors seeking a premises selling alcohol rather than tasting samples provided as ancillary to services intended by the winery operation.

Finally the requirement to organise an annual meeting with those residents residing within 800 metres of the Hush Heath Estate was considered appropriate and proportionate to promote the licensing objective of prevention of public nuisance by providing a forum for residents to provide feedback on the impact of licensable activities and the Licence holder to provide information on forthcoming activities and give assurance in relation to any concerns. It was felt that with the informative in respect of any general issues and contact with the licence holder this would be sufficient without additional formal meetings.

Members gave consideration to requests from objectors for a condition restricting types of vehicle attending the winery on the basis of public safety but did not believe this to be proportionate in relation to the intention of that objective or appropriate as it would not be within the licence holder's power to control.

Reasons for determination:

Having heard from Mr Kolvin, on behalf of many objectors, Mr Balfour – Lynn, the applicant and many of 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.

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

There were some concerns expressed that making alcohol consumption available on the premises, other than tasting samples, would increase drink driving in an area without viable public transport. However, there was no evidence that any issues have arisen with current operations or that sale restricted to visitors attending the premises for winery tours, tasting and education would give rise to this. There was evidence that taxi details are made available and dedicated drivers are encouraged. It was not

considered to be appropriate or proportionate to refuse or condition the licence in respect of this objective.

Protection of Children from Harm

In respect of protection of Children from harm it was noted that concerns related to road safety and were not in respect of direct issues covered by Guidance, such as: underage drinking and adult entertainment. Members, therefore, noted the concerns related to children and considered them as part of their consideration of the public safety objective.

Public Safety

In respect of public safety the points made by the objectors related to the safety of the road network surrounding the winery and used for access to it. Members read, saw and heard much on the nature of the roads from all directions including photographs and of the experience of the residents and general road users including children on school journeys etc. However, Guidance refers to safety considerations being on and near the premises and specifically related to its activities. Members however, went on to consider that should the wider road network be considered in respect of this application and licensable activities; were the concerns raised such that they should refuse the application or condition the licence in respect of the hours for on licensed sales? In Members view there was no clear evidence that allowing sale of restricted products, linked to tours, tastings and education to 19:00 hours would increase traffic significantly beyond current levels.

The number of visitors per year is currently under 10, 000 and the applicant confirmed that the figures indicated in press articles were not quoted by him. There was no quantification of increased level of vehicles that could be said to be reasonably likely or that the perceived increase in HGVs or coaches could be linked to the Winery. Evidence was heard that working vehicles for the winery are whenever weather conditions are suitable carried out on estate, not public, roads, the level of HGVs would not increase significantly and that levels of coaches currently received do not match the advertisements by coach companies for tours. It was understood that advertisements produced in evidence were not placed or controlled by the applicant and in any event it was not believed that the variation would affect the likely uptake of any such tours. The applicant confirmed that coaches received are 1 per week in summer and 1 per fortnight in winter, which come from abroad. Evidence was not clear that HGVs in the area are winery related and indeed evidence was given by a Councillor that she is currently involved in seeking a Google maps change in directions to Lorries generally to use roads around the winery area, which may result in additional HGV traffic.. Members also considered that in winter in darkness the level of visitors to the winery would be likely to be at its lowest after dark. It was considered that the public safety objective was not sufficiently engaged by the proposed variation to justify specific conditions under this objective.

Prevention of Public Nuisance

Members are aware that public nuisance can be caused by traffic but for the above reasons related to public safety did not consider that separate conditions on traffic matters were appropriate or proportionate in this case.

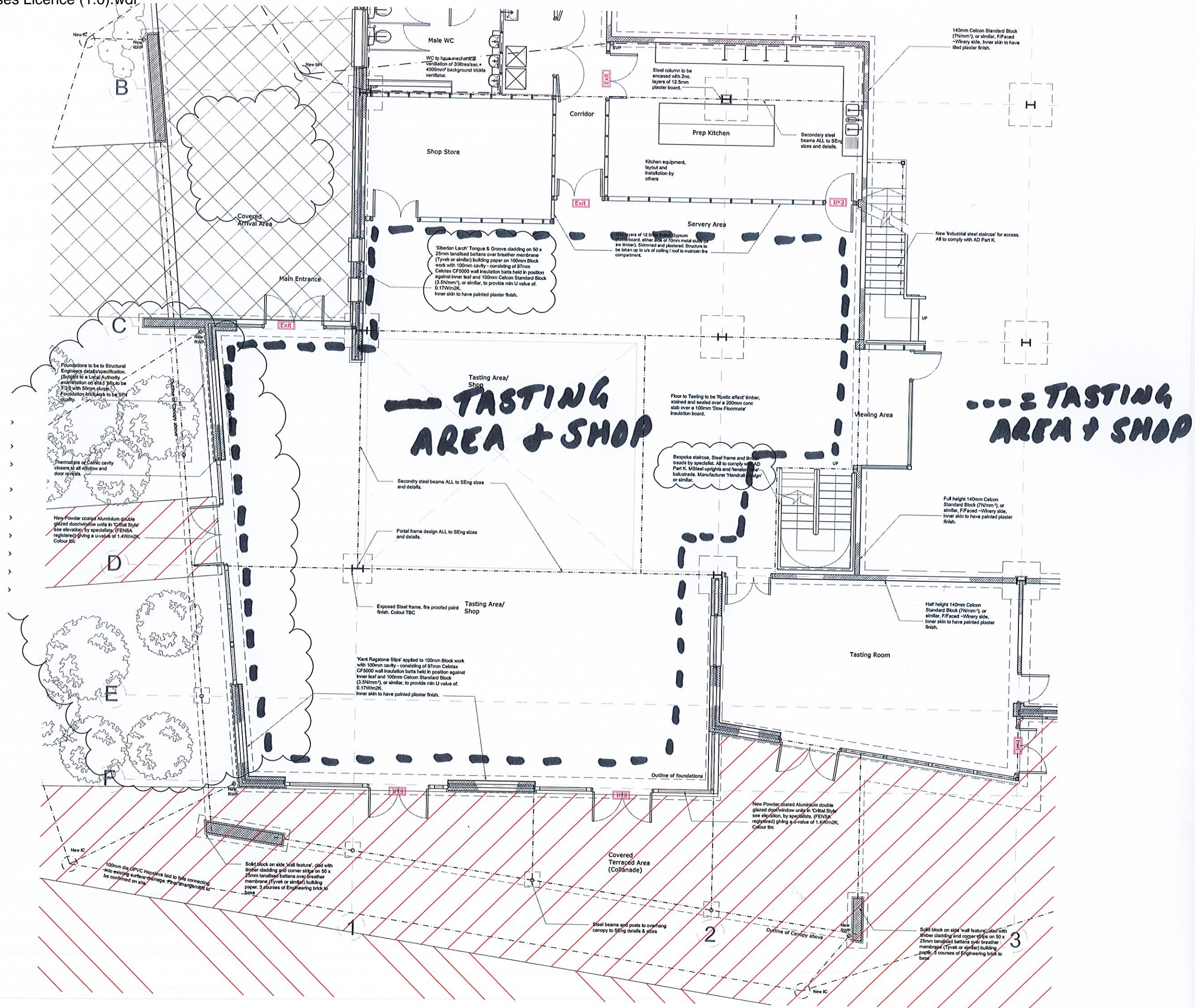
However, they went on to consider public nuisance in relation to noise and disturbance in and around the premises arising from visitors, licensable activities and any reasonably likely increases arising from hours of on sales and consumption other than tasting samples. The current hours for on sales were until 00:00 but operationally had been maintained at 17:00 Nov –Mar and 18:00 Apr – Oct other than online sales. The intention of 19:00 for on sales at the premises was stated to be to allow flexibility for any visitors staying a little over time and to provide assurance for neighbours that it would not extend in to the evening, particularly outside the premises. Sales from the shop were agreed to remain at the current operational hours and although not matching the on sales elsewhere it was felt that this could be accommodated by sufficient notice to visitors on the premises. There was no evidence that if the on sales were restricted as to type of product, visitors linked to tours, tastings and education and advertisement was controlled that there would significant increases in visitors and thereby likelihood of nuisance to neighbours. There was also evidence that sound insulation inside the premises and types of music played would not be excessive, despite the tranquil nature of the surrounding area. Members were of the view that conditioned restrictions already in place and some additional ones are sufficient in this instance to promote prevention of public nuisance.

Noting the nature of the area and concerns of residents likely to be affected by any impacts and the agreement of the applicant to restrict his operations to his intended business activities Members conditioned the type of licensable activity allowed, that it be ancillary to the winery use, that there be no external advertising of non shop on sales and supervision of outside areas. They considered this to be appropriate and proportionate to promote the prevention of public nuisance.

PRINT NAME (CHAIRMAN): COUNCILLOR MRS HINDER

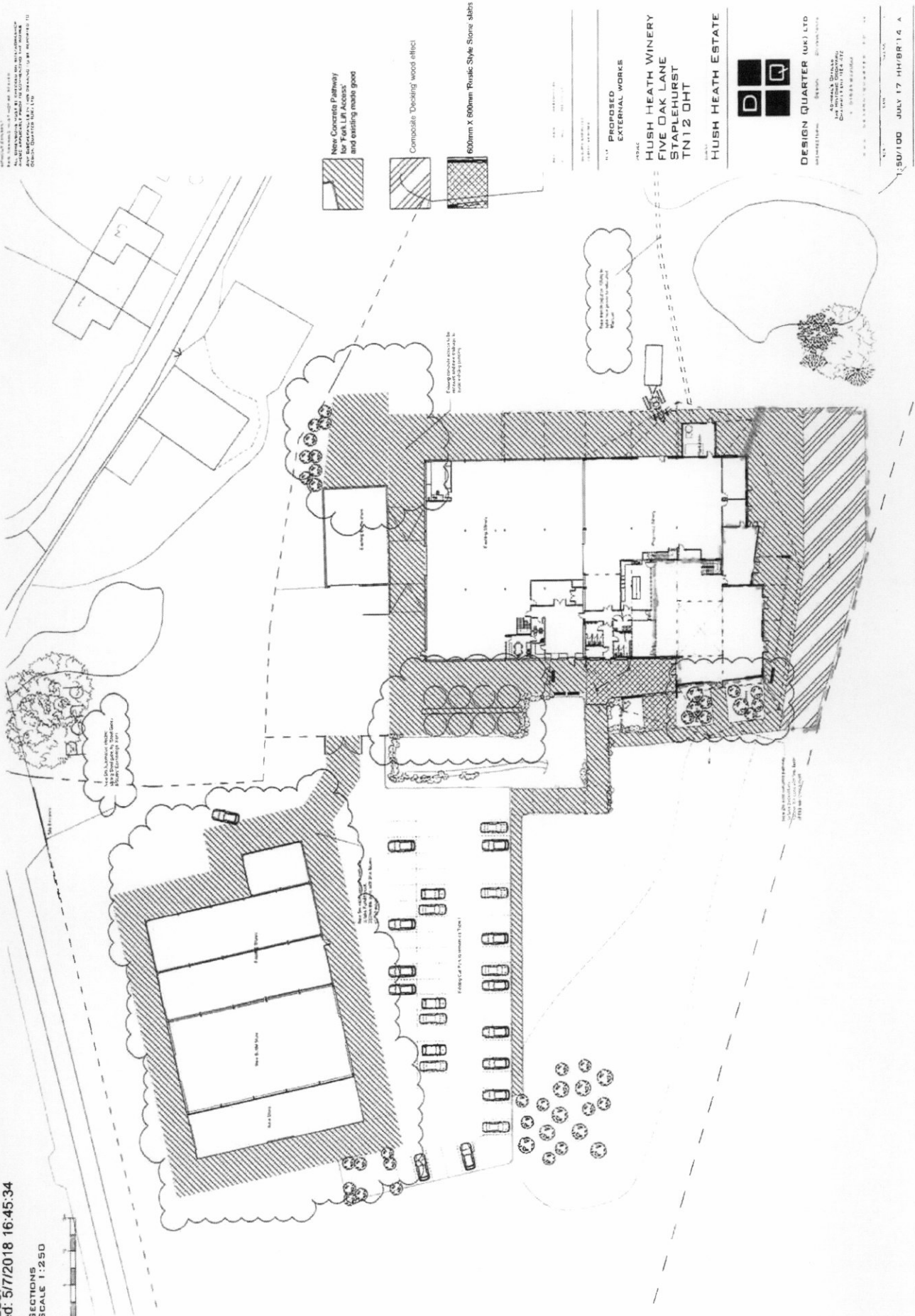
Signed [Chairman]: A copy of the original document is held on file

Date: 28/03/2019



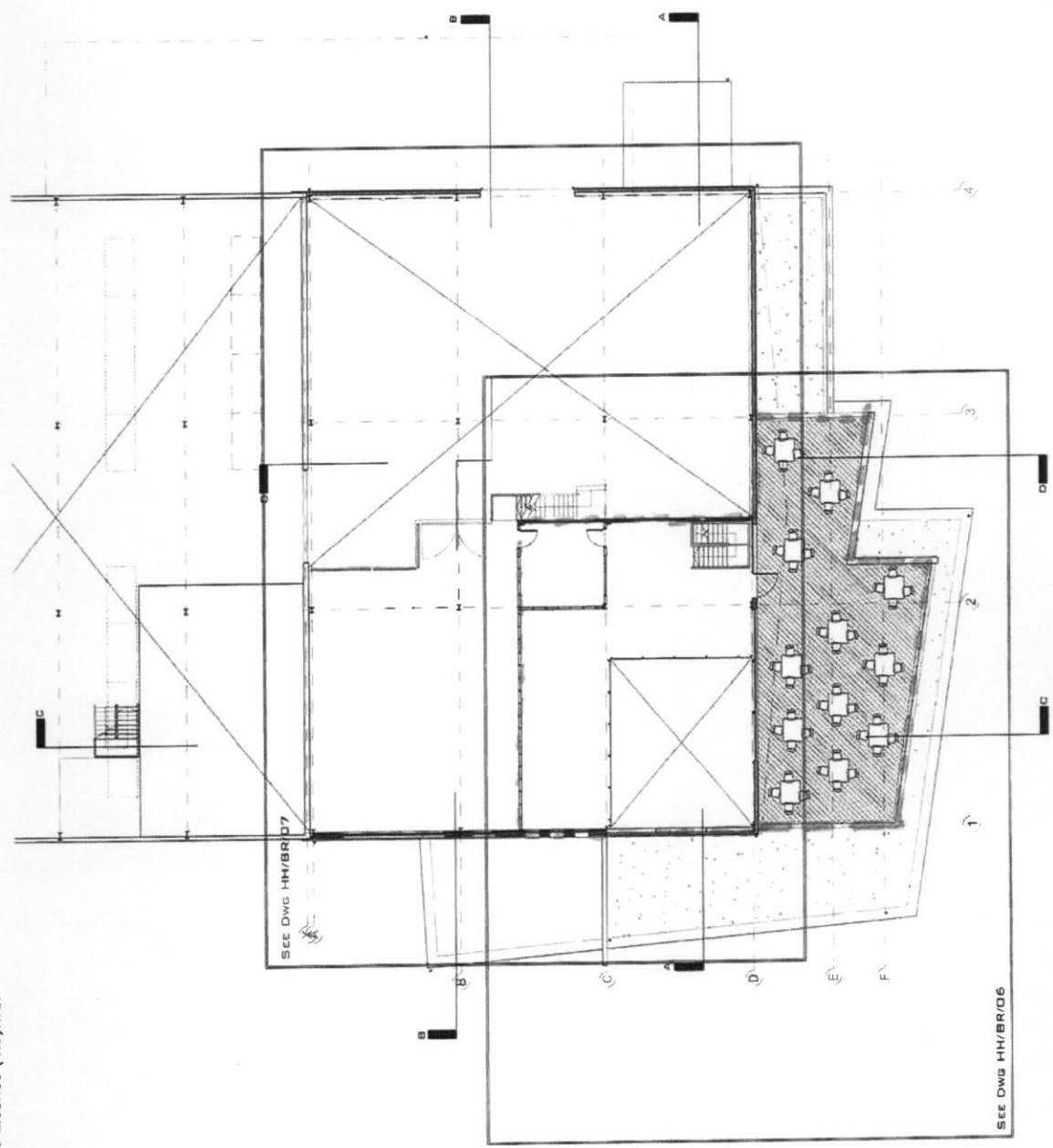
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SECTIONS
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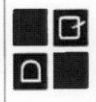


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• UPPER
 FLOOR NEW
 BUILDING TO BE
 LICENSED



PROPOSED MEZZANINE
 FLOOR PLAN
 HUSH HEALTH WINERY
 FIVE OAK LANE
 STAPLEHURST
 TN12 0HT
 HUSH HEALTH ESTATE



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From: Natasha Wyeth
Sent: 10 August 2020 14:20
To: licensing@sevenoaks.gov.uk
Cc: Lorraine Neale <LorraineNeale@Maidstone.gov.uk>
Subject: Hush Heath Winery: Application to vary premises licence Ref: 19/00380/LAPRE

Dear Sir/Madam

Please find attached a letter detailing our objections in respect of the above application to vary the premises licence at Hush Heath Winery, Staplehurst.

If you need any further information please do not hesitate to contact me.

Kind regards
Natasha Davidson-Houston

(sent on behalf of local residents named on the letter)

[Redacted]
(Kim and Sally Humphrey; [Redacted])
[Redacted]
(Angus Codd and Andrea Hodgkiss; [Redacted])
[Redacted]
(Frank and Anne Tipples; [Redacted])
[Redacted]
(Ian and Liz Tipples; [Redacted])
[Redacted]
(Guy and Janice Barkaway; [Redacted])
[Redacted]
(Brenda Webb and Darryl Evans; [Redacted])
[Redacted]
(Bernard and Amanda Tipples; [Redacted])
[Redacted]
(Dawn Lye; [Redacted])
[Redacted]
(Alison Clark; [Redacted])
[Redacted]
(Richard and Natasha Davidson-Houston; [Redacted])
[Redacted]
(David Taylor and Nicola Feakin; [Redacted])
[Redacted]
(Marcus Rennick; [Redacted])

5 August 2020

The Licensing Partnership
PO Box 182
Sevenoaks
Kent
TN13 1GP
By email: licensing@sevenoaks.gov.uk

And by email to the Case Officer: lorryneale@maidstone.gov.uk

Dear Sirs

Hush Heath Winery, Five Oak Lane, Staplehurst, Tonbridge, Kent TN12 0HX

Premises Licence Number: 19/00380/LAPRE

Application to vary premises licence: Ref 20/01678/LAPRE

We are writing to object to the above-mentioned application, which will fail to promote the licensing objectives of preventing public nuisance and public safety.

This is the fourth licence application made by the premises licence holder in the last two years. It represents the latest attempt by the premises licence holder to significantly expand the activities of the Hush Heath Winery at the premises, including at night, in what is a tranquil rural area, with homes in close proximity. This is also a location which is intrinsically dark at night.

Prior to March 2019, the premises licence included a condition whereby the supply of alcohol on the premises was limited to tasting samples only.

The premises licence holder applied to remove the condition and to expand the operation significantly in other respects.

This produced 21 residential objections on the grounds of public nuisance and public safety.

The Licensing Sub-Committee was good enough to set aside a whole day for the representations to be heard and considered a bundle of documents exceeding 500 pages.

Local residents were so concerned by this application that the residential objectors incurred the expense of a licensing barrister to put their case. The barrister filed written submissions to assist the Sub-Committee. They are served again with this letter because they remain entirely relevant to this further attempt to expand licensable activities at the winery (**Appendix 1**). We invite you to read these submissions again.

The Licensing Sub-Committee gave the matter careful consideration and delivered a detailed decision. This is attached as **Appendix 2**, which we also invite you to read.

The Licensing Sub-Committee struck the licensing balance in the following principal ways:

- (1) It permitted off-sales only until 5 p.m. in the winter months and 6 p.m. in the summer months.
- (2) It allowed the premises licence holder to hold “special events” until midnight on 12 occasions each year which had to be notified to residents in advance.
- (3) Other than that, on-sales were to cease at 7 p.m. each night.
- (4) There was to be no advertising of on-sales including on or off-site and on any website.

This application now seeks the following:

- (1) It seeks permission for off-sales until 11 p.m. on Thursdays, Fridays and Saturdays year round.
- (2) It seeks to hold “non-special events” on Thursday, Friday and Saturday until 11 p.m. i.e. adding 156 night-time events to the 12 currently permitted.
- (3) It seeks the ability to advertise on-sales on the site and also on web-sites.

The effect will be to completely transform the operation from one in which there is only very occasional evening use to one in which there is routine evening use, including on- and off-sales, on Thursdays, Fridays and Saturdays.

This represents a gross departure from the careful balance which the Licensing Sub-Committee achieved after hearing extensive evidence and full argument only a year ago.

It is not proposed to repeat the contents of the licensing barrister's submissions, since they speak for themselves and were taken into account by the Licensing Sub-Committee on the last occasion.

However, the Licensing Sub-Committee recognised that there are important considerations regarding public safety and public nuisance. Specifically, in their reasons for determination dated 28 March 2019, the Licensing Sub-Committee referred to the following points which would all be adversely affected if this new variation was granted:

a) *Public safety: Number of visitors to the premises, particularly after dark*

This application to vary the premises licence represents a substantial change to activities at the premises by offering routine late-night hospitality, together with the shop selling alcohol. Such expansion of opening hours to the public will drive substantial increases in visitor numbers. This will increase the severe risks associated with the narrow and winding access routes to the site that are explained in our previous submissions. In addition, the proposed variation concentrates a likely increase in visitors to the site during evening hours, all year round. This is precisely the time of highest risk, both to visitors travelling on the narrow, winding and unlit roads, and to pedestrians, runners, and other local road users, particularly in winter months when darkness falls much earlier, and this will engage the public safety objective.

It is worth highlighting that the existing conditions on the premises licence restrict the off-sales (shop) during the winter months when darkness falls early, and the reasons for determination state that the Sub-Committee considered that ... "the level of visitors to the premises would be likely to be at its lowest after dark" (page 7, 4 lines up from bottom of page). This application to vary the premises licence suggests an entirely different business objective, one that is designed to attract greater levels of visitors after dark and substantially increase the risks to public safety set out in our earlier submissions.

In addition, the application raises a further concern for the public safety of those moving around the site after dark. Conditions attached to planning permission for low level bollard lighting currently restrict the external lighting permitted on the site. This permission was granted retrospectively by a planning decision notice dated 10 January 2020 (Application Ref/19/501653/FULL). In the context of that application, the premises-licence holder told the Council's planning department that "evening tourist related winery

events beyond the normal working day” were “relatively intermittent and limited” and he accepted that “that the lighting will generally be turned off from 19.15pm except for the evening licenced or temporary events. Hence the lighting is, in the main, due to be turned off around twilight”.

This lighting is used to illuminate the walkways from the winery buildings to the car park (14 bollard lights), and the terrace decking outside the winery (10 bollard lights). Lighting along the walkway/car park is only permitted 1 October – 31 March and must be turned off by 19.15 each evening, unless “required for health and safety purposes for an evening event” in accordance with the existing premises licence or a temporary events notice, in which case the lights cannot be used before sunset and must be turned off by 23.00. External lighting on the terrace decking can only be used for an evening event under the terms of the licence or a temporary events notice, in which case the lights cannot be used before sunset and must be turned off by 23.00.

Therefore, there is no external lighting allowed in the key public external areas, including the walkways, car park and terrace decking for any opening of the premises on a routine basis after dark. In these circumstances, the premises licence-holder’s proposal to extend the premises’ opening hours until 23.00 three nights a week will create significant hazards for visitors moving around the premises, the terrace decking and the car park after dark.

b) *Prevention of public nuisance: Noise and disturbance in and around the premises*

Extending the general opening hours until 23.00 to permit routine evening openings Thursday to Saturday will increase the number of visitors to the site. It will also change the nature of those visits away from those that are focused on tours and tastings towards more visits for hospitality purposes. The winery website now advertises dining experiences and promotes its own “Resident Chef”. This is clearly designed to attract a greater number of visitors, for a more social experience, which promotes consumption at the premises of a greater quantity of alcohol. This is likely to lead to increased noise and disturbance from visitors on site and as they leave the premises. This is a particular concern in such a tranquil, rural area with residents living in very close proximity. In their previous reasons for determination, the Licensing Sub-Committee at page 8 noted “the nature of the area and concerns of residents likely to be affected by any impacts and the agreement of the [premises licence holder] to restrict his operations to his intended business activities”. As a result they “conditioned the type of licensable activity allowed, that it be ancillary to winery use, and that there be no external advertising of non shop on sales and supervision of outside areas”. This was the means of protecting local residents from noise and disturbance. Routine evening openings, coupled with the premises licence-holder’s proposed amendment to the advertising restriction, will completely

undermine these safeguards, and facilitate an expansion of the winery's activities beyond those that are ancillary to the main function of the premises as a winery.

The current application is even more disappointing because the premises licence holder has repeatedly disavowed any intention to expand his activities:

- On 4th March 2019 he wrote to local residents in a letter attached at Tab 3 of the written submissions. He stated:

“Firstly, we are not changing our opening hours. We are open to the public from 10 a.m. – 5 p.m. from October to April and from 10 a.m. – 6 p.m. from May to September. We are not going to change these times either now or in the future.”

- On 20th January 2020 the premises licence holder met with approximately 15 local residents in a meeting required by a licence condition. We attach this at **Appendix 3**. He was asked directly whether he intended to expand his licensed activity and stated clearly that he did not:

NDH: Are there any plans to vary the licence or increase the number of events under the licence regime / TENS?

Mr B-L stated that there were to be no more events beyond those allowed under the existing licence and TENS systems. The Winery Manager added that they did not have enough staff to increase the number of evening events.

It is both concerning and disturbing that the premises licence holder feels able to depart from clear assurances given both orally and in writing.

Our written submissions of March 2019 highlighted several instances where there was a wide gap between the premises licence holder's ambitions for the business and what the planning permission and the licence permitted, and also between his professed intention and what actions were actually being taken to grow the hospitality side of the business. It does appear, with respect, that there is again a gap between what is being said and what is being done.

Previously, the protection against this was the condition limiting consumption to tasting samples. However, the Licensing Sub-Committee, in what was a fair and balanced judgment, allowed the premises licence holder to expand the operation in a strictly controlled manner so as to promote the licensing objectives. There is, with respect, no basis whatsoever for altering that balance. Rather, the variations now sought by the premises licence holder will only serve to have an adverse impact on the licensing objectives of public safety and the prevention of public nuisance for the reasons identified in our 2019 submissions and above.

It is noted that the application states that the premises licence holder has now held “a number of evening events” without incident. We obviously cannot comment on the nature of those

events. But we can say that we have received only one notification of an event pursuant to the licence condition (which was a letter dated 30 August 2019 in relation to a wine-tasting event on 6 and 7 September 2019 from 6pm). Any further events must have been held under temporary event notices, the right to which is a perfectly adequate mechanism for the premises licence holder to hold occasional additional events to those granted under the licence.

Compounding our concern is the proposal to permit web advertising of the facility. This is a further example of a creeping approach to expansion of the operation. We strongly object to that, which is clearly designed to promote the winery as a place for the on-sale of alcohol, including at night.

We would ask the licensing authority to stand by its earlier decision and reject this application.

Yours faithfully

Signed either by hand and/or electronically:

Richard and Natasha Davidson-Houston [REDACTED]

Alison Clark [REDACTED]

Brenda Webb and Darryl Evans [REDACTED]

Dawn Lye [REDACTED]

Guy and Janice Barkaway [REDACTED]

Kim and Sally Humphrey [REDACTED]

David Taylor and Nicola Feakin [REDACTED]

Marcus Rennick [REDACTED]

Frank and Anne Tipples [REDACTED]

Ian and Liz Tipples [REDACTED]

Bernard and Amanda Tipples [REDACTED]

Angus Codd and Andrea Hodgkiss [REDACTED]

Enc:

Appendix 1 – The objections filed by residential objectors for the hearing before the Licensing Sub-Committee on 28 March 2019 (and the attachments thereto).

Appendix 2 – Notice of Determination dated 28 March 2019.

Appendix 3 – Note of the residents' meeting (held under terms of premises licence) on 20 January 2020.

IN THE MATTER OF HUSH HEATH WINERY

LICENSING SUB-COMMITTEE, 28TH MARCH 2019

**SUBMISSIONS ON BEHALF OF AMANDA AND BERNARD TIPPLES,
KIM AND SALLY HUMPHREY, ANGUS CODD AND ANDREA
HODGKISS, POLLY HARDWICK, FRANK AND ANNE TIPPLES, ,
PAUL AND DOREEN STANLEY, ALISON CLARK, RICHARD AND
NATASHA DAVIDSON-HOUSTON, DAVID TAYLOR AND NICOLA
FEAKIN, MARCUS RENNICK**

Index

- 1 Skeleton argument
- 2 Letter from applicant's solicitors to residents, 26th February
- 3 Letter from applicant to residents, 4th March
- 4 Letter from objectors to applicant, 14th March with suggested conditions
- 5 Letter from applicant's solicitors to residents, 19th March
- 6 Letter from objectors to applicant's solicitors, 21st March
- 7 Photograph of coach parking signage

Tab 1

IN THE MATTER OF HUSH HEATH WINERY

LICENSING SUB-COMMITTEE, 28TH MARCH 2019

**SKELETON ARGUMENT ON BEHALF OF AMANDA AND BERNARD TIPPLES,
KIM AND SALLY HUMPHREY, ANGUS CODD AND ANDREA HODGKISS,
POLLY HARDWICK, FRANK AND ANNE TIPPLES, PAUL AND DOREEN
STANLEY, ALISON CLARK, RICHARD AND NATASHA DAVIDSON-HOUSTON,
DAVID TAYLOR AND NICOLA FEAKIN, MARCUS RENNICK**

1. Hush Heath Winery sits on rural land south west of Staplehurst.
2. There are three relevant sensitivities:
 - a. The surrounding countryside is tranquil.
 - b. There are several nearby dwellings. The nearest are a few metres away.
 - c. The access roads are narrow country lanes, with no footpaths, rough verges and ditches, a single carriageway in places and unlit, along which children and cyclists pass to and from school and other activities. This is particularly dangerous after dark.
3. The owner of the winery, Mr Balfour-Lynn, has aspirations greatly to increase visitor activity at the winery. This has the clear potential to impact on the above sensitivities.
4. He is, however, constrained by one key factor, namely a condition on his premises licence:

“The supply of alcohol on the premises will be limited to tasting samples only.”
5. In other words, it is currently acceptable for someone visiting the winery to be offered a tasting sample. It is not acceptable to turn the winery into an independent visitor facility (whether that is a corporate entertainment venue, events facility, private function room, pub or restaurant), where alcohol is served as part of the attraction.

6. Undoubtedly, and despite Mr Balfour-Lynn's best efforts, this condition remains a protective constraint. Having secured longer hours of operation before this sub-committee in September 2018, he tried and failed to remove the condition through a minor variation application in November 2018. This is his second attempt, and his third licence application in eight months.
7. Meanwhile, Mr. Balfour-Lynn has already done his best to grow the events side of the business despite the licence condition:
 - a. He has built a 200 seat "tasting room" (**Agenda p 346**).
 - b. He has built substantial external visitor terraces at both ground and mezzanine level (**Agenda p 346**) with the clear potential for noise from visitors drinking outside.
 - c. In 2018 he stated in the press that he intended to increase the visitor numbers to 50,000 annually.
 - d. In January 2019 he advertised for a full-time events manager. The advertisement specifically referred to private, corporate and public events. (**Agenda p 372**).
 - e. The web-site says that the winery now has a "commercial kitchen ideal for weddings and corporate events" (**Agenda p 346**) and that the venue can offer "corporate venue hire packages" for up to 200 guests. (**Agenda p 353**).
 - f. The site contains signage giving directions to "coach parking" (**Tab 7 herewith**).
 - g. Four companies are advertising coach travel to the site, one referring specifically to 53 seater coaches (**Agenda pages 360-370**).
 - h. He has started to increase the events usage of the winery, even in advance of this application being heard, with recent and forthcoming events including a large corporate event, a private function and two public events.
8. He is building up this part of the business even though it is directly in conflict with the planning permission for the site, which is for a winery, and a condition on his

planning permission which restricts the retail element of the winery to that which is “strictly ancillary to the primary use of the site as a winery.” This is currently being investigated by the planning department.

9. The residents are deeply concerned as to Mr Balfour-Lynn’s intentions and the impact on them both in terms of nuisance, public safety and protection of children. The roads are simply not designed for a commercial visitor destination, particularly one involving the sale of alcohol. Public use of the terraces, including the service of alcohol, is liable to disturb the amenity of surrounding houses.
10. Mr Balfour-Lynn has protested that there is no intention to establish an independent commercial operation. See:
 - a. the application for variation itself (**Agenda page 12**);
 - b. the letter from his solicitors to some local residents dated 26th February 2019 (**Tab 2 herewith**).
 - c. Mr and Mrs Balfour-Lynn’s own letter to some local residents dated 4th March 2019 (**Tab 3 herewith**).
11. In those documents, to which the sub-committee is respectfully referred, various assurances were offered as to limitations on the nature, hours and controls attaching to the operation.
12. The objectors’ position is as follows. The assurances would go a considerable way to meeting the concerns of the objectors, provided that they are attached as licence conditions. If they are not attached as licence conditions, they are nothing more than unenforceable promises, giving no protection at all.
13. Therefore, on 14th March, the named objectors wrote to Mr Balfour-Lynn’s solicitors, referring to the promises which had been made, simply suggesting that they be included as conditions. (**Tab 4 herewith**). The conditions, set out in a schedule drafted by experienced licensing counsel, were a practical and sensitive reflection of the promises, to give certainty and protection both to the applicant and local residents.

14. The letter stated *“these conditions are advanced in a spirit of co-operation and to set a code to give assurance to residents while giving your client the latitude which he seeks under the premises licence.”* The letter contained an open offer that, if the conditions were accepted, then they could be presented as agreed conditions, so as to avoid the need for a contested hearing.
15. **The Sub-Committee is respectfully requested to read the letter at Tab 4 and the schedule of conditions attached to it.**
16. On 19th March 2019 the applicant’s solicitors replied to the letter. **(Tab 5 herewith).** Most regrettably, their reply failed to engage with the substance of the letter at all. Instead, their reply avoided dealing with the substance by requiring the objectors to withdraw and apologise for one comment in the letter before there could be any negotiations. There is in fact no reason for the objectors to do so. (It is not intended to lengthen these submissions by giving chapter and verse on the point, but it can be expanded upon at the hearing if required.)
17. On 21st March 2019, the objectors wrote to the applicant’s solicitors, urging them to reconsider their stance so that constructive discussions could occur. **(Tab 6 herewith).**
18. The current position, therefore, is that the objectors have made a clear, express offer to the applicant to compromise this case in substance on the very terms of the applicant’s promises to them. However, the applicant has not, as yet, indicated that he is willing to include his own promises as licence conditions. This is not only disappointing, but also worrying.
19. The sub-committee is entitled to ask itself why the applicant is unwilling to submit to conditions reflecting the informal promises he has made. In particular, does it reflect the reality that he does not wish to be bound by his own promises? Or is it simply that he does not wish to co-operate with his neighbours? Either way, this ought to lead to a precautionary approach on the part of the sub-committee.
20. The objectors remain deeply concerned that use of the terraces and also noise from music will disturb their amenity, and that expanded vehicle use of the inadequate

approach roads, particularly after dark, will endanger pedestrians and cyclists, particularly children, on those roads.

21. Regarding licensing hours, the current hours are 10 a.m. – 5 p.m. (**see e.g. Agenda page 435**). The residents are seriously concerned at the public safety implications of closing later than that, particularly in winter, when there are children walking and cycling home from school and other activities in the dark.
22. These concerns engage the licensing objectives of prevention of public nuisance, public safety and the protection of children from harm. As such, they are squarely licensing matters. It would be an error of law to treat them as irrelevant because they may be planning matters too. Briefly, nearly all of the interests protected by licensing are already protected by other statutory regimes: this does not render them irrelevant.
23. In the light of the lack of clarity regarding the applicant's intentions, his unwillingness to subscribe to conditions reflecting his own promises, and the clear potential for harm to the licensing objectives, the sub-committee is invited to refuse this application.
24. If, however, the sub-committee is minded to grant the application, it is respectfully invited to adopt the schedule of conditions proposed by the objectors. They are proportionate conditions which give the applicant the latitude he claims to require, and the residents the protection which they deserve.

PHILIP KOLVIN QC

21st March 2019

Cornerstone Barristers

London WC1

Tab 2


GULLANDS
SOLICITORS

Our Ref: 108/SM/608863-1

Alison Martin-Clark and Jill Clark

26 February 2019
(Dictated 22 February 2019)

By post and email: [REDACTED]
c.c.lorraineneale@maidstone.gov.uk

Dear Mesdames

Hush Heath Winery, Five Oak Lane, Junction of Snoad Lane, Staplehurst, Kent, TN12 0HT

We act for Richard Balfour-Lynn, holder of the Premises Licence for the above property.

We have been passed a copy of your email dated 21st February timed at 23:20 hours.

Please do not contact our client or the Winery but do direct all further communications in relation to our client's Application to Vary or any more queries to this firm. The writer's email address is l.bradley@gullands.com.

Please be advised that there is a distinction between issues which relate to planning and those concerning licensing. Planning issues fall outside the scope of the Licensing Application that has been made.

Our clients run a responsible and professional organisation with well trained staff and have recently been awarded the Gold Award by Visit England. The Application to Vary is simply to remove the existing limitation concerning tasting samples and allow for the sale of alcohol during limited hours, so that visitors may be able to purchase wine if they so wish.

Our clients do not anticipate there being any significant increase to traffic. Since the Winery opened in 2010 there have been no incidents reported either by police or any of the neighbours (including yourselves) about such visitors being stopped for drunk driving, being involved in road traffic accident or suchlike. It is commonplace for visitors to share vehicles and have a designated driver.

The proposed variation has no impact on the number of events that can be held at the premises, which is limited to 12.

16 Mill Street, Maidstone, Kent ME15 6XT Tel: 01622 678341 Fax: 01622 757735
DX 51973 Maidstone 2

18 Stone Street, Gravesend, Kent DA11 0NH Tel: 01474 887688
DX 6805 Gravesend

www.gullands.com mailbox@gullands.com

Partners: A. Blair Gulland · Philip W. Grylls · B. Leroy Bradley · John LI. Roberts · Alex G. Astley* · Alan M. Williams
David C. Brown · Amanda Finn · Julie L. Hobson · Marianne Webb · Catherine D. Lloyd
Consultants: Timothy J. Simmons · Paul C. Burbidge · A.M. Miller · J.E. Rice · D.W. Cramp*

* Notary Public - Regulated by the Faculty Office

The Winery has had absolutely no issues in terms of drunkenness since they have opened and the team are specifically trained not to pour wine for anyone who appears to have drunk too much. The premises are not a pub, a restaurant or a bar and certainly not a "drinking establishment" nor is there any kind of a "drinking culture". This will continue in the future and the Variation will not impact on that. Visitors typically tend to be in their 30's to 70's and are interested in walking round the vineyard and apple orchards, learning about wine making and tasting and enjoying wine produced by Hush Heath.

Our client has no intention to develop the venue for events and further, if he did an appropriate application would have to be made and approved.

Yours faithfully

GULLANDS

I.bradley@gullands.com

DDI: 01622 689723

Tab 3



HUSH HEATH

ESTATE

SHARE OUR PASSION

4th March 2019

Dear Neighbour,

There has been much speculation and misinformation surrounding the Hush Heath Winery. In order to clarify exactly what our plans are, Leslie and I have decided to write to all our neighbours.

Firstly, we are not changing our opening hours. We are open to the public from 10am - 5pm from October to April, and from 10am - 6pm from May to September. We are not going to change these times either now or in the future. Just for your information our existing premises licence allows us to open for tours and tastings up to midnight daily. We choose not to and to reinforce this message we changed midnight to 7pm in our current application to reassure everyone that we will not be opening in the evenings.

Again, for clarity a number of people believe there is a restriction on our opening days in our planning permission. Our 2013 permission allowed us to open every day for tours and tastings, but the shop had to be closed on Sundays and bank holidays. However, our planning permission granted in 2017 superseded the 2013 permission as the shop and tasting room were in the new building extension and had no restriction on opening hours or days of operation. In other words, we have permission to be open 7 days per week for tours, tastings and the shop.

Secondly the Winery is not a pub nor a restaurant and has no intention of becoming one. Indeed, we have decided to hold no weddings at the Winery as they are too noisy and disruptive. We own a number of local pubs such as the Goudhurst Inn and Tickled Trout and we encourage our visitors to have lunch or dinner in them and indeed to stay in our boutique hotel rooms above the pubs.

What we will do, is serve cold sharing platters at the Winery comprising local cheeses, charcuterie and vegetables (no cooking or chefs involved) between 12pm - 3 pm in winter months and 12pm - 5pm in summer months.

TEL: +44 (0)1622 832794 SALES: +44 (0)1622 832794 / +44 (0)7825758833 VAT REGISTRATION NO GB795 884058

HUSH HEATH WINERY | FIVE OAK LANE STAPLEHURST | KENT | TN12 0HT

WWW.HUSHHEATH.COM

We will also offer private and corporate group winery tour bookings for events linked to wine tasting and tours of the estate and winery. Indeed, we have been running these since we first opened in 2010. We will however, not become a general events venue as usually found in large hotels or tourist destinations. All events open to the public will be linked to and about our wines and winemaking and viticultural education.

The amendment to our licence that we have applied for will allow our existing visitors who come to the estate for tours and tastings to enjoy a glass of our wine or cider in our tasting room and terrace. As we are only serving drinks produced by Hush Heath there are no spirits available. The ability for our guests to enjoy a glass of our wine will not increase our footfall, road traffic or visitor numbers. Again, to be clear we will not become a pub or bar and visitors are not going to drive all the way to the Winery simply to buy a glass of our wine which is available in our local pubs where they can also drink other non - Hush Heath drinks.

Again, for information purposes a large percentage of visitors coming to the Winery are coming from London and abroad, arriving by train to Marden station where they are picked up by local taxi or our own 12-seater mini bus. This reduces road traffic. Furthermore, we have a policy whereby our agricultural vehicles do not use the public roads but travel across the estate tracks and fields. To date since 2010 we have had no incidences of drunk drivers leaving the Winery, road accidents, driving into ditches, accidents or police or KCC highway complaints.

In terms of large 30-seater coaches we have on average one coach per week in the months of May to September visiting the winery from France, Germany or Belgium, and very few coaches during the winter months of October to April. We have no intention of increasing this now or in the future.

We have on average 3 - 4 HGVs per week coming to the Winery to either deliver winemaking materials or to pick up our wines for delivery to customers.

We live in a farming location and there are many agricultural vehicles and HGVs using the roads and it is easy to assume they are all connected with the winery. However, this is incorrect.

Leslie and I live 250 yards from the Winery and are highly conscious of noise and activities surrounding the Winery. We love the area and the whole estate is beautiful, teeming with wild flowers (we have just planted over 15 acres of wild meadow flowers in the fields adjacent to the Winery), bird and insect life as well as many other animals. Conservation and biodiversity lies at the heart of our land. We really hope you will visit us along with your family and friends and enjoy walking through our immaculate vineyards, apple orchards and ancient oak woodlands. We are also immensely proud to have just been awarded a Gold Standard by Visit England for Visitor Attractions. A first for an English Winery.

Kind regards,



Richard and Leslie Balfour-Lynn

TEL: +44 (0)1622 832794 SALES: +44 (0)1622 832794 / +44 (0)7825758833 VAT REGISTRATION NO GB795 884058

HUSH HEATH WINERY | FIVE OAK LANE STAPLEHURST | KENT | TN12 0HT

WWW.HUSHHEATH.COM

Tab 4

[REDACTED]
Kim and Sally Humphrey

[REDACTED]
Angus Codd and Andrea Hodgkiss

[REDACTED]
Polly Hardwick

[REDACTED]
Frank and Anne Tipples

[REDACTED]
Guy and Janice Barkaway

[REDACTED]
Paul and Doreen Stanley

[REDACTED]
Bernard and Amanda Tipples

[REDACTED]
Dawn Lye

[REDACTED]
Shirley Stallman

[REDACTED]
Alison Clark

[REDACTED]
Richard and Natasha Davidson-Houston

[REDACTED]
David Taylor and Nicola Feakin

[REDACTED]
Marcus Rennick

Your Ref. 108/SM/608863-1

14 March 2019

Messrs Gullands
16 Mill Street
Maidstone
Kent ME15 6XT
By email l.bradley@gullands.com and first class post

Dear Sirs

Hush Heath Winery

We the undersigned have made representations with respect to the application by your client Mr Balfour-Lynn for variation of the premises licence for Hush Heath Winery.

It is fair to say that this, your client's third application for variation in a number of months, taken alongside his recent recruitment and commercial activity and multiple breaches of planning control, has caused us serious misgiving as to his intentions and trustworthiness.

However, adopting a constructive approach, we have carefully read the existing licence and the application, alongside your firm's letter dated 26th February 2019 to some local residents and your client's letter to local residents dated 4th March 2019. Taking those documents together enables one, we believe, to spell out a number of clarifications or concessions which, if incorporated as licence conditions, may form the basis for agreement, so avoiding the need for, and cost of, a contested hearing.

The licence

As you are aware, the licence sets out a number of conditions in relation to evening events, as well as the condition restricting supply of alcohol to tasting samples only, the condition which your client is concerned to remove as a result of this application. There are also several ancillary conditions regarding children, hazardous materials etc.

The application

In your client's application, although section J has been completed showing the supply of alcohol to midnight 7 days per week, with similar hours set out in section L for opening hours, both of these are subject to clarification that the intention is for on-sales to extend to 7 p.m., with later on-sales on only 12 occasions each year.

In box M(b), it is confirmed that the intention is to open only during limited hours, with the typical visitor being somebody who has tasted wine following a tour of the vineyards, and the aim that *"visitors will be able to purchase alcohol which is Hush Heath Produce only."* It is then stated that *"Hush Heath is not a public house or a restaurant."*

In box M(d) it is confirmed that the winery is not a *"public house, night club or similar establishment."*

The rider to Part 3 of the application reconfirms that alcohol sold will be confined to that produced at Hush Heath, which does not include spirits, and that the licence for on-sales to midnight is confined to 12 events per annum. The licence for off-sales to midnight is for on-line orders rather than over the counter trade.

In your firm's letter of 26th February, you state:

"... The application to vary is simply to remove the existing limitation concerning tasting samples and allow for the sale of alcohol during limited hours, so that visitors may be able to purchase wine if they so wish."

...

"Our clients do not anticipate there being any significant increase to traffic..."

...

"The proposed variation has no impact on the number of events that can be held at the premises, which is limited to 12."

...

"The premises are not a pub, a restaurant or a bar and certainly not a 'drinking establishment... This will continue in the future and the variation will not impact on that. Visitors ... are interested in walking round the vineyard and apple orchards, learning about wine making and tasting and enjoying wine produced by Hush Heath."

We read that letter as making it clear that the purpose of the application is to enable those visiting the winery for tours and education to taste wine there without being restricted to tasting samples.

In Mr Balfour-Lynn's letter of 4th March 2019, he claims that the existing licence allows the winery to open for tours and tastings up to midnight daily. Clearly, that was not how it was presented to, or understood by, the Sub-Committee in September 2018. Fortunately, however, Mr Balfour-Lynn goes on to make the concession that he did not intend to trade daily until midnight, stating:

"... and to reinforce this message we changed midnight to 7 p.m. in our current application to reassure everyone that we will not be opening in the evenings."

Mr Balfour-Lynn continued by stating:

"Secondly the winery is not a pub or a restaurant and has no intention of becoming one. Indeed we decided to hold no weddings at the winery as they are too noisy and disruptive."

...

"What we will do is serve cold sharing platters at the winery comprising local cheeses, charcuterie and vegetables (no cooking or chefs involved) between 12 pm – 3 pm in winter months and 12 pm – 5 pm in summer months."

"We will also offer private and corporate group winery tour bookings for events linked to wine tasting tours of the estate and winery... We will not, however, become a general events venue as usually found in large hotels or tourist destinations. All events open to the public will be linked to and about our wines and winemaking and viticultural education."

"The amendment to our licence that we have applied for will allow our existing visitors who come to the estate for tours and tastings to enjoy a glass of our wine or our cider in our tasting room and terrace. As we are only serving drinks produced by Hush Heath there are no spirits available. The ability for our guests to enjoy a glass of our wine will not increase our footfall, road traffic or visitor numbers. Again, to be clear we will not become a pub or bar..."

In the light of the assurances set out above, we invite your client to agree the list of conditions set out in the schedule hereto, which reflect the spirit of those assurances.

In one respect, we need some further assurance. As your client will be aware, children walk along Pinnock Lane and Five Oak Lane, which is a narrow carriageway without a footway, coming home from school and other activities at the end of the working day. We are deeply concerned about the proposal

for on-sales to finish at 7 p.m. This will mean that there will be children walking along an unlit carriageway when your client's patrons are leaving the winery on roads which will not be familiar to them, perhaps having had a drink going beyond a tasting sample. The reality is that the opening hours of the winery are to 5 p.m., as advertised. We believe that closure at 5 p.m. in winter and 6 p.m. in summer will help to promote the licensing objective of public safety and protection of children from harm.

These conditions are advanced in a spirit of co-operation and to set a code to give assurance to residents while giving your client the latitude which he seeks under the premises licence.

We would invite you to agree the conditions by close of business on Wednesday 20th March, to enable us to prepare for a fully contested hearing if they are not accepted. If, however, they are accepted, we will be pleased to present the conditions to the licensing authority as an agreed set of conditions, so hopefully avoiding the need for, and cost of, a contested hearing.

Yours faithfully

Signed electronically:

Kim and Sally Humphrey [REDACTED]

Angus Codd and Andrea Hodgkiss [REDACTED]

Polly Hardwick [REDACTED]

Frank and Anne Tipples [REDACTED]

Guy and Janice Barkaway [REDACTED]

Paul and Doreen Stanley [REDACTED]

Bernard and Amanda Tipples [REDACTED]

Dawn Lye [REDACTED]

Shirley Stallman [REDACTED]

Alison Clark [REDACTED]

Richard and Natasha Davidson-Houston [REDACTED]

David Taylor and Nicola Feakin [REDACTED]

Marcus Rennick ([REDACTED])

Schedule

Definitions

1. In these conditions:

“Core licensing hours” shall be 10 a.m. to 6 p.m. in April to October inclusive and 10 a.m. to 5 p.m. in November to March inclusive.

A “Special Event” is an event at which:

- a. recorded or live music is provided after 5 p.m; or
- b. alcohol is supplied outside the core licensing hours; or
- c. hot food is provided; or
- d. late night refreshment is provided.

General

2. The premises shall not be operated as a pub, restaurant, drinking establishment, night club, wedding venue or similar establishment.
3. 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.
4. 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 licensing officer upon request.
5. No customers will be left unsupervised on the premises.
6. Children will be kept under adult supervision at all times.
7. All hazardous materials will be kept under child proof lock.
8. 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 the PASS Hologram.
9. The premises licence holder shall organise a meeting with residents living within 800 metres of the Hush Heath Estate on two occasions each calendar year to discuss any impact of the premises on the promotion of the licensing objectives.

On-sales

10. The sale of alcohol for consumption on the premises:
 - a. shall be restricted to products produced at Hush Heath Winery and shall not include spirits;
 - b. shall be only to those attending the winery for the purposes of winery tours, tastings, and vinicultural and viticultural education;
 - c. shall not be accompanied by hot food.
11. The licensing hours for the sale of alcohol for consumption on the premises shall be the core licensing hours.
12. The opening hours of the premises for the purposes of the sale of alcohol for consumption on the premises shall be the core licensing hours.

Off-sales

13. The licensing hours for sale of alcohol for consumption off the premises shall be:
- a. 10 a.m. to midnight for on-line sales;
 - b. the core licensing hours for sales in person.

Special events

14. Notwithstanding conditions 10-12 above, Special Events may be held at the premises subject to the following conditions:
- 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 at Hush Heath Winery and shall not include spirits;
 - e. after 11 p.m. 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 11.45 p.m.
 - g. all visitors to the premises will leave the premises and parking area by 12 midnight;
 - h. signage will be placed at the exits of the premises asking visitors to leave quietly and respect neighbours;
 - i. a noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents. All amplified music must be routed through the noise limiter;
 - j. 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.

Tab 5


GULLANDS
SOLICITORS

Our Ref: 108/LE/608863-0001
Your Ref:

19 March 2019

[REDACTED]
TN12 0HN

Via email and post: [REDACTED]
[REDACTED]

Dear Madam

Re: Hush Heath Winery, Five Oak Lane, Junction of Snoad Lane, Staplehurst, Kent, TN12 0HT

We refer to your letter dated 14 March.

However whilst noting your wish to explore negotiation the starting point in your aforementioned letter calls into question our client's "intentions and trustworthiness" which, is totally unacceptable and insulting and no way to start a negotiation. As such we invite you to apologise in writing and withdraw that comment on behalf of all the signatories to your letter dated 14 March who are being copied in to this response.

One further point that occurs to us is that for any negotiation to be progressed positively you will need to have full authority to act on behalf of all the objectors so when writing in response to this letter please confirm that that is the case.

Please be advised that there is no breach of planning in relation to usage or hours of operation. Further and in any event Planning and Licencing are separate areas and dealt with by the relevant authorities.

16 Mill Street, Maidstone, Kent ME15 6XT Tel: 01622 678341 Fax: 01622 757735
DX 51973 Maidstone 2
18 Stone Street, Gravesend, Kent DA11 0NH Tel: 01474 887688
DX 6805 Gravesend

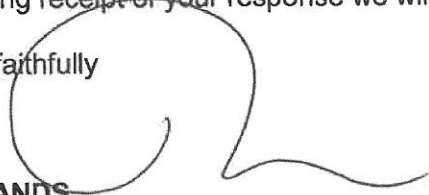
www.gullands.com mailbox@gullands.com

Partners: A. Blair Gulland · Philip W. Grylls · B. Leroy Bradley · John LI. Roberts · Alex G. Astley* · Alan M. Williams
David C. Brown · Amanda Finn · Julie L. Hobson · Marianne Webb · Catherine D. Lloyd
Consultants: Timothy J. Simmons · Paul G. Burbidge · A.M. Miller · J.E. Rice · D.W. Cramp*

* Notary Public - Regulated by the Faculty Office

Following receipt of your response we will take instructions and be in contact with you.

Yours faithfully



GULLANDS
DDI: 01622 689723
i.bradley@gullands.com

Copies to via post only:-

Kim and Sally Humphrey
Angus Codd and Andrea Hodgkiss
Polly Hardwick
Frank and Anne Tipples
Guy and Janice Barkaway
Paul and Doreen Stanley
Dawn Lye
Shirley Stallman
Alison Clark
Richard and Natasha Davidson-Houston
David Taylor and Nicola Feakin
Marcus Rennick

Tab 6

[REDACTED]
Kim and Sally Humphrey

[REDACTED]
Angus Codd and Andrea Hodgkiss

[REDACTED]
Polly Hardwick

[REDACTED]
Frank and Anne Tipples

[REDACTED]
Paul and Doreen Stanley

[REDACTED]
Bernard and Amanda Tipples

[REDACTED]
Alison Clark

[REDACTED]
Richard and Natasha Davidson-Houston

[REDACTED]
David Taylor and Nicola Feakin

[REDACTED]
Marcus Rennick

Your Ref. 108/SM/608863-1

21 March 2019

Messrs Gullands
16 Mill Street
Maidstone
Kent ME15 6XT
By email l.bradley@gullands.com

Dear Sirs

Hush Heath Winery

Thank you for your letter of 19th March 2019. We are disappointed that your letter fails to engage with the substance of our letter of 14th March, which represented a constructive attempt to find a workable solution to this dispute. We invite you now to deal with the substance of the letter.

In any event, and with respect, we do consider that your client has been in breach of planning in a large number of respects which, if you wish, we will be prepared to outline to you separately. We do not apologise for the remarks but stand by them. Be that as it may, we are sure that you will find it preferable, and ultimately more constructive, to concentrate on the conditions which we have fairly

suggested. It is in the interest of all parties to try to arrive at an agreed position and not to engage in side arguments.

We therefore look forward to hearing from you as a matter of urgency.

Yours faithfully

Signed electronically:

Kim and Sally Humphrey [REDACTED]

Angus Codd and Andrea Hodgkiss [REDACTED]

Polly Hardwick [REDACTED]

Frank and Anne Tipples [REDACTED]

Paul and Doreen Stanley [REDACTED]

Bernard and Amanda Tipples [REDACTED]

Alison Clark [REDACTED]

Richard and Natasha Davidson-Houston [REDACTED]

David Taylor and Nicola Feakin [REDACTED]

Marcus Rennick [REDACTED]

cc. Guy and Janice Barkaway [REDACTED]

Dawn Lye [REDACTED]

Shirley Stallman [REDACTED]



150

75



HUSH HEATH WINERY

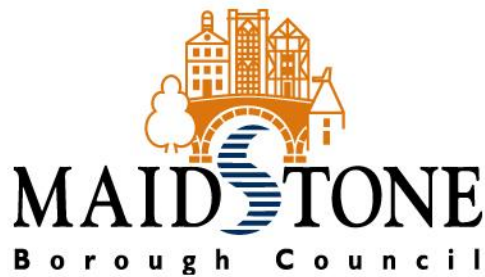
CUSTOMER PARKING →

← DELIVERIES & COLLECTIONS

← COACH PARKING



HUSH HEATH WINERY



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

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

Date(s) of hearing: 28 March 2019

Date of determination: 28 March 2019

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

Legal Advisor in attendance at hearing: Mrs J Bolas

Democratic Services Officer in attendance at hearing: Mrs C Matthews

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, Ms S. Easton, Cllr Brice, Mr D Curtis-Brignall,
Cllr Greer

Responsible Authorities

Not applicable

Other Persons

Name: Represented by Mr P Kolvin QC (Ms Amanda Tipples, Mr B Tipples Mr & Mrs Stanley, Mr & Mrs Davidson-Houston, Ms Stallman, Ms Hardwick, Mr Rennick, Mr & Mrs Humphrey, Mr Codd & Ms Hodgkiss, Mr F & Mrs Anne Tipples, Ms Martin- Clark, Mr Taylor & Ms Feakin).

Witnesses: Mrs N Davidson-Houston

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

In support – Helen Grant MP

Objections - Mr & Mrs Ewbank, Mr Crumpling, Mr Buller, Mr Edmondson, Mr Twyman,
Mr & Mrs Eccles, Mr & Mrs Vesma, Mr Beevor,

Together with all written representations, from all above-named other persons represented by Mr Kolvin QC and as witnesses for the applicant, appearing in Appendix C of the meeting agenda.

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 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

Chapter 8 & 9 which relates 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)	10:00 – 00:00
Off sales (shop)	10:00 – 17:00 November – March and; 10:00 – 18:00 April – October
On sales (non special event)	10:00 – 19:00
On sale (special event)	10:00 – 00:00
Opening hours (non special event)	10:00 – 19:00
Opening hours (special events)	10:00 – 00:00
Opening hours (online sales no public attendance)	10:00 – 00:00

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.

The premises shall not be operated as a pub, restaurant, drinking establishment, nightclub, wedding venue or events venue (other than events ancillary to the winery

use).

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.

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.

No customers will be left unsupervised on the premises.

Children will be kept under adult supervision at all times.

All hazardous materials will be kept under child proof lock.

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.

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).

The sale of alcohol for consumption on the premises shall be restricted to products produced by Hush Heath Winery and shall not include spirits.'

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 viticultural education.

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 website.

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.

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.

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. They are such as to continue to promote the licensing objectives of prevention of public nuisance and public safety, following addition of the amendment to hours and permitted sale of alcohol for consumption on the premises without restriction to tasting samples only.

In respect of conditions previously in Schedules 3 and 4 to the premises licence granted on 3 September 2018, these have been transferred with very minor amendments to the conditions to form schedule 4 of this licence, for clarity.

The conditions restricting operation of the premises, licensable activities to those ancillary to the winery function ,type of alcohol that may be sold and supervision of those drinking or smoking outside the premises are considered appropriate and proportionate to promote the licensing objective of prevention of public nuisance. By ensuring limitations on unrestricted licensable activities at the premises creating a venue attracting significantly more visitors for general activities where there would be a reasonable likelihood of public nuisance arising from noise and disturbance with

attendant nuisance to nearby residents from music, clientele in spaces outside the premises and arriving/leaving.

The condition restricting advertising externally the sale of alcohol for consumption on the premises was also considered appropriate and proportionate for the same reasons, as such advertising is reasonably likely to attract a number visitors seeking a premises selling alcohol rather than tasting samples provided as ancillary to services intended by the winery operation.

Finally the requirement to organise an annual meeting with those residents residing within 800 metres of the Hush Heath Estate was considered appropriate and proportionate to promote the licensing objective of prevention of public nuisance by providing a forum for residents to provide feedback on the impact of licensable activities and the Licence holder to provide information on forthcoming activities and give assurance in relation to any concerns. It was felt that with the informative in respect of any general issues and contact with the licence holder this would be sufficient without additional formal meetings.

Members gave consideration to requests from objectors for a condition restricting types of vehicle attending the winery on the basis of public safety but did not believe this to be proportionate in relation to the intention of that objective or appropriate as it would not be within the licence holder's power to control.

Reasons for determination:

Having heard from Mr Kolvin, on behalf of many objectors, Mr Balfour – Lynn, the applicant and many of 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.

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

There were some concerns expressed that making alcohol consumption available on the premises, other than tasting samples, would increase drink driving in an area without viable public transport. However, there was no evidence that any issues have arisen with current operations or that sale restricted to visitors attending the premises for winery tours, tasting and education would give rise to this. There was evidence that taxi details are made available and dedicated drivers are encouraged. It was not

considered to be appropriate or proportionate to refuse or condition the licence in respect of this objective.

Protection of Children from Harm

In respect of protection of Children from harm it was noted that concerns related to road safety and were not in respect of direct issues covered by Guidance, such as: underage drinking and adult entertainment. Members, therefore, noted the concerns related to children and considered them as part of their consideration of the public safety objective.

Public Safety

In respect of public safety the points made by the objectors related to the safety of the road network surrounding the winery and used for access to it. Members read, saw and heard much on the nature of the roads from all directions including photographs and of the experience of the residents and general road users including children on school journeys etc. However, Guidance refers to safety considerations being on and near the premises and specifically related to its activities. Members however, went on to consider that should the wider road network be considered in respect of this application and licensable activities; were the concerns raised such that they should refuse the application or condition the licence in respect of the hours for on licensed sales? In Members view there was no clear evidence that allowing sale of restricted products, linked to tours, tastings and education to 19:00 hours would increase traffic significantly beyond current levels.

The number of visitors per year is currently under 10, 000 and the applicant confirmed that the figures indicated in press articles were not quoted by him. There was no quantification of increased level of vehicles that could be said to be reasonably likely or that the perceived increase in HGVs or coaches could be linked to the Winery. Evidence was heard that working vehicles for the winery are whenever weather conditions are suitable carried out on estate, not public, roads, the level of HGVs would not increase significantly and that levels of coaches currently received do not match the advertisements by coach companies for tours. It was understood that advertisements produced in evidence were not placed or controlled by the applicant and in any event it was not believed that the variation would affect the likely uptake of any such tours. The applicant confirmed that coaches received are 1 per week in summer and 1 per fortnight in winter, which come from abroad. Evidence was not clear that HGVs in the area are winery related and indeed evidence was given by a Councillor that she is currently involved in seeking a Google maps change in directions to Lorries generally to use roads around the winery area, which may result in additional HGV traffic.. Members also considered that in winter in darkness the level of visitors to the winery would be likely to be at its lowest after dark. It was considered that the public safety objective was not sufficiently engaged by the proposed variation to justify specific conditions under this objective.

Prevention of Public Nuisance

Members are aware that public nuisance can be caused by traffic but for the above reasons related to public safety did not consider that separate conditions on traffic matters were appropriate or proportionate in this case.

However, they went on to consider public nuisance in relation to noise and disturbance in and around the premises arising from visitors, licensable activities and any reasonably likely increases arising from hours of on sales and consumption other than tasting samples. The current hours for on sales were until 00:00 but operationally had been maintained at 17:00 Nov –Mar and 18:00 Apr – Oct other than online sales. The intention of 19:00 for on sales at the premises was stated to be to allow flexibility for any visitors staying a little over time and to provide assurance for neighbours that it would not extend in to the evening, particularly outside the premises. Sales from the shop were agreed to remain at the current operational hours and although not matching the on sales elsewhere it was felt that this could be accommodated by sufficient notice to visitors on the premises. There was no evidence that if the on sales were restricted as to type of product , visitors linked to tours, tastings and education and advertisement was controlled that there would significant increases in visitors and thereby likelihood of nuisance to neighbours. There was also evidence that sound insulation inside the premises and types of music played would not be excessive, despite the tranquil nature of the surrounding area. Members were of the view that conditioned restrictions already in place and some additional ones are sufficient in this instance to promote prevention of public nuisance.

Noting the nature of the area and concerns of residents likely to be affected by any impacts and the agreement of the applicant to restrict his operations to his intended business activities Members conditioned the type of licensable activity allowed, that it be ancillary to the winery use, that there be no external advertising of non shop on sales and supervision of outside areas. They considered this to be appropriate and proportionate to promote the prevention of public nuisance.

PRINT NAME (CHAIRMAN): COUNCILLOR MRS HINDER

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

Date: 28/03/2019

Premises Licence 19/00380/LAPRE

Community Meeting at Hush Heath Winery

20 January 2020, 6pm

Present from the winery:

Mr & Mrs Balfour-Lynn

Winery Manager (Sarah Easton)

Head Winemaker

Tasting Room Manager

Approx 15 residents

1. Mr B-L welcomed residents to the meeting and introduced his team.
2. There was no set agenda for the meeting, rather an opportunity to share information and respond to residents' concerns.
3. Mr B-L confirmed that foremost HHW exists for wine production and it has won many awards for wine, including 2 recent awards from the Times and Guardian for best wines.
4. Production rates of wine are expected to remain constant for the coming year and HHW is not looking to expand production.
5. HHW wants to share its vision and passion for wine making and that is what the tasting room was built for. The last thing Mr B-L wants is too many people coming but he recognises that he needs to share the brand and be generous to support his brand. Visitors come from overseas, London as well as local people to experience the brand and share in the estate. There are no plans to expand on current activity.
6. 15 acres of wildflower meadows have been planted. Nature is important to HHW. Fences have been removed to allow wildlife to move freely. A 100 year woodland programme is underway to leave a woodland legacy.
7. Mr B-L acknowledged a tension with business and rural living. He highlighted that vineyards offer an opportunity to employ local people, especially young people and HHW has 2 apprentices. He highlighted that rural areas need more affordable homes and noted that he did not support the Marden campaign against 2000 new homes.

Residents asked questions:

Q: What can the winery do to address the increase in traffic, especially coaches on the lanes? Resident noted that the lanes are too narrow for coaches and more traffic has been seen on the lanes in the last few years.

Mr B-L said a mini-van was preferred to collect people from the train station and that not many coaches come to the winery. HGV deliveries are timed not to occur at rush hour / school times. Local residents often blame HHW for the traffic but the situation is that there is just more traffic now and not all going to HHW. Another resident supported this and said sat navs are sending HGVs down the lanes to reach Goudhurst and they are not all coming to the winery. Mr B-L said that the winery monitors traffic and reviews this to ensure visitors arrive / leave safely.

Q (NDH): Concerned about traffic levels on open days when there is a high volume of cars in a concentrated period and HHW uses shuttle coaches at hourly intervals to take visitors to/from the train station along Five Oak Lane. Traffic data produced by the winery doesn't show results for these events or other coach travel.

Mr B-L said buses only take visitors to/from Marden station, not Staplehurst. HHW only has 1 open weekend across 2 days in a year. In 2020 this will take place 23/24 May. The Winery Manager agreed to look again at the size of the bus used and conceded that the shuttle vehicle used last year was the size of a coach and next time they will specify a smaller vehicle and they will not use the same company in future as they felt the drivers were not good enough. Mr B-L stated that wine tourism is growing and that there are coach tours that want to include HHW on their itinerary, but they do not want the car park clogged up with multiple coaches.

Angus Codd: Changes have been made to the external lighting scheme as part of a recent planning process. Thank you to the winery for making changes that have had positive impact on local residents living nearby. Have these changes negatively impacted the business in any way?

Mr B-L stated that no, the changes have not had a negative impact. The winery was keen to make the changes and they proposed the changes to the planning team. Mr B-L stated that complaints about the lighting scheme were driven by a small group of people only, but that the winery would have been happy to talk about the lighting directly rather than have to deal with formal objections.

Angus Codd: Has the winery any plans to construct more buildings / develop the site further?

Mr B-L confirmed that there were no plans to build more on the site or to expand beyond the present production size.

NDH: Are there any plans to vary the licence or increase the number of events under the licence regime / TENS?

Mr B-L stated that there were to be no more events beyond those allowed under the existing licence and TENS systems. The Winery Manager added that they did not have enough staff to increase the number of evening events.

Resident: Will HHW hold outside music events?

Mr B-L stated there was no intention to be a live music venue or to hold music events outside. This was a misconception and stemmed from the licence application which has standardised forms that had to be ticked and included music, but it was not the intention of the winery.

Resident: Will the winery host weddings?

Mr B-L stated this was another misconception. The winery never intended to be a wedding venue and does not have a wedding licence. Wedding venues were shown on the old website but there was no desire to hold weddings. This was just added by the website design company. Again, Mr B-L claimed that a small group of residents was stirring up concerns about being a wedding venue when it simply wasn't the case and had been explained as such.

NDH: Explained that concerns come from individual residents who viewed the website and publicly available material. Experience has shown that residents have to consider all possible scenarios and raise concerns as part of the planning and licence process to ensure that boundaries are clear and to protect the interests of local people, particularly should there ever be a change of ownership and a new owner decide to do things differently. Unless boundaries are specified within the planning permission and conditions there would be no protection in future. It is not an attempt to stir up problems or make things difficult. Examples given of operating hours in 2017 planning application – application from HHW indicated that opening hours would remain the same, residents took this at face value and did not object, and the planning conditions concerning opening hours that had previously existed fell away without any new conditions meaning there were not time restrictions and now the winery operates evening events and on Sundays/bank holidays.

Mr B-L said that residents had confused planning and licensing. Planning did not set operating times and the licence granted them extended opening times, which are not used to their full extent. We all need to accept that times change and things progress, for example there will be a housing development at Blantyre House which will create more traffic by his house but Mr B-L won't object.

NDH: A recent planning application was submitted for external lighting. This covered low level bollard lighting. Several bright floodlights are operating on the tasting room and warehouses. These were not shown on the planning application. Does the winery have planning permission for these and why weren't they included in the recent application?

RB-L: Those are security lights on motion sensors and as such they do not require planning permission. Marion Geary from the Planning Dept has visited at night and seen them and approved them.

Alison Clark: Thank you to the winery for making the changes to the lighting. Residents appreciate the compromise. Congratulations to the winery on all its good work and winning awards. It is an important business. Residents are keen to be positive and want the winery to be successful but also to protect the wildlife and the area for local people. We choose to live in this area to enjoy peaceful surroundings and the environment and want to work with the winery to look after it. The bright white floodlights undermine the changes made to improve the bollard lights.

Mr B-L stated that the Council had approved the high-level lights and as these are security lights and only on motion sensors, they do not need planning permission.

Resident: Can bottles be collected later in the day as the bottle collection is noisy and wakes him up?

Mr B-L will look at the times and see if the collections can be later.

Resident: How many bottles of wine are produced each year and can this be limited to cap visitor numbers and HGV collections?

Mr B-L stated approx. 300,000 bottles are produced / year. It would make no difference to HGVs as pallets are loaded onto supermarket lorries which are taking pallets from lots of different places so it would not mean more HGVs if more pallets were produced. They would just load more pallets onto the same HGV. Production does not affect visitor numbers as bottles sold direct to the public is a very small fraction of their sales.

Resident: Are grapes imported from elsewhere?

Mr B-L said this depends on the harvest and is unrelated to visitor numbers or the wine sold. Only 5000 bottles are sold from site / yr.

Resident: Need to balance planning, business, and expansion. Could there be a period of settle to establish the impact of the winery and build relationships with community?

Mr B-L confirmed that 2019 was the first full year of operation and was a learning journey. The business is now more mature. There are no plans to build more. This is their home.

Resident: This is also our home and we want to protect it.

Mr B-L said he is active on community matters and has attended Staplehurst Parish Council Transport Committee meetings and liaised with Helen Grant MP to lobby for improvements to Five Oak Lane. Thanks to his work and the substantial standing of the winery business he has secured improvements to address potholes and verges.

NDH: Would the winery staff join with any other interested local residents to see if the Staplehurst Village Clean Up can be extended down to Five Oak Lane to clean up the litter left along the verges? It takes place on 28 March 2020.

Sarah Easton (Winery Manager) confirmed she would be pleased to work together on this and offered to meet NDH to discuss.

Residents thanked HHW and Mr B-L for hosting the meeting.

Email addresses were collected by HHW to avoid having to send out paper letters giving updates.

Natasha Davidson-Houston

20 January 2020

From: Amanda Tipples
Sent: 12 August 2020 14:20
To: licensing@sevenoaks.gov.uk; Licensing <licencing@sevenoaks.gov.uk>
Cc: Lorraine Neale <LorraineNeale@Maidstone.gov.uk>
Subject: Application to Vary Premises Licence: Ref 20/01678/LAPRE

Premises Licence Number: 19/00380/LAPRE - Hush Heath Winery

Please find letter of representation attached, which is sent further to the letter from residents dated 5 August 2020. I would be grateful if you could acknowledge safe receipt. Thank you very much.

[REDACTED]
(Angus Codd and Andrea Hodgkiss;

[REDACTED]
(Bernard and Amanda Tipples; [REDACTED]

[REDACTED]
(Alison Clark; [REDACTED]

[REDACTED]
(Richard and Natasha Davidson-Houston; [REDACTED]

12 August 2020

The Licensing Partnership
PO Box 182
Sevenoaks
Kent
TN13 1GP
By email: licensing@sevenoaks.gov.uk

And by email to the Case Officer: lorraineneale@maidstone.gov.uk

Dear Sirs

Hush Heath Winery, Five Oak Lane, Staplehurst, Tonbridge, Kent TN12 0HX

Premises Licence Number: 19/00380/LAPRE

Application to vary premises licence: Ref 20/01678/LAPRE

We write further to the residents' representations contained in the letter dated 5 August 2020, emailed to the Licensing Authority on 10 August 2020.

There is a further point we wish to make in the light of our attendance at the Staplehurst Parish Council meeting on Monday 10 August 2020.

The application seeks permission for off-sales until 7 p.m. on Sundays, Mondays, Tuesdays and Wednesdays. The premises licence holder explained at the Parish Council meeting that this variation was sought because the Licensing Sub-Committee had made a "mistake" in its decision last year as they had "tried to close the shop before the winery closed". He said this was a mistake as "the shop and the tasting room is one area".

The Licensing Sub-Committee did not make a mistake last year. The reasons for this difference between the time at which off-sales end, and the time at which on-sales end was explained in the decision (under the heading prevention of public nuisance) as follows:

"The intention of 19:00 for on sales at the premises was stated to be to allow flexibility for any visitors staying a little over time and to provide assurance for neighbours that

it would not extend into the evening, particularly outside the premises. Sales from the shop were agreed to remain at the current operational hours [17:00 Nov-Mar and 18:00 Apr-Oct] and although not matching the on sales elsewhere it was felt that this could be accommodated by sufficient notice to visitors on the premises.”

This proposed variation to extend the time for off-sales until 7pm on Sunday, Monday, Tuesday and Wednesday is opposed for all the reasons set out in the representations dated 5th August 2020.

This letter is sent on behalf of all those who signed the letter of 5 August 2020.

Yours faithfully

Signed electronically:

Alison Clark

Natasha Davidson-Houston

Andrea Hodgkiss

Amanda Tipples

From: publicaccess@sevenoaks.gov.uk <publicaccess@sevenoaks.gov.uk>
Sent: 11 August 2020 14:19
To: Lorraine Neale <LorraineNeale@Maidstone.gov.uk>
Subject: Comments for Licensing Application 20/01678/LAPRE

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 2:19 PM on 11 Aug 2020 from Ms Staplehurst Parish Council.

Application Summary

Address: Hush Heath Winery Hush Heath Estate Five Oak Lane
Staplehurst Tonbridge Kent TN12 0HX
Proposal: Premises Licence
Case Officer: Lorraine Neale
[Click for further information](#)

Customer Details

Name: Ms Staplehurst Parish Council
Email: planning@staplehurst-pc.uk
Address: Room 1, Staplehurst Village Centre, High Street
Staplehurst, Kent TN12 0BJ

Comments Details

Commenter Type: Councillor
Stance: Customer made comments in support of the Licensing Application
Reasons for comment:
Comments: 2:19 PM on 11 Aug 2020 Councillors support the amendments to the current Premises Licence.

PREMISES LICENCE

The Licensing Act 2003
Schedule 12, Part A



Premises Licence Number	19/00380/LAPRE
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Part 1 – Premises Details

Postal address of premises , or if none, ordnance survey map reference or description, including Post Town & Post Code	
Hush Heath Winery Hush Heath Estate Five Oak Lane Staplehurst Tonbridge Kent TN12 OHX	
Telephone number	01622 832794

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
Live music Recorded music Sale or Supply of Alcohol Late Night Refreshment

Times the licence authorises the carrying out of licensable activities	
Live music	
Every Day	10:00 - 00:00
Recorded music	
Every Day	10:00 - 00:00
Sale or Supply of Alcohol	
Every Day	10:00 - 00:00 Off-Sales – Online and special events only
Every Day	10:00 - 17:00 Off-Sales- Shop – November - March
Every Day	10:00 - 00:00 On Sales – Special events only
Every Day	10:00 - 19:00 On-sales – non-special event
Every Day	10:00 - 18:00 Off-Sales – Shop – April - October
Late Night Refreshment	
Every Day	23:00 - 00:00

Licence Number: 19/00380/LAPRE
Issue Date: 03/10/2019

Page 1 of 6

Licence issued by:
The Licensing Partnership P.O. Box 92 Sevenoaks Kent TN13 1GP
Telephone number: 01732 227004

The opening hours of the premises

Every day 10:00 - 00:00

The non-standard opening hours of the premises

On sales between 10:00 and 19:00 Monday – Sunday inclusive (and for the avoidance of doubt these hours are not applicable to the 12 event per year or permitted off-sales).

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption both on and off the premises.

Part 2

Name, (registered) address, telephone number and email address (where relevant) of holder of premises licence

Mr Richard Balfour-Lynn
Hush Heath Winery
Hush Heath Estate
Five Oak Lane
Staplehurst
Tonbridge
Kent TN12 0HX

Email address : rbl@warwickbalfour.com

Registered number of holder, for example company number, charity number (where applicable)

Registered Business Number Not Applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Ms Sarah Easton

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: 19/01953/LAPER
Licence Authority: Maidstone Borough Council



**John Littlemore
Head of Housing and Community Services
Maidstone Borough Council**

Licence Number: 19/00380/LAPRE
Issue Date: 03/10/2019

Page 2 of 6

Licence issued by:
The Licensing Partnership P.O. Box 182 Sevenoaks Kent TN13 1GP
Telephone number: 01732 227004

Annex 1 – Mandatory conditions

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 -

- (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.

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 Conditions in force from 01 October 2014

1.— (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."

Annex 2 – Embedded conditions

Not applicable

Annex 3 – Conditions consistent with the Operating Schedule

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.

No customers will be left unsupervised on the premises.

Children will be kept under adult supervision at all times.

All hazardous materials will be kept under child proof lock.

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.

Annex 4 – Conditions attached after a hearing by the licensing authority

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.

The premises shall not be operated as a pub, restaurant, drinking establishment, nightclub, wedding venue or events venue (other than events ancillary to the winery use).

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.

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)

The sale of alcohol for consumption on the premises shall be restricted to products produced by Hush Heath Winery and shall not include spirits.'

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 viticultural education.

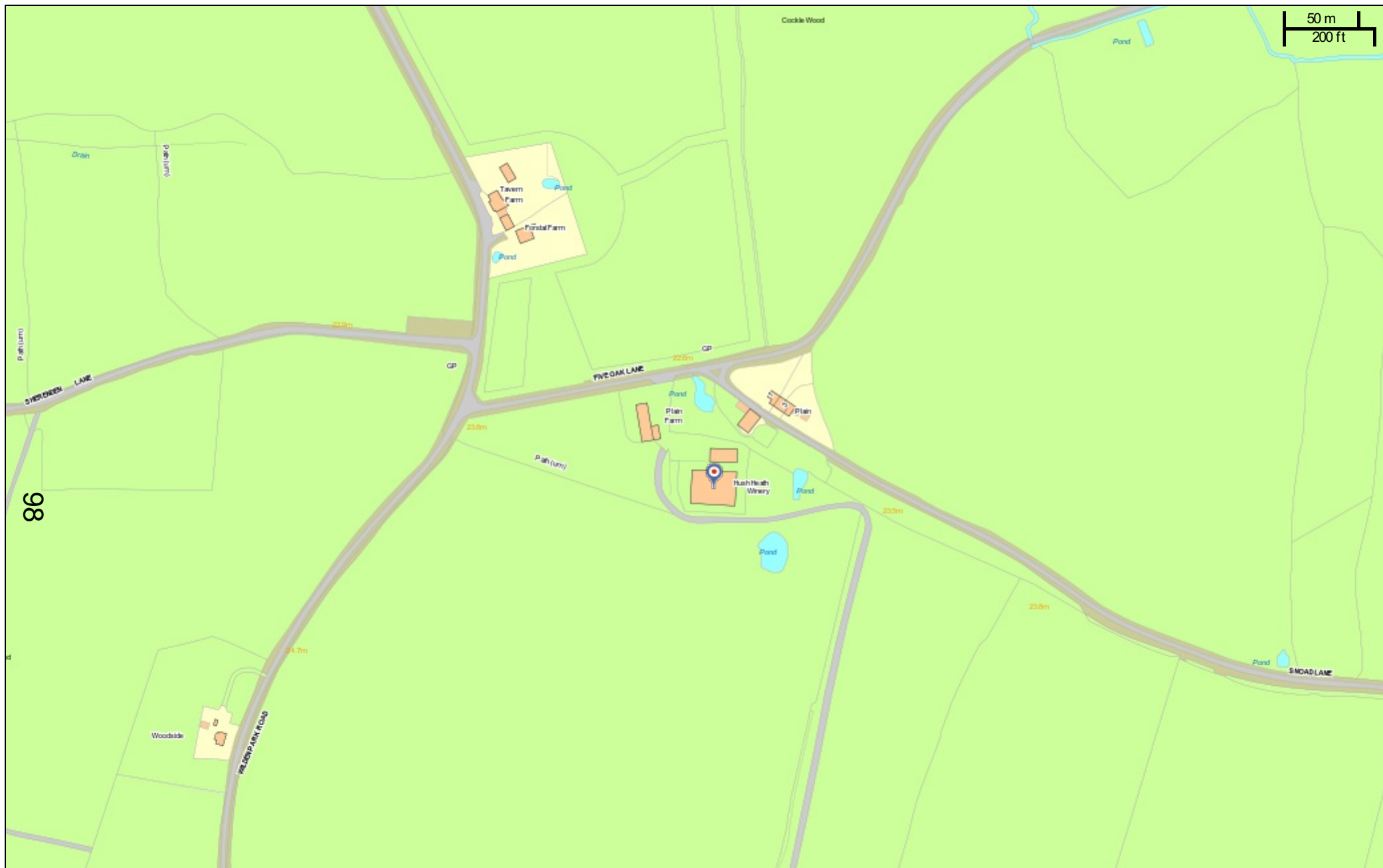
There shall be no external advertising generally or at the premises, of the sale of alcohol for consumption at the premises, by the licence holder or any person instructed by or associated with him, including on any signs or any website.

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.

Annex 5 – Plans

Please see attached



Hush Heath Winery
Scale: 1:3500
Printed on: 20/8/2018 at 15:28 PM by LorraineN

Article 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 1 of the First Protocol

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 6(1)

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Article 10

3. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
4. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.



LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

Licensing Act 2003 Sub-Committee Hearing Procedure of Applications for New Premises Licences/Club Premises Certificates and Variations to existing licences and certificates

Introduction and Procedure

i) Introductions

The Chairman will request all those persons participating in the hearing to identify themselves, starting with the:

- Members of the sub-committee (who will, if applicable, declare any personal or prejudicial interests)
- Legal advisor
- Committee clerk
- Maidstone Borough Council licensing officers/managers
- Applicant (and any representative)
- Each responsible authority (and any representative)
- Each interested party (and any spokesperson or representative)

ii) Procedural Matters

- **Procedure**

The Chairman will:

- Confirm that all parties are aware of the sub-committee hearing procedure and that each party has a copy of the hearing procedure document.

- **Submissions**

The Chairman will:

- Explain that the sub-committee will allow all parties to put their case fully and make full submissions, within a reasonable time frame.

- **Discussion and cross-examination**

The Chairman will:

- Explain that the sub-committee procedure shall take the form of a discussion led by the sub-committee.
- Explain that the sub-committee will usually permit cross examination (conducted within a reasonable time frame).

- **Disruptive Behaviour**

The Chairman will:

- Explain that where any person attending the hearing behaves in a disruptive manner, the sub-committee may direct that person to leave the hearing (including temporarily) and thereafter the person may submit to the sub-committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

- **Reading of Papers**

The Chairman will:

- Confirm that all sub-committee members have pre-read all the papers and any other documents contained in the report regarding the hearing.

- **Draft Conditions**

The Chairman will:

- Enquire whether draft conditions have been agreed between the applicant and any of the other parties for the sub-committee to consider.

- **Witnesses**

The Chairman will:

- Enquire whether any parties request to have any witnesses give evidence at the hearing; and if so grant the request unless the request is unreasonable.

- Invite the parties, where appropriate, to appoint a spokesperson.

The Hearing

Outline of the Application and Representations

- The Chairman will ask the legal advisor or community services manager to briefly outline the application and all representations regarding the application.

i) The Applicant

- Opening remarks by the applicant (or their representative).
- Evidence of the applicant and any witnesses.
- After each person has given evidence the person may be questioned by each responsible authority, interested party and sub-committee member.
- If necessary, the applicant (or their representative) may clarify any matter that arose during questioning.

ii) Responsible Authorities (where applicable)

RESPONSIBLE AUTHORITY	Tick if applicable
Police	
Trading standards	
Environmental Health	
Child Protection (Social Services)	
Planning	
Fire and Rescue	

- Opening remarks by the officer representing the responsible authority (or their representative).
- Evidence of the responsible authority officer and any witnesses.
- After each person has given evidence the person may be questioned by the applicant, each other responsible authority, interested party and sub-committee member.
- If necessary, the officer (or representative) may clarify any matter that arose during questioning.

iii) Interested Parties

- Opening remarks by the interested party (or spokesperson/representative).
- Evidence of the interested party and any witnesses.

- After each person has given evidence the person may be questioned by the applicant, responsible authorities, each other interested party and sub-committee member.
- If necessary, the interested party (or spokesperson/representative) may clarify any matter that arose during questioning.

Closing Speeches

In the following order:

- Each Responsible Authority**
- Each Interested Party**
- The Applicant**

End of Hearing

- The Chairman will ask the members of the sub-committee if they have any final questions for any party to the hearing.
- The Chairman will ask the legal advisor whether there are any further matters to be raised or resolved before the hearing is closed.
- The Chairman will bring the hearing to a close and shall declare that the sub-committee will retire, to private session, to consider the application, all relevant representations, evidence, the relevant extracts of Licensing Authority's Statement of Licensing Policy, the relevant extracts of the National Guidance issued under section 182 of The Licensing Act 2003 and the licensing objectives under the Licensing Act 2003.
- The Chairman shall invite the legal advisor to remain with the sub-committee during its deliberations and ask all other persons to withdraw from the room.

The Decision

The Chairman shall declare in public session:

- The sub-committee's determination.
- All parties to the hearing will receive a copy of the written Determination Notice regarding the sub-committee's determination.
- All parties may appeal against the sub-committee's decision within 21 days beginning with the day on which the appellant is notified of the Licensing Authority's written determination. Appeals must be lodged with the Magistrates' Court. Parties should be aware that the Magistrates Court may make an order with

respect to costs on any appeal.

The hearing is formally closed.