

**NORTH DEVON COUNCIL**

Minutes of a meeting of Licensing and Community Safety Sub Committee A held in the Barum Room - Brynsworthy on Tuesday, 14th May, 2024 at 1.00 pm

PRESENT: Members:

Councillors Cann, Denton (substitute for Councillor Jusef) and Haworth-Booth

Officers:

Legal Advisor, Licensing Officer (NB), Licensing Officer (PF) and Corporate and Community Services Officer

**1. APPOINTMENT OF CHAIR**

Councillor Cann was nominated as Chair.

RESOLVED that Councillor Cann be appointed Chair of this Sub-Committee A.

**2. APOLOGIES FOR ABSENCE**

There were apologies for absence.

**3. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIR SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY.**

There were no items brought forward by the Chair.

**4. DECLARATIONS OF INTEREST**

There were no declarations of interest announced.

**5. APPLICATION BY SAUNTON VINEYARD LTD FOR A GRANT OF A PREMISES LICENCE REFERENCE NUMBER 057849**

The Chair introduced herself and the other members of the sub-Committee along with officers present and she invited others present to introduce themselves.

Also present:

Mr Matthew Fleetham, the Applicant.

Mr Roger Abbott, a person who had made a relevant representation.

Mr Tilney, solicitor representing Mr Paul and Mrs Patricia Taylor, persons who had made relevant representations.

The Chair asked the Licensing Officer if all necessary legal requirements had been met in the submission of this application. The Licensing Officer confirmed they had been met.

The Chair then asked the Legal Officer to outline the hearing process.

The Licensing Officer presented his report and highlighted the following:

- The premises application was for the permit to sell alcohol Monday to Sunday 09:00 hours to 22:30 hours as well as be open to the public.
- No permission was being sought for entertainment or late night refreshments. The full application could be seen at Appendix A of the report.
- Appendices B and C of the agenda were the relevant representations that had been made by Mr Abbott and Mr and Mrs Taylor.
- The objectives referenced in the relevant representations were Prevention of public nuisance and public safety.
- Any aerial photograph of the site could be seen on page 26 in Appendix A of the agenda.
- Appendices F and G of the agenda were the Planning Authority's response to the licensing application.
- Also tabled at the meeting in relation to Appendix G a further email response from the Planning officer in relation to the 60 camping permission.
- Devon and Cornwall Police Licensing Officer in conjunction with the Applicant had agreed conditions to the application and could be seen at Appendix D of the agenda. A visit had been made to the site to agree the conditions.
- Also tabled at the meeting further to Appendix B a further email from the legal representative of Mr and Mrs Taylor in relation to conditions they felt would allay their concerns over public nuisance.
- Appendix E of the agenda were photographs of the vineyard and nearby vantage points taken by the Licensing Officer during his site visit.

The Applicant presented his case. He bought the land in 2018 and turned it into a vineyard in 2019. He grows two varieties of grape and is the only wine producer in Devon. His ethos was very much centred on sustainability. He had held several Temporary Event Notices (TENs) last year and was looking to obtain a full licence to keep the business viable. He received no complaints regarding his tours last year and had only received positive feedback. His wine sells at £28 per bottle for still, £32 per bottle for semi-sparkling and £45 for sparkling wine. The barn on site was to be used for the restaurant he hoped to build and had partnered with a chef who would work three days a week. The idea was that after the tours of the vineyard visitors would then go to the restaurant and have a meal with wine produced on site.

In relation to the conditions put forward in the tabled item (Appendix B of the agenda) he did not agree with the proposals as this would not make his business viable. Only running tours for 28 days of the year would equate to approximately £7,000 of sales this was not enough to live on.

He had met with Mr Abbott on site and explained his ethos and how the land was to be looked after. 50% of the visitors to site were locals, his vision was to work with local farmers with a view to sell his produce to local bars and shops.

He worked part-time at a pub in Croyde and held a personal licence.

Members asked questions of the Applicant.

In response to questions, the Applicant provided the following replies:

- The reason for the licencing hours to run until 22:30 hours was due to the desire for a restaurant. He had found that after the last tour of the day people had stayed around to enjoy the wine but the outside seating limited how long people could stay outside.
- He was zero waste with any food leftovers to be composted on site and there would be no lighting apart from the lights around the seating area.
- There would not be people drinking at 9 am just sales from the shop and delicatessen.
- Parking for 8 vehicles was available at the top of the site. He had created an entrance at the bottom of the site to help mitigate traffic up the lane.
- The wine was currently unfiltered so to sell to local shops he would have to process the wine by filtering.
- He could see the business running during the traditionally accepted holiday season, April to September.
- The utilities on site were provided by mains water, electricity from a generator but hoped to switch to solar and composting toilets.
- The wild camping was a back to basics experience with the benefit of a shop and café.
- Producing 4000 bottles of wine in a year would be enough to sustain himself and his three sons. He hoped to sell 2000 to 2500 bottles on site and the rest off-site.
- He was not looking to expand to any other fields and he had no plans to provide entertainment.

The Solicitor, Mr Tilney, representing Mr and Mrs Taylor presented their case.

He began by stating that context was important. There were no pavements down the lane or indeed along the main road until Saunton Park and it was not a particularly safe road to walk along.

There appeared to be some confusion over the opening days and times and numbers of people on site. The application submitted was requesting the sale of alcohol from 9 am until 22:30 hours every day. Mention of 50 people maximum as well as 25-30 maximum but the application stated 100 maximum. As music had been deregulated under the Licensing Act 2003 for under 500 people there could be music on site.

Regardless of the stated intentions consideration should be given to the reality of granting a licence for the sale of alcohol 365 days a year. There was no suggestion

the Applicant was being disingenuous but he had to make a living and if this didn't work out the way he was planning then things might change.

A more pertinent question to be asking was what could the business potentially look like in 2-5 years.

There were no questions from Members to the Solicitor, Mr Tilney.

Mr Abbott, person who had made a relevant representation presented his case.

He lived in Saunton not Knowle as was stated in the agenda and he made regular use of Broad Lane.

He had no objection to the growing of grapes his concerns were twofold at present this was agricultural land and had very little in the way of facilities, the barn could become a recreational area. The second concern he had was the long licensing hours and who would be on site during those hours as the owner had stated he works in Croyde three days a week.

The dates listed for tours suggested that there were 75 days of tours not 28. He was concerned about the fact that all types of alcohol could be purchased on site. The horsebox on wheels was the café there was nothing to stop other vehicles being used on site. A watercourse ran through the land and there was concern that contamination from activities on the site would enter into the waterway.

Encouraging increased use of the lane by vehicles was not a good idea, turning right at the bottom of Broad Lane to travel towards Croyde was particularly tricky.

He did not feel it prudent to grant a licence as had been applied for.

Members asked questions of Mr Abbott to which he gave the following responses:

- He had concerns over the use of more lights on site.
- The access onto the main road was blind.
- He had not been affected previously in relation to licensable activity but was concerned over the request to expand the days and times of licensed activity and that this could become a problem.
- Extra traffic using Broad Lane would be a problem to him as he used Broad Lane.
- Small numbers of extra people was not what you imagined when someone was trying to build up a business.

The Licensing Officer then summed up. He thanked all parties for the conciliatory manner in which the proceedings had be carried out.

In his summing up he highlighted the following:

- Page 16 of the agenda under part three, "Please give a general description of the premises (please read guidance note 1).
- Page 25 of the agenda listed the guidance note 1. The information being advised to give was not on the application.

- If granted the licence would be in place for 365 days a year.
- It was correct that live music had been deregulated for fewer than 500 attendees. The premises could operate 8am to 22:00 hours with music unless a review was called in.
- 30% of sales were as a result of the tours and 70% due to walk on's or drop in's to the site.
- The concern for the Licensing Authority was beyond the current owner – if the land was sold how a new owner could use the licence.
- The Licensing Act mentioned proportionality – the conditions that would be acceptable in an urban setting at a nightclub, such as in Barnstaple were quite different from those of a vineyard in a field in Saunton.
- Highways were not a responsible authority in terms of licensing applications and therefore not consulted.

The Applicant summed up his case.

The Applicant highlighted the following:

- His vision was to continue what he had started last year but to move away from TENS.
- To get insurance he had to go with camping but as the site was so small it was not suitable for 50 but in reality more suited to 4-6 tents.
- The Horsebox was being used as an extension to the barn.
- If he were to dispose of the land, he would be looking to gift it to the National Trust.
- He wanted to collaborate with the community to create a space to be still and chill.

Mr Abbott and Mr Tilney, representing Mr and Mrs Taylor declined to say anything further to sum up.

RESOLVED that everyone be excluded from the meeting with the exception of the Members, legal Officer, and Corporate and Community Services Officer in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that everyone be re-admitted to the meeting.

The Chair asked the clerk to read the proposed decision which was voted on and agreed.

The Sub-Committee has determined, upon hearing from the Applicant and from Mr Roger Abbott and Mr Duncan Tilney, Stephens Scown, legal representative for Mr Paul and Mrs Patricia Taylor, that the Grant of the Premises Licence was appropriate with the conditions included below. The focus of the Licensing Act 2003 and the licensing objectives were met provided that Applicant complied with the attached conditions and mandatory conditions to the Licence.

The reasons for this were:

- (a) The Applicant wished to increase/develop his business and include on and off sales of his own produce – wine. Section 182 of the Licensing Act 2003 aims to provide a regulatory framework for alcohol which reflected the needs of local communities and empowered local authorities to make and enforce decisions about the most appropriated strategies for the area. In consideration of this aspect the Sub-Committee considered that the conditions imposed were necessary to support all four licensing objectives, the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The impact of the development of the site had been considered as this was an agricultural field and there was a requirement to preserve the dynamic of the site.
- (b) The later terminal time of 22:30 hours was not considered to be appropriate in view of the Licensing Objectives and there were significant concerns regarding public safety due to the poor access/egress of the site. The Applicant had not been able to demonstrate a requirement of a terminal hour later than one hour post the last wine tour which was at 17:00 hours, ending at 18:30 hours. Hence the requirement for a dispersal policy to minimise annoyance, disturbance or nuisance to neighbours/residents of the area. The North Devon Council Licensing Act 2003 Licensing Policy, January 2024: Section 3.4.2 stated that public nuisance could include low-level nuisance affecting a few people living locally. In line with this decision to restrict the hours to last sale of wine at 20:00 hours. The terminal hour was believed to be justified so as to limit potential from public nuisance.
- (c) Whilst the resident population is not high in the area of this application, it was believed that public nuisance was likely to arise from it. This was an open air venue without noise attenuation measures from acoustic insulation of a fixed premises.
- (d) The Sub-Committee was concerned in respect of public nuisance that the site would increase the effects of lighting and noise if hours (granted in line with the application) were increased. Due to the nature of the site, lighting of the drinking area and area for safe access/egress was likely to be required. North Devon Council's Licensing Act 2003 Licensing Policy, January 2024 Section 3.4.4 stated that measures to control light pollution would also require careful thought. Bright lighting outside the premises, which was considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours.
- (e) The Sub-Committee had considered the reservations of the two objections from a public safety and nuisance perspective, and considered that limitation of 'alcohol' sales from the vineyard itself was appropriate to avoid any expansion to larger events thus minimising detrimental environmental and negative impacts on the licensing objectives. North Devon Council's Licensing Act 2003 Licensing Policy, January 2024 Section 3.4.3 stated that noise from people entering and leaving licensed premises, particularly late at night or in the early hours of the morning, could be a significant problem. Customers under the influence of alcohol were often less inhibited about their behaviour and might be unaware of the noise they were creating. As background noise levels were lower at night, any noise was more intrusive for residents trying to sleep.

In recent months the Licensing and Community Safety Committee had seen complaints and additionally significant representations in respect of a number of applications to grant, or vary Premises Licences, which had given cause for significant concern in this coastal strip and in a rural area. Moreover, that the premises were located in the open air and without substantial acoustically insulated premises, in proximity to an Area of Outstanding Natural Beauty (AONB)/natural landscape and in an area with low background noise and artificial light levels. The Sub-Committee believed there was a careful need to balance the business plans and application with the licensing objectives, particularly public safety and nuisance.

RESOLVED that the premises licence be approved in respect of Saunton Vineyard Ltd (reference 057849), in conjunction with the mandatory conditions proposed by the Applicant and in consultation with Devon and Cornwall Police Licensing Officer as well as subject to the following conditions:

Crime and Disorder

- (1) All staff engaged in licensable activity at the premises will receive training and information in relation to the following:
  - The Challenge 25 scheme in operation at the premises, including the forms of identification that are acceptable.
  - The hours and activities permitted by the premise's licence issued under the Licensing Act 2003 and conditions attached to the licence.
  - How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).
  - Recognising the signs of drunkenness.
  - The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase.
  - Action to be taken in the event of an emergency, including reporting an incident to the emergency services.
- (2) Training shall be recorded in documentary form or electronically and shall be regularly refreshed at no greater than 12 Month intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.
- (3) An incident log shall be kept and maintained at the premises which will include a log of the following, including pertinent details:
  - Any incidents of disorder or of a violent or anti-social nature.
  - All crimes reported to the venue or by the venue to the Police.
  - All ejections of patrons.
  - Any visits by a responsible authority (under the Licensing Act 2003) or emergency service.
- (4) Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. The logs shall be kept for at least 12 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.
- (5) The premises shall install operate and maintain a comprehensive digital CCTV system to the satisfaction of the Police and Local Authority.

- (6) The consumption of alcohol on the premises shall cease at 20:00 hours and all persons off site by 21:00 hours.
- (7) To restrict alcohol sales to wine produced by Saunton Vineyard Ltd on site only.
- (8) Wine in the form produced on the premises should be served using non-disposable drinking vessels.
- (9) Saunton Vineyard Ltd does not provide any take away service of food or drink for immediate consumption, meaning an open bottle of wine except on site. Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied during their wine tasting experience.

#### Public Nuisance

- (10) Clear and legible notices shall be prominently displayed at the exit requesting patrons to respect the needs of residents and businesses and to leave the vicinity as quickly and quietly as possible.
- (11) No deliveries (in relation to licensable activities) to the premises shall take place between 2000 hours and 0800 hours.
- (12) During the final hour of trading appropriate announcements will be made or images projected to remind patrons of the need to leave the premises quietly without causing annoyance, nuisance or disturbance to local residents and to advise patrons of any taxi free-phone or collection arrangements available upon the premises.
- (13) The use of lighting in (the wine tasting/seating area) shall cease as 21:00 hours except for health and safety or security reasons.

#### Public Safety

- (14) A logbook or recording system shall be kept upon the premise in which shall be entered particulars of inspections made; those required to be made by statute, and information compiled to comply with any public safety condition attached to the premises licence that requires the recording of such information. The logbook shall be kept available for inspection when required by persons authorised by the Licensing Act 2003 or authorised legislation.
- (15) No customers carrying open or sealed bottles, cans or other receptacles containing alcoholic liquor shall be admitted to the vineyard at any time that the premises are open to the public.

#### Protection of Children from Harm

- (16) There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:
  - A photo driving licence
  - A passport
  - An identification card carrying the PASS hologram



- MOD Form 90 (ID Card)
- (17) Unless such identification is produced the sale of alcohol must be refused.
- (18) An alcohol sales refusal register or electronic register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:
- The date and time of the refusal
  - the reason for refusal
  - details of the person refusing the sale
  - description of the customer
  - any other relevant observations.
- (19) The refusals register will be made available for inspection and copying on request of an authorised officer of a responsible authority. All entries must be made within 24 hours of the refusal.

The decision notice including the above was issued to all parties present and the following appeals information was included:

Appeal Provisions:

Any person so specified in Schedule 5, Paragraph 2, of the Licensing Act 20036 may appeal against the grant of this licence, including the imposition of any conditions, (excluding those mentioned in Sections 19, 20, and 21 of the 2003 Act).

Any such appeals must be commenced by notice of appeal given by the appellant to the Barnstaple Magistrate's, Barnstaple Law Courts, North Walk, Barnstaple, Devon, EX31 1DX within the period of 21 days beginning with the date of this Notice.

A Premises Licence and Summary of it, together with the Plan of the premises, will be sent after this 21-day period if no notice of appeal has been received.

Chair

The meeting ended at 4.15 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.