

LICENSING SUB-COMMITTEE – 25 JANUARY 2021

APPLICATION FOR A NEW PREMISES LICENCE

THE DUTCH BARN, WOODFALLS CROSS FARM, HALE ROAD, HALE, FORDINGBIDGE SP6 2NW

1. INTRODUCTION

- 1.1 The purpose of the report is to provide Members with information at the hearing to determine an application for a new premises licence under section 17 of the Licensing Act 2003 (“the Act”) in respect of the Dutch Barn, Woodfalls Cross Farm, Hale Road, Woodfalls.

2. BACKGROUND INFORMATION

- 2.1 The barn is part of Woodfalls Cross Farm (“the Site”) which operates as a vineyard. The current site benefits from a premises licence (granted in March 2012 for Swallow Fine Wines) which permits the sale of alcohol for consumption off the premises for sales received via the internet site or by phone. Hours on the licence are 08:00hrs to 23:00hrs). A copy of this licence is attached as **Appendix 1**.

- 2.2 The layout of the Site is provided in **Appendix 2** and the Site location is provided in **Appendix 3**.

- 2.3 Photographs of the Site and property are provided for Members in **Appendix 4** and are described as follows:-

Photo 1- Front of barn

Photo 2- Grassed area to the right of barn

Photo 3- Properties on Lodge Drove, to the edge of the field

Photo 4- Inside ground floor of barn

Photo 5- View from mezzanine level

Photo 6- Play park opposite premises

Photo 7- View from gates

Photo 8- Entrance to property and bus stop

Photo 9-View of junction near premises

- 2.4 Residents have made reference in their representations to two other on-licensed premises in the village, the Woodfalls Inn and the Redlynch Members Club. They are both licensed by Wiltshire Council, as they lie just outside of the New Forest district and they are located approximately a few hundred metres from the Site. They are indicated on the location plan in **Appendix 3**.

- 2.5 In the summer of 2020, the Woodfalls Inn requested a variation from Wiltshire Council, to increase the hours of their licence. Although no objections to the licence were received, the licence was not issued as the applicant became insolvent during the application process. The Woodfalls Inn remains closed for refurbishments, but the requested hours for this licence variation were for the sale of alcohol from 11:00hrs to 00:00hrs.

- 2.6 The Redlynch Members’ Club is licensed from 08:00hrs to 00:00hrs for members and guests only. Confirmation of the licence hours for the Woodfalls Inn and the Redlynch Members’ Club was received from Wiltshire Council and are provided in **Appendix 5**.

3. THE APPLICATION

3.1 The Licensing Authority received an application for a new premises licence from Mr Stanley Griscti ("the Applicant"). The application is attached in **Appendix 6** (blank pages removed). The internal layout of the barn is included in **Appendix 7**.

3.2 The original application sought permission for the following licensable activities:-

Live and recorded music (indoors)

14:00hrs to 23:30hrs (Monday to Thursday) and 11:00hrs to 23:30hrs (Friday and Saturday), plus Bank Holiday weekends and New Year's Eve.

Sale of alcohol (for consumption on and off the premises)

08:00hrs to 23:30hrs (Monday to Saturday) and 10:00hrs to 17:00hrs (Sundays), plus Bank Holiday weekends and New Year's Eve.

3.3 Public consultation has been carried out as required under the Act and the application has been advertised both at the Site and in the local newspaper.

3.4 Following communication with the Council's Environmental Protection Officer, Mr Arran Harmer, the Applicant agreed to reduce the finish time for live and recorded music to 23:00 hrs. Members may note that legislative exemptions permit amplified or non-amplified live and recorded music to be played from 08:00hrs to 23:00hrs daily on any premises licensed for the sale of alcohol for consumption on the premises subject to the audience size being fewer than 500 people.

3.5 The application was accordingly amended to remove live and recorded music as the activity does not need to be on any licence granted (see **Appendix 8**). Therefore, the application placed before Members today seeks only permission to provide the following-

Sale of alcohol (for consumption on and off the premises)

08:00hrs to 23:30hrs (Monday to Saturday) and 10:00hrs to 17:00hrs (Sundays), plus Bank Holiday weekends and New Year's Eve.

Opening times are proposed as 08:00hrs to 23:30hrs (Monday to Saturday) and 10:00hrs to 17:00hrs on Sundays, plus Bank Holidays and New Year's Eve.

3.6 Should the Applicant wish to provide music any later than 23:00hrs in the future then a temporary permission could be sought by way of a Temporary Event Notice ('TEN'). Only the Police and Environmental Protection may object to a TEN.

4. REQUIREMENTS FOR A HEARING

4.1 The Licensing Authority must hold a hearing to determine an application where relevant representations addressing the licensing objectives are made. These objectives being:

- 1) The prevention of crime and disorder;
- 2) Public safety;
- 3) The prevention of public nuisance; and
- 4) The protection of children from harm.

- 4.2 Members are referred to statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003 dated April 2018 (“the Statutory Guidance”), in particular, the sections on the licensing objectives and determining applications.

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

- 4.3 In determining the application, the Licensing Sub-Committee must give appropriate weight to:

- 1) The steps that are appropriate to promote the licensing objectives;
- 2) The relevant representations presented by all the parties;
- 3) Home Office guidance;
- 4) The Council's own Statement of Licensing Policy.

5. REPRESENTATIONS RECEIVED

- 5.1 During the representation period the Licensing Authority received 18 representations from members of the public who live locally and two from the Parish Councils. Lodge Drove, which is at the far end of the Site, is the road from which the majority of representations against the application have been received. This is shown on the plan in **Appendix 3**.
- 5.2 A number of representations refer to matters such as appropriate planning permission for use of the building for the said activity, road transport and there being questions over the “need for additional licensed premises” which are outside the scope of the hearing or can be dealt with under more specific legislative regimes.
- 5.3 The Statutory Guidance confirms that ‘*a representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives*’ as listed in paragraph 4.1 above.
- 5.4 Whilst it may be considered by some parties that there are sufficient premises in the area already providing the licensed activity applied for to meet the needs of the community, the commercial demand for an additional licensed premises is a matter for the Local Planning Authority, which in this instance is the New Forest National Park Authority. and not the Licensing Authority.
- 5.5 The Licensing Manager wrote to all those who had submitted representations, following the Applicant removing music from the licensable activities applied for. The letter also outlined the procedure and issues that could be addressed through a representation and at a hearing. This letter is provided in **Appendix 9**.
- 5.6 Following receipt of this letter, one objector withdrew their representation, as it was based on the music provision in the application. The representations are provided in **Appendix 10**.
- 5.7 Any representation that refers to noise from music cannot now be considered, as the provision of music has been effectively removed from the application. Any alleged noise nuisance complaints in the future would be investigated by the Environmental Protection team under the Environmental Protection Act 1990.
- 5.8 There are some representations which make comment on music and other issues and are borderline in terms of their content on the effect of the licensable activity, now applied for, on the licensing objectives. The Statutory Guidance states that:

'It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it'. (paragraph 9.9)

- 5.9 In supporting a transparent and robust application process, these borderline representations have been included for Members to consider. Members may wish to consider the weight they give to these objections., in line with legal guidance.
- 5.10 A letter of support was also received during the representation period and this is provided in **Appendix 11**.
- 5.11 The Applicant has volunteered a number of conditions in section M of the application form. These would be added to any licence granted in order to support the licensing objectives.
- 5.12 In addition, during the consultation period, the Police Authority requested that a condition be amended slightly. The Applicant agreed to this amendment and this confirmation can be found at **Appendix 12**. The full list of conditions that would be attached to any licence granted is provided in **Appendix 13**.
- 5.13 No representations have been received from any of the Responsible Authorities against the application.
- 5.14 The consultation process under the Act requires the relevant Local Planning Authority to be contacted when a new or variation premises application is received. In this case, planning falls under the remit of the New Forest National Park Authority and correspondence with this Planning Authority is provided in **Appendix 14**. In addition, the Applicant has provided further background documents due to the objectors raising planning issues. This information is provided in **Appendix 15** and is provided for background information only.

6. THE HEARING

- 6.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations 2005. These Regulations provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.
- 6.2 The Applicant and those parties making representations have been invited to this meeting and have been provided with this report and the procedures to be followed at the hearing.
- 6.3 The Applicant and those who have made relevant representations are entitled to address the Sub-Committee and to ask questions of the other party, with the consent of the Sub-Committee.

7. RIGHT OF APPEAL

- 7.1 It should be noted that the applicant and those who have made relevant representations may appeal the decision made by the Licensing Sub-Committee to the Magistrates' Court. The appeal must be lodged with the Magistrates' Court within 21 days of the notification of the decision.

7.2 In the event of an appeal being lodged, the decision made by the Licensing Sub-Committee remains valid until any appeal is heard and the decision made by the Magistrates' Court.

8. CONCLUSION

8.1 The Licensing Sub-Committee must, having regard to the application and any relevant representations take such steps as it considers appropriate for the promotion of the licensing objectives. Those steps are:

- (a) to grant the licence subject to:
 - (i) the conditions set out in the operating schedule of the application modified to such extent as they consider appropriate for the promotion of the licensing objectives
 - (ii) any condition which must be included in the licence in accordance with the Act;
- (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 premises supervisor;
- (d) to reject the application

9. RECOMMENDATION

9.1 That the Licensing Sub-Committee determines the application.

10. APPENDICES

Appendix 1 – Current Premises Licence
Appendix 2 - Layout of Woodfalls Cross Farm
Appendix 3 - Location plan of the premises and the area
Appendix 4 - Photographs
Appendix 5 - Correspondence from Wiltshire Licensing Officer
Appendix 6 - Application form
Appendix 7 - Internal layout of the barn
Appendix 8 - Agreement with Environmental Protection
Appendix 9 - Letter to objectors from Licensing Manager
Appendix 10 - Representations
Appendix 11 - Letter of support
Appendix 12 - Correspondence with Police Authority
Appendix 13 - Conditions
Appendix 14 - Correspondence with NPA Development Control
Appendix 15 - Planning documents submitted by applicant

Further information:

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