

North Yorkshire Council

Statutory Licensing Sub-Committee

31 October 2024

Application for grant of a Premises Licence for Bay Vineyard, Greenhills Farm, High Lane, Robin Hoods Bay, YO22 4PJ

Report of the Corporate Director – Environment

1.0 PURPOSE OF REPORT

- 1.1 To seek the determination by the Statutory Licensing Sub-Committee of an application for the grant of a premise licence (Licensing Act 2003 'The Act')

2.0 Application

- 2.1 An application for the grant of a premise licence has been received from Rebecca Elizabeth Sheveling and Ian John Sheveling; the application is attached in **Appendix A**.
- 2.2 The application seeks to licence a vineyard to provide tours with wine tasting and retail sales:

Sale of alcohol	Daily 09:00 to 23:00
Opening Hours	Daily 09:00 to 23:00

3.0 Promotion of Licensing Objectives

- 3.1 Section 4 of the Act places a duty on the Licensing Authority to carry out its functions with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

- 3.2 The following conditions have been offered as part of the application:

- 1) The Premises will operate as a farm, Vineyard and winery.
- 2) Staff Training

A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- a) operation of the CCTV system (including the downloading of evidence);
- b) retail sale of alcohol;
- c) age verification policy;
- d) conditions attached to the Premises Licence;
- e) permitted licensable activities;
- f) any training specified by north Yorkshire police licensing in respect of safeguarding

- and vulnerability
- g) the licensing objectives; and
- h) opening times for the venue.

with such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry];

3) Internet Sales / Website

Any company website /Advertising facility must clearly indicate that:

- a) Alcohol for consumption off the premises may only be sold on-line (for delivery as per the following conditions), or by collection in person from the premises during normal trading hours.
- b) The Premises Licence Holder shall install an auditable mechanism to verify that only customers 18+ are capable of purchasing alcohol via the company's on-line portal.
- c) Alcohol shall only be delivered to a recognised commercial or residential address. Orders for delivery to a highway or public open space are not permitted.
- d) 'Same day' deliveries are not permitted.
- e) All deliveries shall be made by a reputable courier or parcel delivery service which state that all deliveries must be signed for by a person over 18 years of age.
- f) Records of purchases shall be retained for a minimum of 12 months (date of transaction), and shall be made available for inspection at the request of a responsible authority.
- g) Where alcohol purchases are delivered by or on behalf of the premises licence holder, the premises licence holder shall ensure that the courier operates a Challenge 25 scheme. Where the courier believes that the recipient is under 25 years of age, no delivery shall take place until such time as the courier has established that the person receiving the alcohol is over 18 years of age. Such confirmation shall be by way of the production of photographic ID. The only acceptable form of ID shall be a valid passport, photographic drivers licence or ID card containing the PASS hologram. Taxi companies will not be authorised to make deliveries.
- h) Payment for alcohol products can be in a variety of ways, but will only be at the same time that the order is placed, or, at the same time that the order is delivered and received by the purchaser.

4) An invoice must be produced for every order of any alcoholic product purchased under the terms of this premises licence. The invoice must at the very least contain the following information:

- a) personal details of the person / company placing the order which must include the name, telephone number of the person placing the order, and the full postal address to which the order will be delivered.
- b) confirmation that the sales assistant is satisfied that the person placing the order is over 18 by being provided with a date of birth which is then recorded.
- c) the quantity, description and price of the alcohol products ordered.
- d) the date and time that the order took place.
- e) how the invoice total is to be paid for, by credit / debit card with the order or by cash payment on delivery.

Pre-booked events for over 499 people

- 5) Large events (Over 499 people) run at the premises will be pre-booked in advance of the event, and customers will not be accepted “on the door” for these events. The premises will complete a written risk assessment and consider the requirement for door supervisors, additional staff numbers and training considering the risk assessment. The risk assessment will be available for responsible authorities to view and will be kept for a minimum of 12 months.
- 6) CCTV:
 - a) A digital colour CCTV system will be installed at the premises, It will cover the entrance/exits and all publicly accessible areas of the premises where licensable activity takes place.
 - b) It will be maintained, working and recording at all times when the premises are open.
 - c) The recordings should be of capable of providing clear evidential-quality images to be produced in Court or other such hearing.
 - d) Copies of the recordings will be kept available for any Responsible Authority for 31 days. Subject to Data Protection requirements.
 - e) Copies of the recordings shall be made available to any Responsible Authority within 48 hrs upon request. Subject to Data Protection requirements
 - f) Copies of the recordings will display the correct time and date of the recording.
 - g) It is the responsibility of the management to ensure that there are sufficient members of staff and/or management available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority. Subject to Data Protection requirements.
- 7) Off sales will be in sealed containers
- 8) No free samples to persons under the age of 18.
- 9) All persons under the age of 18 must be accompanied by an adult over 18 on all vineyard tours.

4.0 Representations

4.1 Relevant representations have been received from 46 members of the public. The representations are attached at **Appendix B**, and they are in line with the following licensing objectives:

- Public Safety
- The prevention of public nuisance

4.2 The representations are summarised as follows:

- That the licence should be granted as it would be beneficial to the village and provide local employment.
- The application does not include music; however, a premises licence would allow live and recorded music to be performed for audiences of up to 500 people. Such activity is believed to cause noise, and due to the site's geographical location, this would disturb residents of Robin Hood Bay and other neighbouring properties in the vicinity.

- Access to the premises is poor, and there is expected to be an increase in vehicular traffic, posing increased safety risks to pedestrians, cyclists, and walkers due to the narrow road network. This will also contribute to congestion in an already busy area during the summer. Concerns have also been raised that increased traffic to the premises will disturb adjacent properties.
- Concerns that the license holder may hold large-scale events and that this may cause disturbance to the bay and surrounding villages.
- Disturbance from noise is anticipated due to groups who have attended the premises and consumed alcohol moving through the village of Robin Hood's Bay.
- It is believed that the premises being open until 23:00 hrs will cause light pollution
- Concerns regarding licensable activities at the premises negatively impacting the North York Moors National Park Dark Sky Policy.
- That the licensable hours applied for are excessive given the nature of the wine-tasting activity to be offered.
- Several representations include suggested conditions that they believe may address some of their concerns. They are as follows:
 - Alcohol Sales shall be Off Supplies only.
 - Limited the hours of operation for alcohol sales and events to daytime hours, such as 09:00 to 18:00. This would prevent disruption to the village during the evenings and ensure the venue remains focused on daytime activities such as wine tastings.
 - Opening hours to be 09:00 16:00 from 1 November to 31 March and 09:00 to 19:00 from 1 April to 31 October.
 - Consumption of alcohol to take place in the winery building only.
 - The sale of alcohol is restricted to wine produced at this vineyard or the Holmfirth vineyard and does not include beer, lager, or spirits. This will ensure the venue remains true to its purpose as a vineyard rather than becoming a general entertainment venue.
 - Limit the maximum number of visitors at any one time to prevent large-scale gatherings and manage traffic effectively.
 - Due to the floor area in the barn and public safety in a confined space, parking facilities or traffic control - The maximum number of people allowed to be in the tasting barn at any time.
 - Prohibit outdoor music entirely and require that any indoor music be subject to strict noise level monitoring. Doors and windows should remain closed during performances to prevent noise pollution from affecting nearby residents.
 - No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises, nor vibration be transmitted through the structure of the premises, which gives rise to a nuisance.
 - Restrict the playing of recorded and live music from 09:00 to 18:00
 - No bottles are to be tipped into containers between 21:00 and 08:00.
 - No deliveries between 19:00 and 09:00.
 - A direct telephone number for the manager at the premises shall be publicly available whenever the premises are open and will be available to residents and businesses in the vicinity.
 - Any license granted should be conditional on the vineyard securing all necessary planning permissions to prevent the applicants from using the license to circumvent planning regulations or the 28-day rule for temporary events.

- Videos have accompanied a representation from an individual taken during a birthday celebration held at the premises. Other representations have referred to noise disturbance from this same event. The videos will be played for members of the committee at the hearing.

4.3 Members should note that some of the grounds for the representations may not directly relate to the licensing objectives but have been included in the interests of openness and transparency.

4.4 North Yorkshire Fire and Rescue Service have confirmed they have no objection.
Appendix C

4.5 North York Moors National Park Authority (Planning) has confirmed that following a site visit earlier in the year, they have no comments concerning the application. **Appendix D**

5.0 ALTERNATIVE OPTIONS CONSIDERED

5.1 All of the Sub-Committee's options are outlined at 12.0 of the report. No alternative options are available.

6.0 FINANCIAL IMPLICATIONS

6.1 The costs involved in administering the Licensing Act 2003 are set in statutory legislation.

7.0 LEGAL IMPLICATIONS

7.1 As a relevant representation has been received, the Sub-Committee must hold a hearing to consider the representations and, having regard to the representations, determine the application.

7.2 The Sub-Committee must have regard to the promotion of the four licensing objectives in exercising its functions under the Licensing Act 2003.

7.3 The Sub-Committee must also have regard to the statutory guidance under section 182 of the Act and the council's own statement of licensing policy exercising its functions under the Act.

7.4 The applicant and all parties to the hearing may appeal against the decision of the Licensing Sub-Committee. Appeals must be made to a Magistrates' Court within 21 days of receiving notification of the decision.

8.0 CLIMATE CHANGE IMPLICATIONS

8.1 No Climate change implications have been identified.

9.0 POLICY IMPLICATIONS

9.1 The following sections of the Scarborough Locality Statement of Licensing Policy are relevant in considering the licensing objectives:

- Section 3.8 of the policy states that 'The Council has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises'.

- Section 3.9 of the policy states that 'It is acknowledged that the Council has a duty to exercise its functions with a due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area. In addition, we will seek to support strategies where they are allied to the licensing objectives'.
- Section 3.10 of the policy states that 'The licensing authority is unable to refuse or impose conditions on valid applications where no relevant representations have been made. Where conditions are imposed, they shall be appropriate and proportionate and shall be tailored to the size, style, characteristics and activities that take place at the premises concerned'.
- Section 3.11 of the policy states that 'In addition conditions imposed shall be precise and enforceable, clear in what they intend to achieve, shall not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation, shall not replicate offences set out in the 2003 Act or other legislation, shall be justifiable and capable of being met and shall not seek to manage the behaviour of customers once they are beyond the direct management of the licence/certificate holder and their staff'.

9.2 The Sub-Committee should also consider the following sections of the S182 Licensing Act 2003 Guidance:

- Principles – 1.15 to 1.17
- Public Safety – 2.8 to 2.9
- Public nuisance - 2.21 to 2.27
- Conditions - 10.1 to 10.10

10.0 EQUALITIES IMPLICATIONS

10.1 No equalities implications have been identified for this matter.

11.0 REASONS FOR RECOMMENDATIONS

11.1 In accordance with section 18 of the Licensing Act 2003, the licensing authority must hold a hearing to consider the application and any relevant representations.

11.2 The Sub-Committee must, having had regard to the application and any relevant representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.

12.0 RECOMMENDATION(S)

The Licensing Committee has the following options:

- i. To grant the licence as applied for (subject to any conditions consistent with the applicant's operating schedule)
- ii. To grant the licence subject to any additional conditions that Members consider appropriate for the promotion of the licensing objectives; or
- iii. To reject the whole or part of the application.

In making its decision, the Sub-Committee must act with a view to promoting the licensing objectives. The Sub-Committee must also have regard to its Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Act.

APPENDICES:

Appendix A – Application

Appendix B – Representations

Appendix C – North Yorkshire Fire and Rescue Service Response

Appendix D – North York Moors National Park Authority Response

BACKGROUND DOCUMENTS:

Scarborough Locality Statement of Licensing Policy
Section 182 Guidance (Home Office), Licensing Act 2003

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11 October 2024

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Presenter of Report – John Wardell – Senior Licensing Enforcement Officer (East)

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.