

THE NORTH YORKSHIRE COUNCIL

STATUTORY LICENSING SUB-COMMITTEE

Application

Premises Licence - Licensing Act 2003

Bay Vineyard, Greenhills Farm, High Lane, Robin Hoods Bay. YO22 4PJ

Name of Applicant: Rebecca Elizabeth Sheveling and Ian John Sheveling

Date of Meeting: 31 October 2024. **Decision Date**

Place: Council Chamber, Town Hall, St Nicolas Street, Scarborough. YO11 2HG

PRESENT:

Councillors

Councillor Tim Grogan

Councillor Andrew Lee

Councillor Andy Paraskos

Applicant (and Representative if applicable)

Rebecca Sheveling and Ian Sheveling

Witnesses

None called

Interested Parties

Andrew Burbidge, Mrs Gilhooley, George Knight, Mr Lonsdale, Stuart Micklewright,, Michael Parry, Mr Swaine, John Williamson, John Nock (representing Robin & Sarah Grove, Rebecca and Norman Robinson, Richard Rybij, Christine and Patrick Shepherd, David and Theresa Wall and Sue Wallis). Honorary Alderwoman Mrs Jane Mortimer

Legal Advisor: Fiona Casson, Solicitor

Licensing Officer: John Wardell

Democratic Services Officer Nicki Lishman

Also Present Mark Heaton Licensing Area Manager, Lisa Templeton Licensing Officer

1 Election of Chairman

Councillor Tim Grogan

2 Declarations of Interests (Personal / Prejudicial):

There were no declarations of interest

3 Exclusion of the Public – No

There was no application for the exclusion of the public.

The Sub Committee had the benefit of a report of the Corporate Director of Environment, the Application, 46 representations submitted by members of the public, further submissions from the Applicants and a further submission made by the representative of 6 Interested Parties who had initially made representations.

The Sub Committee heard from the Licensing Officer, the Applicant and 9 Interested Parties who made written representations, plus a representative of a further 6 Interested Parties who had made representations.

Following consideration of all matters before them the Sub Committee

RESOLVED: To grant the premises licence on the terms applied for;

Sale of alcohol (for consumption on and off the premises)	09:00 to 23:00
Hours open to the public	09:00 to 23:00

Members Reasons: In coming to its decision, the sub-committee have had due regard to the 4 Licensing Objectives, namely; the prevention of crime and disorder; public safety, the prevention of public nuisance, and the protection of children from harm. After hearing the issues today, it is the Licensing objectives of public safety and the prevention of public nuisance which are relevant and consideration has been given to them today. In coming to its decision, the sub-committee has considered the application on its own merits and has also had due regard to the National Guidance issued under section 182 of the Licensing Act 2003 and former Scarborough Borough Council Licensing Policy which has been adopted by The North Yorkshire Council.

The following conditions as submitted by the Applicant will be included.

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 & 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.

5) 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.

6) Off sales will be in sealed containers

After the Licensing Officer had presented the report the Sub-Committee first heard from the Applicant. The Applicant confirmed that the premises would operate as a farm, vineyard and winery and that condition 1 of their submitted conditions supported this. The Applicant had no intention of operating the premises as a wedding and events venue as had been suggested by some of the Interested Parties.

The Applicant confirmed that she had held a Personal Licence for the past 15 years and had operated a similar premise in another area during that time. The Applicant confirmed that it

would continue to be their other venue in Holmfirth where their business hosted weddings and events. At Bay Vineyard the Applicants wanted to be able to hold wine tasting events to promote their wines and to sell their wines direct from premises. At present they were unable to do this and had been relying on a series of Temporary Event Notices to host wine tasting events at Bay Vineyard; and continued to commute to their Holmfirth site to be able to sell their wine from that licenced premise. The Applicant explained that although they had planted their vineyard at Greenhills Farm some years previously it was approximately 5 years until they were able to produce wine – they were now producing wine at Bay Vineyard and the natural progression of that was to be able to sell the wine at the Farm. The Applicant also noted that their home was at Bay Vineyard and for that reason also they were not intending to have weddings and other events there.

The Applicant confirmed that during September and October this year they had used 6 Temporary Event Notices to hold wine tasting events and that there had been no complaints or issues arising from these events.

The Applicant addressed the short videos which had been provided by one of the Interested Parties. Videos 1&2 showed a private party at Bay Vineyard. Videos 3 and 4 were of the roads leading to the premises and videos 5 & 6 did not show anything relating to Bay Vineyard.

The Sub-Committee then heard from a number of the Interested Parties who had made representations. Members heard in detail matters relating to three key themes – public safety relating the road network and access to the premises; potential disturbance and public nuisance; and the effect the operation of the venue would have on the designated Dark Skies area within which it was situated. The Interested Parties were concerned also with regards to disturbance from music being played at the premises.

The Chair asked the Licensing Officer to clarify a number of points.

Had the Police commented on the Application, had the Authority's Environmental Health commented? The Licensing Officer replied 'No'.

Was the Licensing Authority aware of any complaints regarding events held at the premises? The Licensing Officer replied 'No'

The Licensing Officer was invited to explain the position on Regulated Entertainment. It was explained that under the Licensing Acts De-regulation Provisions, provided that a premise is authorised and open for the sale of alcohol, then between the hours of 8am and 11pm and further provided the audience was no more than 500, what would otherwise be regulated entertainment, did not require a licence. This also meant that any conditions relating to such entertainment would not be enforceable.

It was further noted by the Sub-Committee that the Local Planning Authority had confirmed the current planning status of Bay Vineyard and had no comments to make on the Application.

In reaching their decision the Sub Committee considered the following;

The Applicant had included a condition in their operating schedule to state that the premises would operate as a farm, vineyard and winery.

There had been no complaint to the Licensing Authority about the premises arising from the events subject to Temporary Events Notices.

No comments had been received from North Yorkshire Police on the grounds of crime and disorder.

No comments had been received from the Local Authority as a responsible authority for public nuisance.

Whilst the Sub-Committee heard from the Interested Parties regarding matters relating to the safety of users of the public and private roads leading to the premises, these were not matters pertaining to the Licensing Objectives and would not be taken into account. Similarly matters relating to the Designated Dark Skies Area were not matters pertaining to the Licensing Objectives and would not be taken into account.

With regards to the potential for noise nuisance emanating from the premises from music or other entertainment the Sub-Committee noted that the Application as submitted allowed the premises to benefit from the De-regulation provisions and therefore it would not be appropriate for conditions to be imposed relating to such matters.

Having heard from the Applicant, the Respondents and the Licensing Officer regarding offered condition 5 in the application The Sub-Committee was minded to delete this condition as it didn't add to the support of the licensing objectives.

The Sub-Committee also noted the following policy provisions

- *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'.*

Taking into account all of the above the Sub-Committee was satisfied that for this application the licensing objectives will not be undermined.

If the applicant or relevant person is not satisfied with the decision of this Sub- Committee there is a right of Appeal to the Magistrates Court within 21 days of the date of this Decision

Chairman

