

**SOUTH STAFFORDSHIRE COUNCIL****LICENSING AND REGULATORY SUB-COMMITTEE – Monday 6<sup>th</sup> November 2023 @ 10am****APPLICATION TO VARY THE EXISTING PREMISES LICENCE – PATTINGHAM VINEYARD GREAT MOOR ROAD PATTINGHAM WV6 7AT****REPORT OF LICENSING OFFICER - ENVIRONMENTAL HEALTH & LICENSING****PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

To consider an application to vary the existing premises licence for Pattingham Vineyard Great Moor Road WV6.

**2. RECOMMENDATIONS**

- 2.1** That the Licensing Authority (Sub-Committee) determine variation application to the existing Premises licence for Pattingham Vineyard, Great Moor Road WV6

**3. SUMMARY IMPACT ASSESSMENT**

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	A safe and sustainable district.
	Has an Equality Impact Assessment (EqIA) been completed?	
	Yes/No	Not applicable as item relates to individual determination within the existing policy.
SCRUTINY POWERS APPLICABLE	Yes/No – Report to Legal and Regulatory Committee	
KEY DECISION	Yes/No	
TARGET COMPLETION/ DELIVERY DATE	Details – Not Applicable	
FINANCIAL IMPACT	No	
LEGAL ISSUES	Yes/No	The sub-committee must seek to ensure that this premises promotes the objectives of the licensing regime. The sub- committee must have regard to the authority's licensing policy (where relevant) and any central government guidance. The sub-committee is entitled to question the applicant, Pattingham Vineyard so as to satisfy itself that the licensing objectives will be met.
		All parties have a right of appeal to a Magistrates Court. Appeals should be in writing to the Magistrates Court within 21 days from the date

		the applicant is notified of the licensing authority decision.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	Summary of Details
IMPACT ON SPECIFIC WARDS	No	Details as necessary

## **PART B – ADDITIONAL INFORMATION**

### **4. INFORMATION**

4.1 An application to vary the existing premises licence for Pattingham Vineyard was received via the GOV.UK portal on the 25<sup>th</sup> July 2022. This was forwarded to the 'other responsible authorities' and notices displayed and was advertised in accordance with the requirements of the Act. The application and plan are attached (**Appendix A & A1**)

4.2 The application is to vary the exiting premises licence to include the following

1. A small Bottle Shop for Cellar Door Sales, operating Monday to Saturday 10:00 - 16:00hrs allowing for On & Off sales for purchase bottles of wine to take away, or by the glass.
2. Special Events - all pre-booked, operating Monday to Sunday 10:00 - 20:00hrs. NB This provision would allow occasional events that may happen). Examples include Corporate Events / Team Building / Private Celebrations / Christmas Workshops etc.
3. Vineyard Tours & Wine Tastings, operating Friday to Sunday 12:00 - 19:00hrs. (NB Same days/times as currently licensed so no change of those) save that we would like to expand on number of people on each tour - Change from 12 people to 20. Again, all pre-booked.

<b>Proposed Licensable Activities</b>	<b>Description</b>	<b>Time from /Time to</b>
Supply of alcohol (On and Off Sales)	Monday to Sunday	9am to 20.00 hrs
Premises Opening and Closing times	Monday to Sunday	10am – 20:00hrs

4.3 It is the understanding of the Licensing Authority that the application for the premises licences has been properly made. The statutory requirement to give notice of the application has also been complied with.

4.4 No outstanding representations have been received from any of the responsible authorities namely: Planning Enforcement and Environmental Protection; Environmental Health and Licensing; Development Control; Staffordshire Fire and Rescue; Children and Lifelong Learning; Primary Care Trust (PCT), Staffordshire Police, Staffordshire County Council (Trading Standards) and Home Office (immigration).

4.5 Representations from Twenty Seven (27) local residents from 15 households who live in Great Moor Road and area have been received by the licensing authority the objection are attached as **Appendix B**. The grounds for the representation are made against the licensing objectives of :

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- Public Safety
- The Protection of Children from Harm

4.6 The applicant agent was notified of the objections and copies of the objection letters/email were provided.

4.7 Pattingham Vineyard was granted a new premises licence by the Licensing Sub committee on the 10<sup>th</sup> August 2022 following objections to the grant of a new licence by the local residents. A copy of the licence is attached as **Appendix C**

## **5. Licensing Act 2003 - Section 182 Guidance**

### **Licensing objectives and aims**

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

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

### **Section 182 Guidance**

Determining actions that are appropriate for the promotion of the licensing objectives

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should

consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

## **6. Legal status**

Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

## **7. Local Authority's Powers**

7.1 Should the Licensing Authority consider it appropriate for the promotion of the licensing objectives it is required to modify the conditions of the premises licence and/or reject the whole or part of the application as appropriate for the promotion of those objectives.

If the Licensing Authority does not consider it appropriate for the promotion of the licensing objectives to take such steps the application must be granted as sought.

In determining the application with a view to promoting the licensing objectives in the overall interests for the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representation (including supporting information) presented by all the parties;
- the Home Office guidance issued under Section 182 of the Licensing Act 2003;
- its own statement of licensing policy.

The Licensing Authority is not bound to follow such guidance but must have regard to it and if departing from it have rational reasoning for doing so.

## **8. HUMAN RIGHTS IMPLICATIONS**

8.1 This report has human rights implication for the premises licence holder as "every natural or legal person is entitled to the peaceful enjoyment of his possessions." [a licence]. No one shall be deprived of his possessions except in the public interest and

subject to the conditions provided for by law. This does not impair the right of a State [the committee] to enforce such laws as it deems necessary to control the use of property in accordance with the general interest.

8.2 In addition as regards the conduct of the hearing there is the right to a fair hearing as "in the determination of his civil rights and obligations" everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal [the committee] established by law. "Judgment" shall be pronounced publicly but the press and public may be excluded from all or part of the hearing where the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the committee where publicity would prejudice the interests of justice.

## **9. IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

EqIA not applicable

## **10. PREVIOUS MINUTES**

Not applicable

## **11. BACKGROUND PAPERS**

List of background papers used in preparation of report:

Licensing Act 2003  
Section 182 Guidance  
South Staffordshire Licensing Policy  
Human Rights Act 1998

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