

LICENSING SUB – COMMITTEE

26 January 2012

Report of the Head of Legal Services

Contact Officer: Ashton Taylor Tel No: 01962 848179

Application: Premises Licence

Premises: Hambledon Wineries Ltd, The Vineyard, East Street, Hambledon

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Part A.**1. Application****Applicant:** Mr Ian Kellett**Premises:** Hambledon Winery

- 1.1 This report relates to an application for a premises licence for Hambledon Wineries Ltd, The Vineyard, East Street, Hambledon.
- 1.2 The Purpose of the application is for the sale of alcohol for consumption both on and off the premises.
- 1.3 The application is for the hours of 0900 to 2300 Mondays to Saturdays and 1100 to 2100 Sundays.
- 1.4 Notice of the application was displayed outside of the premises for a period of 28 days until 3 January 2012, and advertised in the Petersfield Post on 14 December 2011.
- 1.5 The Operating Schedule, copied at Appendix 1, proposes the relevant Licensable Activities.
- 1.6 No representations were received from Responsible Authorities.
- 1.7 This premises is in the area of the South Downs National Park. As the South Downs National Park Authority is the planning authority for that area, it is a responsible authority for the purposes of the Act.
- 1.8 Section 62 (2) of the Environment Act 1995 inserts a new Section 11A in the National Parks and Access to the Countryside Act 1949, as follows:-

11A(2) In exercising or performing any functions in relation to, or so as to affect, land in a National Park, a relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act () and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

1.9 Section 5 of the 1949 Act provides

5(1) The provisions of this Part of this Act shall have effect for the purpose—

- (a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and*
- (b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.*

1.10 Subsection 3 of Section 11A provides that “relevant authority” means any public body, which is further defined as including any local authority, and any National Park authority.

1.11 Since April 2011, the South Downs National Park Authority is the local planning authority for area where this premises is situated. The authority has therefore been consulted as a responsible authority but has not made a representation.

1.12 A representation was received from Hambledon Parish Council relating to the prevention of public nuisance licensing objective.

1.13 Notices of the hearing were sent to all Parties on 10 January 2012.

1.14

Designated Premises Supervisor

Mr Ian Kellett

Steps to promote the Licensing Objectives

Please see Section Q Appendix 1

Relevant Representations

2. Responsible Authorities

All of the Responsible Authorities have been served with a copy of the application. The representations received are as follows:

Head of Environment

No representations received.

Hampshire Constabulary

No representations received.

Hampshire Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Head of Building Control

No representations received.

Head of Safety Standards

No representations received.

3. Interested Parties

1. Hambledon Parish Council

4. Observations

The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:

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

In making its decision, the Sub-Committee is also obliged to have regard to the National Guidance and the Council's Licensing Policy.

The Sub-Committee must have regard to all of the representations.

The Sub-Committee must take such of the following steps it considers necessary to promote the Licensing Objectives:

1. Grant the licence subject to conditions in accordance with the operating schedule (modified to such extent as the authority considers necessary for the promotion of the licensing objectives) and the mandatory conditions;
2. exclude from the scope of the licence any of the licensable activities to which the application relates;
3. refuse to specify a person in the licence as the premises supervisor;
4. reject the application.

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council's licensing policy with regard to terminal hours and take such steps as it considers necessary to promote the licensing objectives.

(Licensing Policy Part 4, A8)

Licensing Objectives.

Crime and Disorder

The Sub-Committee should consider any necessary conditions to prevent crime and public disorder relating to the premises having regard to the operating schedule and the council's licensing policy.

(Licensing Policy 1.6, 2.11, 2.17)

Public Safety

The Sub-Committee should consider any necessary conditions relating to public safety having regard to the operating schedule and the Council's licensing policy.

(Licensing Policy Part 4, B3, B4)

Public Nuisance

The Sub-Committee should consider any necessary conditions to prevent public nuisance caused by noise and light pollution from the premises having regard to the observations of the interested party, the operating schedule, and the Council's licensing policy.

(Licensing Policy Part 4, Section C)

Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children having regard to the operating schedule and the Council's licensing policy.

(Licensing Policy Part 4, D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, necessary in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

5. Conditions

Mandatory Conditions

1. No supply of alcohol may be made under the Premises Licence (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.
3. Where individuals are required on premises to carry out security activities, they must be licensed by the Security Industry Authority.
4. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
7. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
8. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
9. The responsible person shall ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

Possible Conditions

If the application is granted, the Sub-Committee may wish to consider the following conditions to reflect the Operating Schedule:

Operating Hours

1. The hours the premises may be used for the sale of alcohol shall be:
 - (i) **Mondays to Saturdays** **0900 to 2300**
 - (ii) **Sundays** **1100 to 2100**

3. The hours the premises may open for other than Licensable Activities shall be:
 - (i) **Mondays to Saturdays** **0900 to 2300**
 - (ii) **Sundays** **0930 to 2100**

All Licensing Objectives**Crime and Disorder**

None

Public Safety

None

Public Nuisance

1. Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents, to leave the premises and the area quietly.

Protection of Children

1. No children under the age of 16 are to be permitted on the premises unless under the supervision of an adult.

6. Other Considerations

Sustainable Community Strategy and Change Plans (relevance to)

This report covers issues which relate to the "Prosperous Economy" outcome in the Sustainable Community Strategy.

Resource Implications

A licence fee of £100 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by Mr Ian Kellett.
2. Representations by Interested Parties
3. Map of premises location.