



## LICENSING SUB COMMITTEE

Notice of a Meeting, to be held in the Council Chamber - Ashford Borough Council on  
Thursday, 9th February, 2023 at 10.00 am.

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The Members of the Licensing Sub Committee are:-

Cllrs. Michael, L. Suddards, Wright.

Cllr. Burgess (Reserve).

### Supplementary Agenda

(b) **Additional Submissions from Interested Parties**

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David Howarth

Re. Licence application 'The Tudor Peacock', revised submission 4<sup>th</sup> February 2023

Dear Sir,

I own the property immediately adjacent to the premises the subject of this licence application.

I am writing to set out reasons why I believe the current licence application by The Tudor Peacock should be rejected by the Sub-Committee.

This application is to operate a licensed premise for on and off sale of alcohol at Tudor Lodge, The Square, Chilham.

Subject to this submission being accepted by the Sub-Committee I withdraw my previous submission.

First I would like to state that I fully support the concept of a wine tasting room, wine bar and off-licence promoting local produce and providing local employment. However, the Tudor Lodge is a totally inappropriate property in which to locate such a business and as such should not be licensed for the purpose of operating a wine bar or wine tasting rooms.

I note that the business owners have engaged qualified and well respected consultants (24Acoustics) to undertake noise studies and provide advice regarding measures that can be taken to reduce the impact on my property.

I note the business owner's recent submission regarding full compliance with all Planning Conditions, which include requirements for the tasting rooms and wine bar to operate on an appointment only basis, and the requirement to implement the measures detailed in the 24Acoustics report.

I note the Planning Officer's report at Page 21 item e) highlights that the business is seeking a Licence that is not consistent with the Planning Condition:

*e) Whilst the current planning consent limits the use of the bar and wine tasting facilities to prior booking only, therefore only allowing the shop to be open without prior booking, this Licensing Act application conversely seeks to limit only the first floor and basement areas to prior booking.*

That said, I note the Licensing Officer's further comments at Page 21 item e) regarding Planning Permission and Planning Conditions. The fact that Planning Permission has been granted and the Conditions that are associated with that Planning Permission should not fetter the decision of the Sub-Committee when determining whether this application meets the requirements of the Licensing Act objectives.

This submission focuses on Licensing Objective – Prevention of Public Nuisance

I note the following comments at Page 23 in the Licensing Officer's report to the Sub-Committee.

- *The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.*
- *Public nuisance is not narrowly defined in the 2003 Act and retains its broad common law meaning for the Act's purposes. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity of other parties living and working in the area of a licensed premises. Public nuisance may also arise as a result of artificial light, dust, odour and insects or where its effect it's prejudicial to health.*

My contention is that the operation of a wine bar and tasing room in this property will:

- Have an unreasonable effect on anyone living or working (noting the large increase in people working from home) in Tudor Cottage
- Have an unreasonable effect on anyone attempting to sleep in Tudor Cottage during the proposed operating hours. In this category I include essential service workers on shift work (including Doctors / Surgeons undertaking lifesaving procedures during the night), babies / very young children and the elderly
- Have an unreasonable effect on anyone seeking a tranquil lifestyle in Tudor Cottage, e.g. a quiet retirement, reading and listening to quiet music
- Cause a public nuisance as in its broad common law meaning. I note the 24Acoustics report details reduction in noise transmission between the two properties and not elimination of the noise transmission. The resultant will be a nuisance that may well be low-level, should the 24Acoustics recommendations be implemented in full, but will impact the living and working amenity of anyone in Tudor Cottage.

I note that with regard to Licensing Objective – Prevention of Public Nuisance, the Applicant at Page 43/44 d) only note the following:

*No music or amplified sound shall be generated within the Premises so as to give rise to nuisance within neighbouring dwellings; no music or amplified sound shall be played externally.*

In my view this is a clear representation of the importance the Applicant places on this particular Licensing Objective and is another reason this application should be rejected.

Regards,

David Howarth

**THE TUDOR PEACOCK PREMISES LICENCE - 9th FEBRUARY 2023**

**AND WITH REFERENCE TO**

**Planning Applications 22/00652/AS & 22/00653/AS which were a re-application of 21/00135/AS & 21/00136/AS (with some changes) which was refused by Ashford Borough Council on February 3rd 2022. I note that the address has been changed from Tudor Lodge Gift Shop to Tudor Lodge Antiques.**

**The address shouldn't be confused with Peacock Antiques, which is the adjacent property and in need of some renovation.**

**To the members of the Sub Committee,**

**We question that The Tudor Peacock has always been a community project. It is a private business with two Directors who have ordinary shares and complete control. Preference Shares were offered to some likely investors, who won't be able to take part in the decision making. The main body of investors don't reside or own properties in Chilham, in fact a large number don't even reside in Kent, and out of the small number who live in the Parish of Chilham only a few live in The Square. The Same also goes for the 92 supporters, many of which don't have a connection to The Square and were canvassed to support the wine bar.**

**The 5 objectors mentioned in in the supporting letter all have properties in The Square and would be directly affected by the wine bar. There were also other objectors from outside the village and Environmental Protection were very vocal about it's concerns over the project and asked for conditions to be applied.**

**We think it's worth rectifying some misconceptions about The Square and the properties therein.**

**Many of the supporting documents refer to there being empty and derelict properties in The Square, particularly Tudor Lodge Gift Shop. We have lived in The Square for 22 years and the only empty property we know of is Peacock Antiques, which is in need of some renovation.**

**Tudor Lodge Gift Shop (Tudor Lodge Antiques) had been a successful business for decades until the present owners acquired it. It has now lain empty for approximately 2 1/2 years. In the past it always seemed to be in good order and the selling agents description and photographs would seem to be at odds with It being "derelict" or "falling down". The same photographs can be viewed in the applicants Design & Access Statement.**

**The Square is predominately residential and has been for many years.**

**Going back decades, The Square was a mix of residential properties and some shops servicing the needs of the residents e.g. Post office, antique shop, tea rooms and a public house. The Square was never “built for commercial use”. The houses were originally built in the 16th and 17th centuries for the Chilham Castle workforce. Tudor Lodge, along with Peacock Antiques, was a Hall House and a residential property. It is also the oldest building in The Square, predating the other houses by a few hundred years.**

**The continuance of Tudor Lodge as a commercial / residential property is preferred as it would maintain the balance between business and residential. The Gift Shop was the perfect type of business as it serviced the requirements of the locals and tourists, both young and old, and suited any pocket. Apart from the Post Office and garage, all the other businesses close to The Square are either drinking establishments or eateries. We don't feel that another drinking establishment is essential to The Square. The wine bar / wine tasting venue wouldn't bring any benefits to the local community and tourists, (jobs being taken by the owners and shareholders of the business) and is not essential to the future of The Square. The emphasis of the business model seems to be on supporting the wine industry with little regard for the residents of The Square.**

**As to the application: Many of the supporters of the application are under the impression that the wine bar, wine tasting area, function rooms and wine shop will be open until the hours of 6pm Sunday - Thursday and until 8pm Friday - Saturday, as is highlighted in the applicants' supporting letter. In fact the application is for the opening hours to be between 10am and 9pm, seven days a week and on bank holidays. We feel that clarity is required on this point.**

**Having spoken to the licensing department, it was explained to us that the time of 9pm could be extended to 11pm and on occasions to 1am. This throws a completely different light on the impact the wine bar would have on the The Square and the well-being of the residents. Even if the applicants only intend opening until 6pm and 8pm, the door is open for these times to be abused and / or extended should the business be sold in the future or come under new management. It would seem inconceivable that a drinking establishment would close at a time when most will be opening.**

**We opposed the original planning application because “the proposed change of use would give rise to an unacceptable level of noise and disturbance to residents within the locality which couldn't be adequately mitigated. As a result, the residential amenity of the occupiers of dwellings in the locality would be significantly harmed to**

their detriment". ABC upheld this view and the original planning application was refused.

The new application relies on complicated limitations in order to satisfy the Planning Officers requirements. The focus has been on noise, predominantly airborne noise, but still the issue of the passage of noise through to the fabric of the adjoining buildings hasn't been addressed by the applicants agent 24 Acoustics, and it could cause serious disruption to the immediate neighbours. I feel that clarity is required on this point.

During my long career as a sound engineer working in live environments, but mainly in recording studios, the transference of noise through the fabric of a building, particularly a listed building where the limitations are greater, is difficult to eradicate.

The extra sound insulation (not sound proofing) suggested by 24 Acoustics would have a minimal impact on the level of perceived noise, and in their own judgement would only work if all the windows and doors to The Tudor Lodge were kept closed during opening hours (not only when music is being played) and if a second door to a lobby is added to the main entrance. There don't seem to be any plans submitted for this.

I can't imagine that the windows and doors will be kept closed on a hot summers day, particularly with the advent of Covid and the Government advice that windows should be kept open in public buildings to help mitigate the spread of the disease. If air-conditioning were to be installed then there would be the problem of external plant noise. I can envisage multiple complaints which would be a burden to the local authority.

24 Acoustics has highlighted, when discussing pipework, beams and adjoining walls etc, the importance of "careful detailing around the existing structure" but haven't given directions as to how the work should be carried out or the materials to be used. If this isn't planned properly then sound could be transferred to adjacent buildings as opposed to being controlled.

It has also been suggested that a noise limiter should be installed to control the level of music, again with no suggestion of what level it should be set at or who should decide the level. In my experience they are not a satisfactory method of controlling music. The limiter levels can be changed, bypassed, or even switched off.

We note that ABC EHO has allowed the noise level to be set at 55dB instead of the original 43dB but no reason was given for this?

24 Acoustics' assessments are just that, 'Desktop Assessments'. There is a fine line between the results of the assessments being acceptable and the reality being unacceptable. They also assume that all the limitations will be adhered to.

24 Acoustics has not provided any noise readings relating to the impact of noise on the residents facing the proposed wine bar, which are in close proximity to the proposed wine bar. As far as We are aware, their measurements have been limited to the daytime and have not been taken during the evenings when the background ambient noise is considerably lower.

We suggest that there are too many limitations which are not enforceable and so the sound proofing / insulation targets cannot be met.

Another planning condition is that there should be no tables or seating outside, at the front of the venue, and that there should be no service in the square. There was no mention of this in the applicants supporting letter.

Recycling and Foul Sewage: It would appear that no arrangements have been made for the separate storage and collection of recyclable waste and there are no proposals to connect to the existing drainage system.

I would suggest that it would be difficult to dictate delivery times and refuse collection times as guaranteed by the applicant.

Disabled Access: There is no provision for disabled access or disabled toilets. As the internal design of the building is to be changed considerably, We would have thought that these could be provided.

Kitchen noise: ENVIRONMENTAL PROTECTION - "I note the updated proposal now excludes a commercial kitchen, however we would request that this position is secured by means of condition, a suggested wording is as below";

"The premises shall not be provided with a kitchen for the purposes of the preparation and cooking of food".

Reason: In order to protect the amenity of neighbouring properties.

We would like to see the the conditions imposed by the LPA enforced before a premises licence is granted.

Trevor Vallis & Susan Fowler