



North Devon Council

Report Date: 14 May 2024

TOPIC: APPLICATION BY SAUNTON VINEYARD LTD FOR A GRANT OF A PREMISES LICENCE

SAUNTON VINEYARD LTD, BROAD LANE, BRAUNTON, DEVON, EX33 1JF

REFERENCE NUMBER 057849

REPORT BY: LICENSING OFFICER, NOEL BOURKE

1. INTRODUCTION

- 1.1 The purpose of this report is to present an application for the grant of a premises licence in respect of Saunton Vineyard Limited, Broad Lane, Braunton, Devon, EX33 1JF **(Appendix A)**.
- 1.2 The application is made by Saunton Vineyard Limited and requests the following licensing activity:
 - 1.2.1 Permit the supply of alcohol on and off the premises.
 - 1.2.2 A location plan of the premises has also been supplied within the application and a plan of the premises **(Appendix A)**.
- 1.3 The Licensing Authority has received two relevant representations objecting to the proposed grant of a premises licence to Saunton Vineyard Limited, which gives rise to the hearing **(Appendices B,C)**.
- 1.4 The relevant representations meet the following two Licensing Objectives as follows:
 - The prevention of Public Nuisance
 - Public Safety.

2. RECOMMENDATIONS

- 2.1 That the Sub Committee:

Considers the request for determination of the application for the grant of a premises licence and the representations included in Appendices of this report, together with any oral submissions at the hearing.

2.2 In determining this application, the Sub-Committee must take one of the following steps, as it considers necessary for the promotion of the licensing objectives. The Sub-Committee should be mindful that in making their decision, if it involves the modification or imposition of conditions or the rejection in whole or in part of the application, such a decision could only be justified if it is made to promote the licensing objectives.

2.2.1 The steps are:

- (a) to grant the licence subject to:
 - (i) the terms sought by the applicant, including such conditions as are consistent with the operating schedule.
 - (ii) such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the licensing objectives.
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates.
- (c) to refuse to specify a person in the licence as the Designated Premises Supervisor.
- (d) to reject the application.

2.3 Should the Sub-Committee be minded to grant the application then it is recommended that this be subject to conditions which seek to mitigate the potential for contraventions of the Licensing Objectives. The following conditions are recommended:

2.3.1 The proposed conditions submitted by the applicant in consultation with the Devon and Cornwall Police Licensing Officer, Paul Butler and included as **(Appendix D)** of the report.

2.4 It will be best practice, as well as a matter of elemental fairness, that at a hearing, the Licensing Authority ensures that parties are aware of any condition the Licensing Authority is proposing to add of its own volition to a licence, in advance of the decision being made.

2.5 When Members are considering adding a condition that has not been addressed during the hearing, for example because it is raised after the Members have retired to consider their decision, the parties should be given an opportunity to address the Members on the new condition being considered. This can be done informally, for example, by the legal advisor passing a message to the waiting parties.

- 2.6 If the proposed condition proves controversial, the parties should be afforded the opportunity of addressing the Members further on both the principle of the condition or its specific wording. This is likely to serve the interests of all parties, including the Members who will be better informed about the impact and practicability of their proposal. Moreover, a failure to follow this approach risks attracting criticism from the appeal courts.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The recommendations are made so that the Sub-Committee fulfils its duty under section 18 of the Licensing Act 2003 to determine the grant of a premises licence where relevant representations have been made.
- 3.2 The recommendations in relation to the imposition of conditions on the premises licence are made with a view to promoting the licensing objectives.

4. REPORT

- 4.1 An application to grant a premises licence for Saunton Vineyard Limited, Broad Lane, Braunton, Devon EX33 1JF was accepted on the 26th February 2024 with the consultation starting on this date until closure of the representation period on the 25th March 2024. On the 20th March 2024 it was discovered that the legally required notification of this application had not been sent to responsible authorities. As a result of this administrative error the consultation period was restarted and all responsible authorities notified of this application. The application was re-advertised and new blue notices were displayed in all relevant locations. The closing date for this new period of consultation was the 17th April 2024.
- 4.2 The proposed grant application as applied for is to enable the supply of alcohol both on and off the premises Monday to Sunday from 0900hrs to 2230hrs.

- 4.4 The proposed licensing activities and hours applied for are as follows:

Activity	Day	Start	Finish
Supply of alcohol on and off the premises	Monday to Sunday	09:00	22:30am
Hours open to the public	Monday to Sunday	09:00	23:00am
Provision of Films	None	None	None
Provision of Live Music (Indoors& Outdoors)	None	None	None

Provision of Recorded Music (Indoors&Outdoors)	None	None	None
Late Night Refreshment (indoors)	None	None	None

4.5 Any grant/variation of a premises licence may be subject to conditions applied by the Licensing Authority as a result of this hearing.

4.6 A plan of the premises is attached at **(Appendix A)**.

4.7 Ten photographs have been obtained of the roads and entrances leading up to Saunton Vineyard and from the residential premises of Paul and Patricia Taylor. **(Appendix E)**

5. RELEVANT REPRESENTATIONS

5.1 The relevant representations received are in relation to the below:

- The prevention of public nuisance
- Public safety.

5.2 Responsible Authorities

Responsible authorities are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered 'relevant' by the licensing authority and relate to one or more of the licensing objectives.

5.2.1 Devon and Cornwall Police – No representation received.

5.2.2 Devon and Somerset Fire and Rescue Service – No representation received.

5.2.3 NDC Environmental Protection – No representation received.

5.2.4 NDC – Health Food and Safety – No representation received.

5.2.5 NDC Planning – No representation received – observations as per attached **(Appendix F and subsequent email Appendix G)**.

5.2.6 NDC Licensing – No representation received.

- 5.2.7 Devon County Council, Business Strategy and Support Services (Child Protection) - No representation received.
 - 5.2.8 Devon County Council, Trading Standards – No representation received.
 - 5.2.9 Public Health Devon – No representation received.
 - 5.2.10 Home Office Immigration Enforcement – No representation received.
- 5.3 The Licensing Authority has received two relevant representations:
- 5.3.1 Paul and Patricia Taylor neighbouring residents of Saunton Vineyard. This representation expresses concerns with regards to the licensing objective of the prevention of public nuisance. The representation raises particular concerns related to the potential for noise nuisance associated with the proposed application but also raises concerns relating to increased traffic, littering and associated disruption by the increased volume of vehicles and people in a small hamlet. The representation states “Extensive licensing hours will make way for further development of social/catering activities on this rural land, hence constituting a material change to use of the land from a quiet farmers field containing sheep 5 years ago to potentially a busy commercial enterprise for public catering”. The representation has requested limiting the hours and days for which the licence is granted **(Appendix B)**.
 - 5.3.2 Roger Abbott a resident of the hamlet of Lobb. The representation expresses concerns with regards to the licensing objectives of the prevention of public nuisance and public safety. The representation raises particular concerns related to the lack of facilities at the site to support customers including lack of buildings, toilets, electricity, drainage, parking and also the necessary road infrastructure to support a business. The representation states “If facilities were intended to be provided, we would expect to see applications for building and change of use but we have seen neither and it is unlikely that these would be approved” **(Appendix C)**.
- 5.4 The above representations have been shared with both the applicant, those making representations and the Solicitor representing those making representations in order to facilitate communication and mediation between all parties. If the licensing authority receives representations that are relevant and cannot be mediated out between those making representations and the applicant, it must hold a licensing hearing to consider them.

- 5.5 It appears in these circumstances that an agreement has not been reached between those making relevant representations and the applicant and as such it will be necessary to hold a hearing.
- 5.6 There have been no complaints made to North Devon Council in relation to Saunton Vineyard.

6. RELEVANT LICENSING POLICY CONSIDERATIONS

- 6.1 The Sub-Committee is entitled to draw upon any of the considerations outlined in its Licensing Policy document. However the most significant policy consideration appear to be the following:
- Paragraphs 3.3 to 3.3.2 (Public Safety).
 - Paragraphs 3.4 to 3.4.5 (Prevention of Public Nuisance).
- 6.2 The Sub-Committee is entitled to draw upon any of the considerations outlined in the Statutory Guidance issued under Sec. 182 of the Licensing Act 2003 and published by the Home Office. However, the most significant statutory guidance appears to be in the following:
- Paragraphs 2.8 to 2.20 (Public Safety).
 - Paragraphs 2.21 to 2.27 (Prevention of Public Nuisance).

7. OBSERVATIONS/OPTIONS

- 7.1 The Act at section 18(3a) states that, before determining the application, the Licensing Authority must hold a hearing to consider it and any relevant representations. It must, having regard to the application and any relevant representations, take such steps mentioned in section 18 (4) (if any) as it considers necessary for the promotion of the licensing objectives.
- 7.2 In determining this application, the Sub-Committee must take one of the following steps as outlined in section 2.2.1 of this report.
- 7.3 If a licence is granted, any relevant mandatory conditions must be imposed in addition to any conditions the Sub-Committee decides to impose at the hearing. Whilst the Sub-Committee can draft their own conditions you may wish to consider the conditions contained within the North Devon Council adopted Pool of Licensing conditions. Mandatory conditions are standard conditions imposed by way of legislation and in respect of which there is no power to vary.

- 7.4 The two relevant representations in section 5.3.1 and 5.3.2 have raised concerns in relation to “a material change of use” and “applications for building and change of use.” On the 25th April 2024 Marie Kaneko a Senior Planning Officer with North Devon Planning visited the applicant at Saunton Vineyard. It was determined that “The use of the vineyard as commercial – for tours, selling and serving of wine has not taken place for more than 28 days per calendar year. There is also no evidence to suggest that the proposed days for this use is intended to exceed this period. The use of the land, including the use of the moveable horsebox and tables/chairs on the land is therefore considered to fall under Schedule 2, Part 4, Class B – temporary use of land of the Town and Country Planning (Permitted Development Rights) Order 2015. The temporary use of the land for tours, serving and selling of wine, the siting and use of the moveable horsebox, and the siting and use of the tables/chairs are not considered to require a formal planning application and no further action is necessary” **(Appendix G)**.
- 7.5 A list of currently advertised Tours and Tastings has been copied from the Saunton Vineyard website **(Appendix H)**.
- 7.6 Any party to the hearing has the right of appeal to Barnstaple Magistrates’ Court following the determination of the application under section 181 of the Act.
- 7.7 The Sub-Committee must have regard to all the evidence it hears in reaching its decision.

8. RESOURCE IMPLICATIONS

- 8.1 There are no direct financial or human resource implications for the Council associated with this report.
- 8.2 Should an appeal against the decision of the Licensing Sub-Committee be brought there are potential financial consequences to the Council should the Council’s decision be overridden.

9. EQUALITIES ASSESSMENT

- 9.1. Not Applicable.

10. ENVIRONMENTAL ASSESSMENT

- 10.1. There are no direct environmental implications for the Council associated with this report.

11. CORPORATE PRIORITIES

11.1. What impact, positive or negative, does the subject of this report have on:

11.1.1. The commercialisation agenda: Neutral.

11.1.2. Regeneration or economic development: Neutral.

12. CONSTITUTIONAL CONTEXT

12.1. The Licensing and Community Safety (Sub-Committee) Article of part 3 Annex 1 paragraph 4a.

12.2. Referred or delegated power: Delegated

13. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

14. BACKGROUND PAPERS

The following background papers were used in the preparation of this report:

- Licensing Act 2003.
- Revised guidance issued under section 182 of the Licensing Act 2003 (Home Office December 2023).
- Licensing Act 2003 (Hearings) Regulations 2005.
- North Devon Council Licensing Policy Approved January 2024
- North Devon Council Pool of Licence conditions.

15. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Noel Bourke, Licensing Officer. 30th April 2024