

Report to: Licensing Sub Committee

Date: 14 August 2020

Title: Application for a Premises Licence. Artelium Wine Estate, Malthouse Farm, Streat Lane, Streat, BN6 8SA

Report of: Director of Service Delivery

Ward(s): Streat

Purpose of report: To provide information in order that the Sub-Committee can determine an application for a Premises Licence

Officer recommendation(s): The Sub-Committee is asked to determine the application in accordance with the Licensing Act 2003 (as amended), LDC Licensing Policy and The Home Office Guidance issued per Section 182 Licensing Act 2003 , whilst having due regard to the applicant's submissions and relevant representations.

Reasons for recommendations: An application has been received for a Premises Licence, pursuant to Section 17 Licensing Act 2003. A Representation against the application has been made by a local resident.

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1 Introduction

1.1 An application has been made to Lewes District Council for a Premises Licence at Artelium Wines Estate, Streat Lane, Streat, BN6 8SA. The applicant is Artelium Wine Estate LLP a partnership owned by Julie Bretland and Tim Collins. A copy of the application and plan is included at **Appendix 1**. Following the initial application, the applicant submitted more information in support of it together with a new plan. These are included at **Appendix 1**. A site overview is attached at **Appendix 2**.

1.3 When submitting an application for a new premises licence the applicant is required to describe any steps they intend to take to promote the four licensing objectives, as defined by the Licensing Act 2003, as set out below.

1.3.1 General:

- Our aim is to run a wine tasting house but would like to run events in the garden and vineyard.

- We are appealing to small groups of discerning wine tastes.
- We would like to serve coffee tea and food in addition to our wines.

1.3.2 The prevention of crime and disorder:

- Open containers not to be taken from premises.
- Book recordings of all incidents on premises.
- No irresponsible promotions.
- Training of staff.

1.3.3 Public safety:

- Safe capacity limits set and maintained, according to the different areas across the site.
- Pre booked visits and tours to facilitate better control over visitor numbers.
- We will make local taxi numbers available and provide details of public transport on our website.

1.3.4 The prevention of public nuisance:

- We will encourage visitors to leave quietly and quickly through signs on the entrance for evening visitors.
- Pre booked visits and tours to prevent too many people.

1.3.5 The protection of children from harm:

- We will ask for proof of age for customers looking to buy and online bookings of tours will require age acknowledgement that they are over 18 and booking for over 18s.
- Staff will be trained in Over 25 policy.

2 Background Information

2.1 Artelium Wine Estate, is a new 45 acre vineyard in Streat, East Sussex. The application seeks a Premises Licence to sell alcohol. Sales will be conducted from an on-site shop (called the Cellar Door), internet sales and through fine dining events that will take place in the grounds overlooking the vines. In addition to selling wine from their own and other vineyards, there will be an onsite bar facility (Cellar Door). The owners intend to conduct tours of the vineyard and to host wine tasting events in the Cellar Door.

2.2 The applicant was required to advertise both on the premises and in a local newspaper in order to inform the public of the application. Application details were also advertised on the Council's website.

2.3 A consultation period took place between 26th June and 23rd July 2020. Responsible Authorities (listed below at 3.2) were consulted as part of the process.

2.4 The applicant conformed with all requirements in accordance with The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

3 Representation received from Responsible Authorities:

3.1 The following Statutory Bodies (described as Responsible Authorities by the Licensing Act 2003) were consulted about this application.

Sussex Police	See comments at 3.3
Environmental Health	No comment made
East Sussex Fire and Rescue	No comment made
East Sussex Child Protection Team	No comment made
Trading Standards	No comment made
LDC Health and Safety	No comment made
LDC Planning	No comment made
Public Health	No comment made
Home Office Immigration	No comment made

3.3 During the consultation process Sussex Police agreed with the applicant specific conditions to be placed onto the licence if/when it is granted. These include a Challenge 25 age verification policy, documented staff training and the provision of an incident and refusals register. A copy of the email correspondence, between those parties is attached at **Appendix 3**.

4 Representation received from others

4.1 One representation (Mr Perkins) objecting to this application has been received from a neighbouring property. A copy of the representation is at **Appendix 4**.

The grounds for objection relate to all four licensing objectives and are summarised as follows:

- The application is too wide and provides insufficient detail
- No meaningful restrictions
- Public Nuisance – the hours are excessive
- Public Safety – there is a danger as it's a rural location and access is via narrow lanes
- Crime and Disorder – concerns about sale of alcohol when DPS is not present
- Concerned that there is no provision for CCTV at site
- Suggestion that only wine produced from the vineyard be available for sale – no beer, spirits or other wines be allowed.
- Suggests that off sales be limited to six bottles only
- Suggests that there should be no off sales other than to those attending wine tastings
- No amplified music
- Pre booked visits and tours should be limited by numbers of attendees

4.2 Mr Perkins suggests that if the licence is granted the Sub-Committee will depart from its Licensing Policy because planning permission has yet to be granted. He does recognise that the Planning and Licensing procedures are different.

4.3 Lewes District Council Licensing Policy states at 6.3.7:

‘The grant of a premises licence shall not be regarded as an indication that planning permission or building regulations approval has been (or will in the future be) granted. A separate application for planning consent, change of use and/or building regulations approval must always be made. Ideally, planning consent should be obtained before a licencing application is submitted.’

4.4 A decision by the Sub-Committee to grant this application would not be a departure from the Licensing Policy. This paragraph merely advises the difference between the regimes and that separate applications are required, with no guarantee of success simply because one process approves an application. The final sentence does not mean that the grant of a licensing application is dependent upon planning permission being in place.

4.5 Amplified Music is permitted before an audience of less than 500 people between 0800 and 2300 hrs at premises licensed for sale of alcohol for consumption on the premises and therefore cannot be restricted by way of condition.

4.6 There is no requirement in the Licensing Act for a DPS to be present for all sales of alcohol. It is recognised that well trained staff can act on the instructions of the DPS in his or her absence. Sussex Police have agreed a condition with the applicant for staff training to be undertaken and documented. There is an expectation from this Licensing Authority and Sussex Police that the DPS will have day to day involvement in the business where it involves sale of alcohol. In short there is an expectation the DPS will not operate remotely from the site.

4.7 A suggestion is also made that ‘there should be usual provision for CCTV’ at the site. The Sub-Committee will be aware that conditions such as these must not be routinely placed on licences.

5 Mediation

5.1 Following the initial application the applicant submitted further clarification about the application and included a new plan. This can all be found at **Appendix 1**

5.2 On the basis of the representation received it is considered unlikely that this application will be successfully mediated before the Sub-Committee hearing.

6 Licensing Sub-Committee Considerations

6.1 In determining the application with a view to promoting the licensing objectives the Sub-Committee must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The representations presented by all the parties
- The Home Office Guidance issued under section 182 Licensing Act 2003
- The Lewes District Council Statement of Licensing Policy
- Any other relevant legislation

6.2 The Licensing Act 2003 requires representations to address the four Licensing Objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

A representation is a 'relevant representation' if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a *likely* effect of a grant (i.e. more probable than not).

6.3 Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. It covers the licensable activities for retail sale of alcohol, which is the subject of this application. A copy of the Licensing Policy is attached at **Appendix 5**.

6.3.1 The aims of the Policy are to secure the safety and amenity of residential communities, to help ensure a sustainable environment and provide regulation of the cultural/entertainment industry, and to promote the four Licensing Objectives.

6.3.2 The three guiding principles (set out in paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.

6.3.3 In each case that arises following representation, the Policy states that the Council will:

- Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of residents to peace and quiet.
- Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
- Consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.

6.4 The relevant sections of the Home Office Guidance are attached at **Appendix 6**.

6.5 The Licensing Sub-Committee should be mindful of requirements and responsibilities placed on them by other legislation, in addition to those contained within the Licensing Act 2003. These include, but are not limited to, having due regard to the Equality Act 2010 and the Human Rights Act 1998.

6.6 The Sub-Committee is asked to note the procedures relating to this hearing

which are contained within The Licensing Act 2003 (Hearing Regulations) 2005 (as amended) and attached at **Appendix 7**.

7 Options

7.1 When considering this application for a premises licence the following options are available to the Sub-Committee:

- Grant the Licence in the same terms as it was applied for (in light of the mediated conditions)
- Grant the Licence, but modify the conditions as appropriate for the promotion of the licencing objectives
- Grant the Licence, but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives
- Reject the application.

8 Right of Appeal

8.1 Under Section 181 and Schedule 5 of the Act, there is a right of appeal to the Magistrates' Court in respect of applications for new licences. This right of appeal is open to both the applicant and to any person who has made relevant representation. The appeal application must be made within 21 days of the written notification of the Sub-Committee's decision.

9 Financial appraisal

9.1 A decision made by the Sub-Committee may be appealed by any party to the proceedings to a Magistrates Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council.

10 Legal implications

10.1 Under section 18 of the Licensing Act 2003 (as amended), following receipt of an application for a premises licence, under section 17 of the 2003 Act, if relevant representations are received, and unless all parties agree that a hearing is unnecessary, then the Licensing Authority must hold a hearing. At the hearing the Sub-Committee shall having regard to the representations take such steps as it considers appropriate for the promotion of the licensing objectives. The relevant options are outlined in para. 7.1 of this Report.

10.2 The Legal Section considered this Report on 3 August 2020 (IKEN 9417-LBC-MW)

11 Risk management implications

11.1 There are no risks associated with the content of this Report.

12 Equality analysis

12.1 An Equality Analysis is not constructive in this instance.

13 Environmental sustainability implications

13.1 There are no sustainability and/or carbon reduction implications associated with this Report.

14 Appendices

- Appendix 1 Application and Plan of site
- Appendix 2 Site Overview
- Appendix 3 Representation Sussex Police
- Appendix 4 Representation Mr Perkins
- Appendix 5 Lewes District Council Licensing Policy
- Appendix 6 Relevant sections Home Office Guidance
- Appendix 7 Hearing Regulations 2005 (as amended)