

**OPEN**

By virtue of paragraph(s) X of Part 1 Schedule 1 of the Local Government Act 1972.

**Licensing Act Sub-Committee**

**23<sup>rd</sup> January 2024**

**Application for a Premises Licence –  
FAIRVIEW VINEYARD LTD, FAIRVIEW,  
GOLDFORD LANE, MALPAS, SY14 8LL**

---

**Report of: Peter Skates, Acting Executive Director – Place**

**Ward Affected: Wrenbury**

**Purpose of Report**

To allow Members of the Sub-Committee to determine a contested application for a new premises licence made under the Licensing Act 2003 for the following premises:

**FAIRVIEW VINEYARD LTD, FAIRVIEW, GOLDFORD LANE,  
MALPAS, SY14 8LL**

**Executive Summary**

- 1 The report provides details of an application for a Premises Licence, under section 17 of the Licensing Act 2003, sets out the relevant representations made, and outlines the evidence presented by the parties in relation to the application.

**RECOMMENDATIONS**

The Licensing Act Sub-Committee is requested to consider the application and any relevant representations and determine what steps, if any, it considers are appropriate to promote the Licensing Objectives.

## Background

- 2 On 6<sup>th</sup> December 2023 an application was received by the Licensing Department for a new Premises Licence in respect of a premises known as:

**FAIRVIEW VINEYARD LTD, FAIRVIEW, GOLDFORD LANE,  
MALPAS, SY14 8LL**

- 3 The application was sent for consultation the same date. The last date for representations to be made was 3<sup>rd</sup> January 2024. A copy of the application is attached to this report at **Appendix 1**.
- 4 The premises is described by the applicant as an established vineyard. The applicant intends to sell alcohol via a website/online shop.
- 5 However, on weekends during the summer months of June, July and August, the applicant also intends to operate limited public tours of the vineyard. The tours will include wine tasting and off-sales.
- 6 The applicant emphasises that such tours of the vineyard will be the only occasions that the vineyard will be open to the public for licensable activities.
- 7 Copies of two plans provided by the applicant are attached to this report at **Appendix 2 & Appendix 3**.
- 8 The report writer has provided two maps of the area in which the premises is located (the premises is marked on each with a red X). Both maps are attached to this report at **Appendix 4 & Appendix 5**.
- 9 The operating schedule indicates that the only relevant licensable activity applied for is **the supply of alcohol** for consumption **both on and off** the premises. The hours applied for are as follows:

Days	Start	End
Monday to Sunday	10:00	17:00

No application has been made for seasonal variations or non-standard times in relation to the supply of alcohol.

- 10 The applicant states that the opening hours are intended to be:

Days	Open	Closed
Saturday	10:00	17:00
Sunday	10:00	17:00

- 11 With regard to seasonal variations to the opening times, the applicant states that the premises will only be open to the public during June, July, August and September.

## Consultation and Engagement

- 12 Licensing records show that the Public Notice that is required to be displayed at or near the proposed premises in accordance with the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, has been inspected by a Licensing Officer on 11<sup>th</sup> December 2023, confirmed to be present, and met the requirements under the regulations. The Public Notice has also been duly advertised on 13<sup>th</sup> December 2023 in the Whitchurch Herald, as required.

- 13 Responsible Authorities:

The Licensing Authority has not received any representations from the responsible authorities.

- 14 Other Persons:

The Council received representations against the application from ten members of the public. They relate to all four Licensing Objectives (The prevention of crime and disorder; Public safety; The prevention of public nuisance; The protection of children from harm). The Council has also received four representations in support of the application from members of the public. Copies of all of those representations are attached to this report at **Appendix 6** to **Appendix 8**.

In light of the above, the applicant has subsequently provided clarification regarding their intentions. A copy of their correspondence is attached to this report at **Appendix 9**.

## Reasons for Recommendations

- 15 The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003 and the Council's Constitution.

- 16 Acting in the capacity of the Licensing Authority, Members must seek to promote the Licensing Objectives and where Members consider that matters have engaged one or more of the Objectives, they may exercise their discretion. The Licensing Objectives are:
- The prevention of crime and disorder
  - Public Safety
  - The prevention of public nuisance
  - The protection of children from harm

### **Other Options Considered**

- 17 No other options have been considered because the process for determining contested applications is set by legislation.

### **Implications and Comments**

#### ***Monitoring Officer/Legal***

- 18 The Sub Committee must determine this application in accordance with section 17 of the Licensing Act 2003. To do so otherwise would render its determination unlawful and invalid.
- 19 In accordance with the provisions of section 18 (3)(b) of the Licensing Act 2003 the Licensing Authority Sub Committee must, having regard to the representations, made in this application take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.
- 20 Section 18 (4) provides that the authority may:
- Grant the licence subject to conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives and any mandatory conditions that must be included on the licence in accordance with the Licensing Act 2003;
  - Exclude from the scope of the licence any of the Licensable Activities to which the application relates;
  - Refuse to specify a person in the licence as the Premises Supervisor;
  - Reject the application.
- 21 Members are reminded that should any conditions be added or amended, they should be practical, enforceable and appropriate to promote the Licensing Objectives.

- 22 Members may not extend the period for which the licence has effect.
- 23 Members are reminded that they are to determine the application before them and cannot change parts of the licence that are not part of the application.
- 24 Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to do so. Careful consideration should be given to the application and the evidence presented by the parties in relation to the application.
- 25 Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to through all of its various functions, and Licensing is one of those functions to do all that it can to prevent Crime and disorder, Anti-social Behaviour, behaviour adversely affecting the environment and reoffending.
- 26 Members must give reasons for their determination and notice of it must be communicated to the parties to this application. If Members depart from the Statutory Guidance or the Council's Statement of Licensing Policy then their decision notice must set out the reasons for doing so.
- 27 Finally, Members are also reminded that in determining the application, consideration also needs to be given to:
- The rules of natural justice
  - The provisions of the Human Rights Act 1998

### ***Section 151 Officer/Finance***

- 28 There are no financial implications

### ***Policy***

- 29 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.
- 30 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.
- 31 Members should provide reason(s) for any decision taken and should set out the reasoning where they determine to depart in any way from the Policy or Guidance.

### ***Equality, Diversity and Inclusion***

- 32 There are no equality implications.

### ***Human Resources***

33 There are no human resources implications.

### ***Risk Management***

34 The Licensing Sub-Committee will hear representations made on behalf of both the applicant and the 'relevant person' who has submitted their representation and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 makes provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority

### ***Rural Communities***

35 There are no implications for rural communities.

*Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

36 There are no implications for children and young people.

### ***Public Health***

37 There are no direct implications for public health.

### ***Climate Change***

38 There are no implications for climate change.

<b>Access to Information</b>	
Contact Officer:	Richard Hellon
Appendices:	<p>Appendix 1 – Application</p> <p>Appendix 2 – Plan</p> <p>Appendix 3 – Plan</p> <p>Appendix 4 – Map</p> <p>Appendix 5 – Map</p> <p>Appendix 6 – Representations</p> <p>Appendix 7 – Representations</p> <p>Appendix 8 – Representations</p> <p>Appendix 9 – Correspondence from applicant</p>
Background Papers:	<p><a href="#">Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk)</a></p> <p><a href="#">Council's Statement of Licensing Policy published under section 5 of the Licensing Act 2003</a></p> <p><a href="#">Licensing Act 2003</a></p> <p><a href="#">The Licensing Act 2003 (Hearings) Regulations 2005</a></p>