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(Kim and Sally Humphrey; [Redacted])
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(Angus Codd and Andrea Hodgkiss; [Redacted])
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(Frank and Anne Tipples; [Redacted])
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(Brenda Webb and Darryl Evans; [Redacted])
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(Alison Clark; [Redacted])
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(Richard and Natasha Davidson-Houston; [Redacted])
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(David Taylor and Nicola Feakin; [Redacted])
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(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: 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 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.