

Licensing Sub-Committee

Minutes of a Meeting of the Licensing Sub-Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **9th February 2023**.

Present:

Cllr. Michael (Chair).

Cllrs. Burgess, L. Suddards.

Apology:

Cllr. Wright.

Also Present:

Mr Mogford - Applicant

Mr Vallis – Objector

Licensing Officer (JP), Licensing Officer (AS), Principal Litigator, Senior Member Services Officer.

294 Election of Chair

Resolved:

That Councillor Michael be elected as Chair for this Meeting of the Licensing Sub-Committee.

295 Minutes

Resolved:

That the Minutes of the Meetings of this Committee held on the 26th February 2020 and 21st June 2022 be approved and confirmed as a correct record, subject to noting that the latter took place in Committee Room No. 1 not the Council Chamber.

296 Tudor Peacock, Tudor Lodge, The Square, Chilham – Application for a Premises Licence

The Chairman opened the meeting and welcomed all those present. Everyone introduced themselves and confirmed that they had received and read the papers relating to the application. The Chairman explained the procedure to be followed at the meeting.

The Licensing Officer (JP) introduced the application. He advised that the application for consideration was for a premises licence for The Tudor Peacock, located at Tudor Lodge, The Square, Chilham. The application had been made in the correct manner and was contained at Appendix A of the agenda papers, along with a plan of the premises at Appendix B. The application had been advertised as per regulations, with the blue notice clearly displayed in the correct manner. The proposed premises would be a Wine House, and the property had been approved for change of use. The proposal sought to enhance the locality by providing a venue selling wine and hosting tastings from all seven of Kent's top wine producers in a Grade-II listed heritage building. This was a community project with investors that were local residents eager to revitalise the square. Kent & Medway Business Fund had also provided a £300k loan to help fund the project. A planning application for the proposed change of use of the premises to a wine tasting venue with minor internal alterations to facilitate an ancillary shop and wine bar had been approved. A non-material amendment to conditions 3 and 8 had also been approved.

Drawing attention to the proposed operation of the premises, the Licensing Officer (JP) advised that the licensable hours applied for were 10.00 to 21.00 Monday to Sunday. The information contained within the operating schedule had been converted into conditions, which were contained at Appendix I. Two parties had made relevant representations, these were located at Appendix F. Additionally, two further parties had commented on the interaction of the planning and licensing regimes, as the comments raised no specific concerns in relation to the licensing objectives they were not considered relevant, the comments were contained at Appendix G. The outline of the grounds of objection mainly related to the licensing objectives in general with the main concerns being; potential nuisance related to the consumption of 'off sales' in and around the village square, the presence of primary school children in the square after school during the opening hours of the premises, the doubling of the number of licensed premises in the square and the potential for noise nuisance.

The Licensing Officer (JP) advised that whilst the current planning consent limited the use of the bar and wine tasting facilities to prior booking only, therefore only allowing the shop to be open without prior booking, the application before the Sub-Committee sought to limit only the first floor and basement areas to prior booking. The business operator was restricted to the tighter of two potential conditions, in this case the planning condition. The operator may seek a more 'open' licence with the potential intention to seek further variation to the planning consent to match any licence that may be granted. He counselled the Sub-Committee to consider the application as submitted against the licensing act objectives, and that their decision should not be fettered by the presence of a planning condition, which may or may not be later amended.

The Applicant, Mr Mogford advised that the gist of the business was a community project with 30 investors, 18 of whom lived within the village. The business would centre around the Kentish Wine trade, with The Tudor Peacock only serving Kentish Wines. It was hoped that this venture would breathe new life into the village square. The property had been used as a gift shop which had closed two and half years previously. The building next door had been vacant for over 20 years. They had developed close ties with traders and had joined the Chilham tourism and retail

group with support received from other establishments. The Tudor Peacock would complement rather than compete with establishments in the village. He reiterated that the premises would only serve Kentish Wines. Support had been received from Locate in Kent and an interest free business loan had been provided by Kent & Medway Business Fund. The premises would create additional employment in the village with three full time employees and two part time employees, at least three of those employees would not be linked to investors in the business. Planning permission had been granted and they were comfortable with the conditions attached to this. They were aware that they could not use the premises until the conditions attached had been satisfied.

Further to his additionally submitted paperwork, Mr Mogford advised that they took the concerns of residents seriously. They proposed to install CCTV throughout the premises. Concerns regarding noise would be addressed by the conditions imposed by planning, with an additional internal door being installed. Patrons would have to book before attending the premises, these would be done via online booking and a hard copy diary. In respect of parking in the square he advised that they would encourage parking in the public car park, rather than the square itself. Responding to concerns raised by interested parties, Mr Mogford confirmed that delivery times would be considerate to residents with none taking place before 9.30am, none between the hours of 2.45 to 3.45pm and no deliveries on Sundays. Bins would not be emptied before 9am or after 7pm to respect the local residents and reduce any noise from the operation of the business. He confirmed that there were no plans to use the rear courtyard. There were clear and robust requirements for sound insulation at the premises and the premises could not be used until these were satisfied. He wished to reassure residents that there was no intention to have live or amplified music at the premises. In due course, there may be speakers within the premises but these would not be placed on party walls and would only play ambient music. In respect of the operating hours, the current intention was that these would be 10am to 6pm Sunday to Thursday and 10am to 8pm Friday and Saturdays. The licensing hours applied for were to 9pm each evening, this was intended to allow for the overrun of events. It was not intended for the Tudor Peacock to become a drinking establishment, it was not the purpose of the business. Mr Mogford proposed the introduction of a WhatsApp group or similar to communicate with residents. He was aware that there were concerns and he wished to work with them.

In response to a question, Mr Mogford confirmed that he would be content for the 14 additional submitted points to be converted to conditions on a licence should the Sub-Committee feel it necessary. He further confirmed that the Tudor Peacock Ltd consisted of 28 individuals, 18 of whom lived in the parish of Chilham,

Mr Vallis, an interested party, questioned whether this venture was in fact a community venture and if it was in the best interests of the village. Of the nine households in the square, 5 had registered their objections to the proposals. He had submitted an objection to the application and had also submitted further comments, which the Sub-Committee had sight of. In addition he was speaking on behalf of Mr Howarth, who owned property in the square. Mr Howarth had owned two properties, one of which he had sold and the second which was tenanted. He had been unable to sell the second property as he had wished to do.

In response to a question, Mr Vallis confirmed that if the conditions proposed, and the additional ones agreed by Mr Mogford, were applied to a licence and abided by that would go a long way to easing the concerns he had about the premises.

Mr Vallis questioned what would happen to the licensing hours if the premises were taken over by another party. The Licensing Officer (JP) advised that if the premises were sold then the licence as it stood would transfer to the new owner. If they wished to amend the licence then they would need to apply to do so, and residents would have an opportunity to make representations on this. If the current applicants wished to vary the licence then the same would apply.

In response to questions, Mr Mogford, advised that there was no intention to play music within the premises. There may be speakers installed in the future but this was not a priority. He was happy for conditions to be applied in respect of this. He wished to reiterate that the Tudor Peacock was not intended to be a drinking establishment it would only serve Kentish Wine and patrons would need to book a table.

The Licensing Officer (JP) advised that if there were issues or breaches of the license then the first port of call would be the Licensing Department. They would deal with such matters with Kent Police (if necessary) and would respond quickly.

There was some discussion surround the offer to communicate with residents via WhatsApp group or similar. This had been suggested by Mr Mogford and the Licensing Officers confirmed that such groups, be that WhatsApp or other appropriate messaging service, had been successful and useful for other premises in the Borough. Such groups could help to both parties to address concerns at early stages.

Mr Mogford confirmed that the shop would be ancillary to the tasting rooms and the proposal was a unique mix of on and off sales. It was a condition of the planning permission that the premises operate on a pre-booking basis. There would be an online and physical diary to support these bookings and if there were any concerns they would be able to demonstrate who was on the premises at any given time. Should someone arrive at the premises without a booking they would be asked to make a booking, if there were no tables available then they would be turned away.

Mr Vallis wished to highlight his concerns about the business not supporting the needs of the square itself. He personally would prefer the property to be a residence or a gift shop or similar to service the local community. He felt that the proposal would not benefit local residents.

The Sub-Committee retired to deliberate and make their decision.

On returning, the Chair read the Decision and Reasoning Statement. All Members wished the Applicant well in his new business endeavour.

Resolved

The Premises Licence be granted as applied for.

With the following conditions added to the operating schedule:

- Encouraging customers to arrive and leave the venue with consideration and respect for neighbours both verbally and with appropriate signage – Public Nuisance objective
- Accept no deliveries before 9.30 or between the hours of 14.45 and 15.45 on weekdays, in order to avoid the congestion already caused by school drop off and pick up. In addition, there will be no deliveries on Sundays either – Public Nuisance objective
- Bins will not be emptied before 09.00 or after 19.00, thus reducing disturbance to neighbours – Public Nuisance objective
- Where possible a direct line of communication will be given to local residents as applicable in respect of the premises licence and licensing conditions. This will be updated and maintained as necessary – Public Nuisance objective
- The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises to ensure they are not excessive or likely to disturb neighbours. -Public Nuisance objective
- The Licence holder shall ensure that any complaints will be logged in the incident book (detailing the date, time, person, person recording the complaint, complaint) and any action/advice given. The complaint will be addressed as soon as reasonably practicable. -Public Nuisance objective
- A CCTV system shall be designed, installed and maintained in proper working order. Such system shall be:
 - Operated by properly trained staff.
 - Be in operation at all times that the premises are being used for a licensable activity
 - Ensure suitable coverage of public areas
 - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (On disc, hard drive or other immediate retrievable facility) for a period of 30 days, and shall be supplied to the licensing authority or a police officer on request.
 - The system should be checked and maintained to ensure it is in good working order Crime & Disorder objective

The decision notice and formal wording read out by the Chairman is appended to these minutes. A copy of the decision was given to the Applicant at the conclusion of the meeting, and to the Objector.

Queries concerning these Minutes? Please contact Member Services:
Telephone: 01233 330499 Email: membersservices@ashford.gov.uk
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Appendix A

**LICENSING SUB-COMMITTEE
THURSDAY 9TH FEBRUARY 2023**

**APPLICATION FOR A PREMISES LICENCE FOR
TUDOR PEACOCK, TUDOR LODGE, THE SQUARE, CHILHAM**

LICENSING SUB-COMMITTEE DECISION AND REASONINGS

LICENSING OFFICER

Julian Postlethwaite

**REASON FOR
MEETING:**

An application was made for a Premises Licence for Tudor Peacock, Tudor Lodge, The Square, Chilham.

DELIBERATION:

The Licensing Sub-Committee listened to the introduction given by the Licensing Officer in respect of the application made for a premises licence.

The Licensing Officer advised that the proposed premises would be a Wine House, and the property has been approved for change of use. The property sought to enhance the locality by providing a venue selling wine and hosting tastings from all seven of Kent's top wine producers in a Grade-II listed heritage building. This is a community project with investors that are local residents eager to revitalise the square. Kent & Medway Business Fund have also provided a £300k loan to help fund the project

A planning application for the proposed change of use of the premises to a wine tasting venue with minor internal alterations to facilitate an ancillary shop and wine bar was received and approved. The hours that the premises is open to the public, will be the same as the relevant 'Licensed' hours for each day; 10.00hrs – 21:00hrs Monday to Sunday.

Two parties have made relevant representations and additionally two parties have commented on the interaction of the planning and licensing regimes, and as the comments raise no specific concerns in relation to the Licensing objectives they are not considered relevant. The outline of the grounds of objection mainly relate to; Licensing Objectives in General. The main concerns arising from the relevant representations are the potential for nuisance related to the consumption of 'off sales' in and around the village square, the presence of primary school children in the square after school during the opening times of the premises, the doubling of licensed

premises in the square, and the potential for noise nuisance.

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. The business operator was therefore effectively restricted to the tighter of two potential conditions, in this case the planning condition.

In conclusion the Licensing Officer advised that the Sub-Committee should consider the application as submitted, against the Licensing Act objectives, and their decision should not be fettered by the mere presence of the mentioned planning condition, which may or may not later be amended.

The Sub-Committee heard from the Applicant, Mr Mogford, who advised that the gist of the business was a community project with 30 investors, 18 of whom live within the village. The Tudor Peacock would only serve Kentish Wines – it was not going to be a traditional drinking establishment. It was hoped that this would breathe new life into the village square. The property had been used as a gift shop which had closed two and half years previously. The building next door had been vacant for over 20 years. They had developed close ties with traders and had joined the Chilham tourism and retail group with support received from other establishments. The Tudor Peacock would complement rather than compete with establishments in the village. The premises would create additional employment in the village with three full time employees and two part time employees – at least three of those employees would not be linked to investors in the business. Planning permission had been granted and they were comfortable with the conditions attached to this.

Further to his submitted paperwork, Mr Mogford advised that they took the concerns of residents seriously. CCTV would be installed throughout. The concerns regarding noise would be addressed by the conditions imposed by planning. Patrons would have to book before attending the premises, these would be done via online booking and a hard copy diary. In respect of parking in the Square he advised that they would encourage parking in the public car park, rather than the Square itself. Delivery times would be considerate to residents with none taking place before 9.30am and not between the hours of 2.45 to 3.45pm, with no deliveries on Sundays. Bins would not be emptied before 9am or after 7pm. He confirmed that there were no plans to use the rear courtyard. In respect of the operating hours –his current intention was that these would be 10am to 6pm Sunday to Thursday and 10am to 8pm Friday and Saturdays. The licensing hours applied for were to 9pm each evening, this was intended to allow for the overrun of

events. (Just to be clear, the applicant was not amending the hours applied for in his application at the hearing but was explaining how he sought to operate if granted a licence.) He proposed the introduction of a WhatsApp group or similar to communicate with residents.

In response to questions from the Sub-Committee, the Applicant advised that he would be content for the proposed additional points put forward to be added as conditions on his operating schedule if appropriate.

The Sub-Committee heard from Mr Vallis, who had submitted concerns regarding the application. He questioned the value of the wine bar to village, he felt that it was not in the best interests of the village. Five residents of the village had raised objections, out of nine households in The Square. Many of his comments were contained within his submissions. He was also speaking on behalf of Mr Howarth who had been personally affected by the proposal – he had been unable to sell one of his properties.

In response to questions from the Sub-Committee, Mr Vallis concluded that if the proposed conditions on the additional paperwork put forward were added to the licence and they had to adhere to them, they would go some way to addressing the concerns raised.

Mr Vallis questioned how residents could be protected in the future if the premises changed hands. The Licensing Officer advised that if sold, the licence would move to the new owners (if transferred), if any changes were proposed then a variation to the application would be required which would be publically advertised and residents would be able to have their say. A variation could be made by the current premises licence holder if they wished.

The Sub-Committee then retired.

The Sub-Committee considered the following licensing objectives; prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Prevention of Harm to Children and looked to the operating schedule as to how they were being addressed as a whole.

During deliberations the Sub-Committee gave significant consideration to all the representations received, noting that the representations received centred around public nuisance, with many relating to the planning application.

The Sub-Committee felt that both parties had put their cases forward well and they had understood that this was clearly emotive for the residents involved. They were clear that planning matters

were not for consideration as part of the making of this application.

They spent a great deal of time looking over the further submission from Mr Mogford and the 14 areas he had highlighted within. From these the Sub-Committee drew out those that were relevant to the licensing objectives, pertinent to the representations that had been made in respect of the application and where not mere repetitions of planning conditions. The Sub-Committee felt these it was appropriate and proportionate that some of these should be added to the licence as enforceable conditions, and noted that the applicant had consented to these being added if felt appropriate. These were;

- Encouraging customers to arrive and leave the venue with consideration and respect for neighbours (adding the following text) both verbally and with appropriate signage – Public Nuisance objective
- Accept no deliveries before 9.30 or between the hours of 14.45 and 15.45 on weekdays, in order to avoid the congestion already caused by school drop off and pick up. In addition, there will be no deliveries on Sundays either – Public Nuisance objective
- Bins will not be emptied before 09.00 or after 19.00, thus reducing disturbance to neighbours – Public Nuisance objective

In addition to the conditions offered, the Sub-Committee considered that the following were appropriate to be added, which they believed covered in a legally enforceable way what was communicated in the additional list of conditions –

- Where possible a direct line of communication will be given to local residents as applicable in respect of the premises licence and licensing conditions. This will be updated and maintained as necessary – Public Nuisance objective (slightly rephrasing the condition offered about a WhatsApp group and keen to engage with residents)
- A CCTV system shall be designed, installed and maintained in proper working order. Such system shall be:
 - Operated by properly trained staff.
 - Be in operation at all times that the premises are being used for a licensable activity
 - Ensure suitable coverage of public areas
 - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (On disc, hard drive or other immediate retrievable facility) for a period of 30 days, and shall be supplied to the licensing authority or a

police officer on request.

- The system should be checked and maintained to ensure it is in good working order Crime & Disorder objective (slightly rephrasing the condition offered CCTV will be installed through the premises –
- The Licence Holder and appropriate staff will regularly monitor noise levels outside the premises to ensure they are not excessive or likely to disturb neighbours. -Public Nuisance objective
- The Licence holder shall ensure that any complaints will be logged in the incident book (detailing the date, time, person, person recording the complaint, complaint) and any action/advice given. The complaint will be addressed as soon as reasonably practicable. -Public Nuisance objective

DECISION MADE:

The licence be ...

Granted as applied for.

With the following conditions added to the operating schedule:

- Encouraging customers to arrive and leave the venue with consideration and respect for neighbours both verbally and with appropriate signage – Public Nuisance objective
- Accept no deliveries before 9.30 or between the hours of 14.45 and 15.45 on weekdays, in order to avoid the congestion already caused by school drop off and pick up. In addition, there will be no deliveries on Sundays either – Public Nuisance objective
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 - Operated by properly trained staff.
 - Be in operation at all times that the premises are being used for a licensable activity
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 - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (On disc, hard drive or other immediate retrievable facility) for a period of 30 days, and shall be supplied to the licensing authority or a police officer on request.
 - The system should be checked and maintained to ensure it is in good working order Crime & Disorder objective

Additional notes made by the Sub-Committee to those present at the hearing:

- Interested Parties and Responsible Authorities were reminded that they may apply for a review of this Premises Certificate “after a reasonable interval” pursuant to section 51 of the Licensing Act 2003.
- Entitlements to appeal for parties aggrieved by the decision of the Licensing Authority are set out in Schedule 5 to the 2003 Act.
- An appeal had to be commenced by the giving of a notice of appeal by the appellant to the Designated Officer for the Magistrates’ Court within the period of 21 days beginning on the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.
- An appeal must be made to a Magistrates Court.

Right of Appeal

- There is a right of appeal against this decision. An appeal must be commenced by notice of appeal given by the Appellant or anybody affected by this decision to the Magistrates Court within 21 days of the date of this notice.

Dated: 9th February 2023