

# Public Document Pack



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Dear Councillor

## **SOUTH HAMS LICENSING SUB-COMMITTEE - THURSDAY, 7TH JANUARY, 2021**

I refer to the agenda for the above meeting and attach papers in connection with the following item(s).

### **Agenda No    Item**

3.    **Application for a new Premises Licence at Calancombe Winery, Modbury, Ivybridge, Devon, PL21 0TU (Pages 1 - 28)**

Appendix E – Additional Supporting Information From the Applicant  
Appendix F – Applicant's Letter to the Objectors  
Appendix G – Further Representations

Yours sincerely

Darryl White  
Democratic Services Manager

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# Agenda Item 3

Calancombe Estate Holdings Limited  
Modbury  
Devon  
PL21 0TU  
29 December 2020

## **Premises Licence Application: South Hams 1018086 – Applicant’s additional supporting information/documentation**

This document covers the following points:

1. **Background and summary of applicant’s key points/position**
2. **Applicant’s responses to objectors’ comments**
3. **Additional comments by applicants and proposed actions to manage objections raised.**

### **1. Background and summary of applicant’s key points/position**

It comes as no surprise that our neighbours are objecting to the establishment and development of our business; nobody likes change, particularly in a rural backwater such as the Witchcombe Valley, populated by farmers who have just followed the same path set by their fathers and grandfathers, and where changes to the way of life are virtually unknown, as confirmed by some of the objectors. We have not been blind to our neighbours’ quiet disapproval of our initiative, which is particularly disappointing because we have been working hard to restore a farm that had been allowed to become derelict in the hands of a long-term resident of this Valley, we remain meticulously polite to our neighbours, and we have provided two of the objectors with free grazing land since we moved here; Spriddlescombe Manor’s sheep as recently as this month. Because our farm is small, about 64 acres, and the ground is too steep for arable farming, other traditional options that were open to us, such as sheep and cattle, are not financially viable. For our business to thrive, we must grow a high quality crop and add value to it, on site. A vineyard, fruit farm and winery are the most logical options, especially as the ground and the location are ideal for these activities.

Fundamental to our business decision is legal precedent, from the Court of Appeal, the Millington Case. This Case involved an English winery very similar to Calancombe Estate, with narrow access lanes, that faced the same local objections. The Case is still “good law” today (therefore directly applicable to our situation) and makes it clear that the sale on the farm of agricultural products, including cider and wine, grown and produced on the farm cannot be prevented. Further, in the Millington case, the neighbours of the vineyard complained about access, but it was concluded by the Court of Appeal “that the agricultural activity of selling

wine, offering tours of the vineyard and winemaking facilities (effectively a visitor attraction) could not be prevented by the authorities, notwithstanding some neighbours were unhappy about the increased traffic and narrow access road". This case also supports and permits the use of our agricultural buildings by visitors.

Notwithstanding the rights offered to us by the Millington Case, our position is that the best option for all of us is that we are granted a premises licence and this would define our business hours, during which we would run activities etc. Everyone would know when best to use the lanes for the movement of livestock, etc. Included in this permission could be a consensus agreement from our neighbours about traffic routes, and other factors.

We must make our farm work, to meet our financial commitments and make a living, and we will do whatever we must, within the UK legal framework, to protect our interests.

In summary:

- **We do not consider that any of the objections raised are relevant for the purposes of evaluating whether a premises licence should be granted, and are outside the scope of the Licensing Sub-Committee powers.** Nevertheless, we have made suggestions in this document to alleviate issues raised by the objectors and have sent a document to all objectors summarising our proposal and also making suggestions as to how to manage the objections they have raised. Furthermore, we consider that the concerns raised by the objectors are unfounded because the additional traffic anticipated by activities at the vineyard are not likely to be significant.
- **We are serious about and will ensure we meet the 4 licensing objections as stated in our application.**
- **We are not applying to open in the evenings.** The opening hours are 11 a.m. to 5 pm. Our opening hours will be clearly displayed on our website and the primary activity will be tours which will be booked in advance
- **We are not opening a pub, wine bar or restaurant, and we have no plans to host weddings or similar events.**
- **We want to do all we can to manage traffic and safety on the surrounding lanes and have outlined below our thoughts on how we can do this:**
  - In all correspondence with potential visitors and on our website, we will make it clear that the lanes are narrow with limited passing places and that guests must drive slowly and carefully. We will also remind guests that the lanes are used by horse-riders, joggers and by farmers moving their animals.
  - We suggest guests approach the vineyard from one direction and leave in the other direction and that we put up signage where needed, and brown tourist signs in appropriate places to facilitate this – there are three possible roads to

the vineyard from the nearest main roads. We will adhere to the route decided by the consensus of our neighbours.

- We will re-open a gateway to one of our fields that runs along the lane to create a further passing place and we will improve the two existing gateways so they can be more easily used as additional passing places. We would be very happy to work with any neighbours to create additional passing places which we believe would benefit everyone, including visitors to the neighbouring farms/properties along the lane.
  - We will be adhering to defined opening hours so any farming activities, such as the movement of sheep and cattle can be planned to take this into account. However, if we are notified of any other significant activities, we can highlight potential delays to customers who have booked to visit us or, with adequate notice, alter the times for tours etc on such days.
  - We would fully support any applications for either reducing the existing 60mph speed limit and for the positioning of riding road warning signs on our lanes
  - Impact on dogs/animals/children etc – we live on a public highway so we must all take steps to keep livestock and children safe and, if there is a risk that they will run into a public highway, it is only prudent for the residents to use gates or other security measures. Presently, some animals and children are not protected from traffic by gates and fencing and we consider this behaviour by the landowner to be extremely careless/negligent.
- **To put our application in local context, nearby Shilstone Manor and Ludbrook Manor, are licensed wedding venues**, with similar vehicular access to Calancombe Estate; they attract large numbers of guests throughout the year, and they seem to operate without any local safety issues, despite the celebratory nature of their events and a traditionally high consumption of alcohol at wedding receptions.
  - **We are keen to find an amicable way forwards with our neighbours and we wish to live in harmony with them.** We will pursue every avenue that the law offers us to ensure we develop a successful business. We have committed ourselves totally to our business and we believe passionately in what we are doing. We will bring benefits to residents and visitors to South Hams, provide local employment and we will respect and comply with the conditions defined by the South Hams District Council Licensing Team.

- Without a Premises Licence, we will still actively encourage guests to visit (we just won't sell alcohol to them) and we would offer additional activities, that fall outside the scope of licensing, to make up for the loss of income. With no Premises Licence, we will not be constrained over opening hours, routing, etc.

## 2. APPLICANT'S RESPONSES TO OBJECTORS' COMMENTS

Further to the application by Calancombe Estate Holdings Limited for a premises licence, Company Director, Caroline Whitehead and Lance Whitehead, the Designated Premises Supervisor, wish to make the following points, which include responses to objections raised, and additional information that we consider pertinent to the application and the grant of a premises licence.

- **The objections raised are not valid grounds for refusal for a premises licence.** We believe that the points of objection raised are not relevant for the purposes of assessing whether a premises licence should be granted. However, recognising our neighbours' right to raise objections, and wishing to ensure we do our best to allay concerns raised, we have sent a letter to all the objectors, a copy of which is attached at Annex 1, below. The letter clarifies why we need a premises licence and it also provides suggestions/proposals to deal with each of the concerns raised. Our neighbours' comments principally relate to vehicular access to our farm, and associated traffic. We are eager to live in harmony with all our neighbours so we can all continue with our day to day business and we are keen to find a positive way forward.
- **Comments on objections raised.** On the basis that some objectors (Clarke, Daw, Cane) raised concerns under headings which follow the four licencing objectives (although most comments do not relate to licenced activity), we have submitted our responses under the same headings, and these comments also respond to most of the other objectors' points (Buckpitt, Furneaux, Hosking). Additionally, we have added a few responses that relate directly to some of the latter comments. It is worth noting that in 2 of the 3 freehold-owned farm households (Higher Spriddlescombe and Spriddlescombe Manor) the objectors were in the minority. Specifically, Martin Daw's son, father and mother decided not to object, and David Furneaux's brother, his brother's wife and son chose not to object either.
  - **Public Safety**
  - We agree that the routes that lead to Calancombe Estate, being typical Devon B-roads, are narrow. However, these lanes are used without incident by some large vehicles e.g. regular milk collections by tanker from Spriddlescombe Manor, regular refuse collection from all properties and aggregate and animal feed lorries to several locations. Devon has thousands of miles of unclassified roads such as ours, in fact, most roads in South Devon are unclassified single track roads, and everyone seems to manage their lives well enough and many of these roads have significant traffic movements e.g. the lanes around South

Milton, Thurlestone, Bantham, Bigbury etc. Even travel on the key routes from where we live (the B3196 between the A38 and Loddiswell and the Brownston Road to Modbury are single track in places, and both these roads carry high volumes of traffic in a satisfactory manner.

- The routes to Sharpham Vineyard, and other vineyards in the South West, are not dissimilar. Sharpham Vineyard is accessed along narrow lanes and all visitors must drive through the village of Ashprington, which has many properties opening directly onto the road with villages using gates as necessary to keep children and dogs safe. We are not aware of any road traffic incident involving vehicles visiting Sharpham.
- Since purchasing the farm, in 2012 (which included a holiday let business that by then had operated for 3 years), over 4,000 guests have stayed here, at all times of the year, and we are not aware of them being involved in a single incident on the roads that approach our farm.
- We are not opening a restaurant, or a pub or a wine bar and we have no intention of holding weddings or large events.
- Our request for a premises licence is to enable guests to sample our produce and buy wine, cider and other drinks that we make on the farm, to take home when they visit us. This is the same as most vineyards in UK and around the World. The experience is educational in nature.
- The suggestion that we would encourage visitors to drink and drive is unreasonable, and we will take active measures to prevent this, in accordance with the SHDC Licencing Policy. Our measures to ensure public safety are outlined fully in our application.
- **Prevention of Public Nuisance**
- Reference is made by one of the objectors to the road being under maintained. This is not true. The lanes are typical of South Hams; they were re-surfaced about 2-3 years ago, and they are generally in good order, although the farming activity of several objectors results in large quantities of mud being transferred to the road and little attempt is made by the farms to remove it, in direct breach of the Highways Act 1980 and the Road Traffic Act 1988, usually no attempt is made to warn drivers. This is probably the single most dangerous issue on our lanes, together with several farm's gates opening onto the road, rather than into fields, also in breach of the Highways Act.



- Regarding reference to ‘existing problems’ with current traffic volumes, like all residents in the area, we have become increasingly dependent on delivery services, particularly because of Covid 19 restrictions. We suspect most or all the objectors also benefit from the same retail delivery services. In our case, only about 20% of the items we receive from couriers are directly related to the Farm, or our wine making activity, with the majority being purchases for our own personal use. The alternative to couriers involves driving from the farm to shops, which would also generate traffic.
- Current daily traffic to our farm varies from 1 or 2 vehicles (i.e., the postman and our wine maker) to 3-4, if courier or supermarket deliveries occur, and possibly 5-7 if we have holiday guests staying with us. Our neighbours do occasionally walk dogs, and riders from Mr. Daw’s commercial livery stables also use the lane, but I am not aware that there has ever been an issue since we moved here in 2012. Additionally, we are not aware of any initiatives by Mr. Daw, or others, to have the speed limited reduced from 60mph and we have not seen any effort to post horse riding warning signs on the lanes either.
- Complaints about traffic density being unacceptable, even now, seems to highlight objector’s opinion that any traffic is too much traffic. Further, to refer to how things were 30-50 years ago is not relevant; much has changed locally and elsewhere in that time. We believe that the current traffic density is extremely light, compared to any part of UK. We drive to and from our farm virtually every day of the year (and we are furthest from the main roads) and have only had to reverse on very few occasions (probably not more than 12 times in 7 years), and these incidents have included reversing for some of the objectors’ cars and tractors.
- Objectors have singled out our holiday letting business, as a source of unwelcome traffic volume. However, several other neighbours also let properties (including two of the objectors (Daw and Clarke)).
- Most visitors to our vineyard and winery live in South Devon, and this trend is expected to continue, so, most drivers on the way to Calancombe Estate will be familiar with the road conditions on our lane; many live in similar circumstances, so concerns of ‘uninitiated drivers’ seems to be based on the incorrect belief that all our visitors will have driven down from Chelsea, or similar environs. Most drivers that are unfamiliar with the local roads (such as our holiday guests) drive very cautiously. We have no control over courier drivers.

- Looking forwards to a potential increase in traffic when customers visit the Vineyard, we do not anticipate volumes that would be beyond the capacity of the lanes. We expect hold tastings 4 or 5 times a week. We propose to establish an advisory one-way approach and departure, and the layout of the roads does enable this, and we will adhere to a traffic flow system given to us by the consensus of our neighbours, if that helps. Virtually all visitors will come to our vineyard by appointment and we will remind them to drive slowly and we will point out the hazards that the objectors have listed, such as livestock movement, horse riding, children, and dogs, etc.
  
- In addition, we would be happy to pay for a sign on the approach from the B3196 to Higher Witchcombe Farm to warn about the farmyard through which the lane travels, provided we are permitted to do so by the Devon County Council's Highways Department. Despite Mr. Daw's comments about road safety his farmyard is built on both side of the road, a public highway, and he treats the lane as an integral part of the yard with no gates or fences either side of the road so there is nothing preventing dogs, children or livestock from running from one side to the other or roaming freely along the lane. Please see Annex 2 photos of Higher Witchcombe Farm. In our opinion the lack of fencing and gates is negligent if not reckless behaviour. It is worth pointing out that Mr. Daw chose to build his farmyard and stables across the public highway, rather than extending the facilities on one side of the road, for which there was plenty of space. Furthermore, his farmyard is only approximately 100 metres from the main road running between California Cross and the A38 so there is also a potential risk his animals could get onto this road due to his lack of gates/security. Further, Mr. Daw continuously and illegally obstructs the lane opposite his house, to slow traffic using a chicane made from traffic cones, and other objects, that often extends to beyond the middle of the lane, forcing traffic into his farmyard, and he has set-up unauthorised 15MPH road signs in the verges.
  
- Most of the objectors' properties are set well back from the road such that we do not believe that their quiet enjoyment of their environment will be compromised by visitors to our farm. Please see at Annex 2 images from the public highway of the tracks that lead to the objectors' homes. In almost every case, the residences are far away and out of sight of the lane. The closest residence to our Winery Building, is Bearscombe (Clarke family), slightly less than ½ a mile away, about 200m along a private track, well away from the lane.

- **Protection of Children for Harm.**
- We have absolutely no wish to transform our lovely, peaceful valley into the 'death-trap' that one objector refers to. The comment about 'many families' by one objector suggests that the lane is heavily populated, which it is not. We believe that no young children live in any of the properties along the lane, although some do visit, of course. On the lane between Marridge Cross and our farm there are only 6 households. The first 2 (including Higher Witchcombe Farm) are within 100m of the busy B3196 Loddiswell Road. Despite this, the residents have not seen the need to gate their properties to keep visiting young children or dogs from wandering into harm's way on one of the busiest roads in the area. The next residence is occupied by a couple (lawyers) and grandparents live in the next 2 houses (and they are occasionally visited by their grandchildren). Lastly, Bearscombe is located about 200m South of the lane, in a secluded and private site. In the other direction, no children live in Spriddlescombe Manor or Ley Combe Farm. The tenant of Yarnacombe, (Allan Buckpitt) has a son, but we believe he usually lives elsewhere with his mother and visits from time to time. Also, Yarnacombe farmhouse is located almost 300m from the public highway along a private road.
- **Prevention of Crime and Disorder**
- We have absolutely no desire to introduce a wine bar, a restaurant or a pub onto our Farm, or road rage onto the lanes, and we will not tolerate 'uncontrolled activity' either. Calancombe is our only home and we share our neighbours' desire to live in peace and safety. Some objectors assume that our clients are likely to leave the premises drunk and belligerent, and that drivers will drink and drive. On the contrary, we will enforce the measure outlined in the South Hams District Council Statement of Licencing Policy carefully.
- Most of our customers will be mature, middle-aged people from the local area, who share our love of wine. We have no intention to attract undesirables into the area, and we will not tolerate disruption or unacceptable behaviour. We would like our guests to enjoy the vineyards and orchards and appreciate the views across South Hams to the sea, and across to Dartmoor. We will encourage visitors to explore by themselves or be guided by us formally. Again, because this is our home, and the vineyards are fundamental

to our livelihood, we will absolutely control access, as we do already, and we will be alert to any issues that may arise.

### **Other Objectors' Comments.**

With regards to the movement of livestock, this activity in total probably does not amount to more than a few hours a year. We feel that this is not sufficient justification to prevent our premises licence being granted. Cattle are moved on many far busier public highways throughout the UK and farmers are required to carry out a risk assessment and act accordingly, and this can involve the use of vehicles leading and following. Rule 58 of the Highway Code makes it clear that it is the farmer's responsibility to prevent accidents.

Mr. Michael Buckpitt (from Blackawton, near Totnes) commented that traffic in the summer is making it difficult to carry out farming operations on Yarnacombe Farm. We find this very difficult to accept, as the farm is almost entirely a conjoined area with direct access to all fields from the central farmyard. His statement is an exaggeration. Mr. Allan Buckpitt from Yarnacombe is located close to the main road; this route is mostly straight with excellent visibility and there is a good passing place half-way along. There is little need for him to use the lane along our valley and we almost never encounter him on this route.

### **3. Additional comments by the applicants and proposed steps to manage concerns raised**

Sustainability and low-carbon production are important to us, and we have already taken active measures to offset carbon emissions. Additionally, the planting of thousands of trees, vines and fruit bushes makes a real contribution to the environment.

**Lance and Caroline Whitehead's background.** Caroline is a senior and highly experienced international commercial lawyer, and she has run international industrial and healthcare businesses across Europe, Latin America and in Asia; her family have been farmers for several generations and her father worked in the agriculture sector throughout his professional life. From this background, she has a high degree of empathy with the rural environment. Additionally, her ancestors built and operated sailing Brixham Trawlers and brig schooners that served Devon commerce for over 200 years, so she has deep roots in South Devon. Lance spent much of his childhood on farms and living in the rural environment, and he was a Young Farmer for several years. He served all over the World on operational service as an officer in the Royal Air Force Regiment for 21 years before pursuing a career in the venture capital industry. His roots are also genuinely rural. Many of his forefathers were farmers and he has Devon seafaring ancestry. So, we are not typical 'down from London' newcomers. We have the experience and motivation to run a successful, compliant local business, as we transition from our former careers, and will take whatever measures are

needed to justify the granting of a premises licence, so we can grow a family business in a constructive and sensitive manner.

**Traffic Control.** Almost all our guests will pre-book and pay for visits to the Vineyard and Winery, so we will ensure that they are aware of the routes in and out of the farm, and we will warn about the possibility of livestock movements, riding, children, etc. We will be happy to comply to a consensus between our neighbours regarding the routes that should be used for approach and departure. However, we are uncertain whether a consensus is possible. The proposal from Clarke, and Daw was that all traffic in and out goes past Furneaux, Hoskin and Buckpitt, and we suspect they may not find this acceptable. We set-out our proposals in our letter to objectors at Annex 1, below.

**We are Running an Agricultural Business.** One of the objectors refers to us as ‘landowners’ with ‘luxury accommodation’ on the farm, an inference that we are idle rich. We are not – Calancombe Estate is a working farm, and the word ‘Estate’ in our case refers to a wine maker that produces wine solely from grapes grown on the site – it is not a pretension. We are farmers, and we work the farm every day to service our mortgages and business loans, and eventually we hope to make a living here, as our sole activity.

**The Facts of Life of a Winemaking Business.** Within the limitations of our existing licence, we must sell most of our produce to wholesalers and retailers, (at a ~35-40% discount to retail prices) thus giving away much of the value of our products to others. C-19 has resulted in a dramatic (60-70%) fall in our wholesale orders. With margins on wine sales being very narrow, the only way we will ever make our business pay is to sell products directly to the public, and this has always been our intention.

The establishment of a direct sales channel is critical to the survival of our business because it will improve margins, so that we can emerge from current loss-making situation. Mr. Clarke’s comment that the commercial need for direct sales is ‘miniscule’ is incorrect, and there is absolutely no basis on which he can draw this conclusion. His comment that we produce ‘large quantities’ of wine is also incorrect. Our vineyard is relatively small, and we will have to run it very efficiently for it to become commercially viable. Additionally, 40% of our vines are not yet producing fruit, and 75% of the apple trees are not yet productive.

Nevertheless, we are creating jobs. We have a full-time winemaker living in Modbury, together with a part time salesperson, a long-time resident of Modbury. In addition, we are regularly supported by an agricultural contractor from Brownston, whose family has farmed in the area for generations, and we also employ contract labour in the vineyard throughout the year, pruning and tending the vines. Each autumn, around 30 volunteers from the local area come to help us with the harvest, and they thoroughly enjoy the experience. This year,

volunteers brought ~20 cars to and from the farm, daily over 10 days, with no comment or complaint from our neighbours, and no incidents occurred on the lanes.

Annex 1  
Letter to Objectors

We have read the objections you raised and have had the opportunity to talk to a representative of one of the objectors. We wish to clarify several points that have been made in the objections and outline proposals to allay concerns that have been raised about public safety, nuisance, protection of children from harm and prevention of crime and disorder.

1. **We are not opening a pub, wine bar or restaurant, and we have no plans to host weddings or similar events.** We grow grapes, apples, blackcurrants and other plants from which we make wine, cider and other drinks. The primary purpose for obtaining a premises licence is to enable our guests to try the products that we make on site, from produce that we grow here, and purchase them for consumption at home.
2. **We are not applying to open in the evenings.** The opening hours are 11 a.m. to 5 pm. Our opening hours will be clearly displayed on our website and the primary activity will be tours which will be booked in advance, with group sizes ranging from around 4-12 people per tour. We will make it very clear to you all when we are open and we will also clearly display opening hours on our website.
3. **We will not tolerate drunkenness or allow the premises to be used for drinking sessions.** Lance takes his responsibilities as Designated Premises Supervisor very seriously.
4. **We will always remind customers about drinking and driving.** All guests will be provided with water and spittoons (when COVID 19 permits) at tastings.
5. **We want to do all we can to manage traffic and safety on the surrounding lanes and have outlined below our thoughts on how we can do this:**
  - a. In all correspondence with potential visitors and on our website, we will make it clear that the lanes are narrow with limited passing places and that guests **MUST drive slowly and carefully**. We will also remind guests that the lanes are used by horse-riders, joggers and by farmers moving their animals.
  - b. We suggest guests approach the vineyard from one direction and leave in the other direction and that we put up signage where needed, and brown tourist signs in appropriate places to facilitate this – there are three possible roads to the

vineyard from the nearest main roads. We will adhere to the route decided by the consensus of our neighbours.

- c. We will re-open a gateway to one of our fields that runs along the lane to create a further passing place and we will improve the existing gateway so it can be more easily used as a passing place. We would be very happy to work with any neighbours to create additional passing places which we believe would benefit everyone, including visitors to the neighbouring farms/properties along the lane.
- d. We will be adhering to defined opening hours so any farming activities, such as the movement of sheep and cattle can be planned to take this into account. However, if we are notified of any other significant activities, we can highlight potential delays to customers who have booked to visit us or, with adequate notice, alter the times for tours etc on such days.
- e. We would fully support any applications for either reducing the existing 60mph speed limit and for the positioning of riding road warning signs on our lanes.
- f. Couriers – A complaint was made about the increase of couriers to Calancombe Estate. In fact, most courier visits are for personal purchases. Like most people, we have become more dependent upon couriers, since the beginning of COVID.
- g. Impact on dogs/animals etc – we live on a public highway so we must all take steps to keep livestock and children safe and, if there is a risk that they will run into a public highway, it is only prudent to use gates or other security measures. Presently, some animals and children are not protected from traffic by gates and fencing.

**Higher Witchcombe Farm (Daw & Cane)**

Four photographs taken from the public highway showing the virtual lack of gates or fencing between farmyard/stables and residential accommodation the highway:



Track to the stables



Ungated access to yard





Open access to houses



Open access to house

**Bearscombe (Clarke)**

Photo taken from public highway towards Bearscombe, out of sight around 200m away.



**Spriddlescombe Manor (Furneaux)**

Objector's house well away from lane, ~200m across the valley





**Ley Coombe Farm (Hosking)**

First photo from public highway showing the private road to Ley Coombe Farm. Second photo taken around 60m along the road looking towards the farmyard – house still out of sight.



**Yarnacombe Farm (Buckpitt)**

First photo taken from the public highway. Second photo taken 30m along the private road towards the farmhouse, still well out of sight.



Calancombe  
Modbury  
Devon  
PL21 0TU

21 December 2020

Dear neighbours,

We have read the objections you raised and have had the opportunity to talk to a representative of one of the objectors. We wish to clarify several points that have been made in the objections and outline proposals to allay concerns that have been raised about public safety, nuisance, protection of children from harm and prevention of crime and disorder.

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- b. We suggest guests approach and leave the vineyard along a specified route and that we put up signage where needed, and brown tourist signs in appropriate places to facilitate this – there are three possible roads to the vineyard from the nearest main roads. We will adhere to the route decided by the consensus of our neighbours.
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- g. Impact on dogs/animals etc – we live on a public highway so we must all take steps to keep livestock and children safe and, if there is a risk that they will run into a public highway, it is only prudent to use gates or other security measures. Presently, some animals and children are not protected from traffic by gates and fencing.

Kind regards

Caroline and Lance Whitehead



## **OBJECTION 7**

### **Public safety**

There are few passing places on the access routes to Calancombe as it is and nearly all require the goodwill of existing residents. As you can see from the videos there are at least 9 blind corners on the routes, 3 of which require reversing by either party for up to roughly 100m via even more blind corners to reach a passing place. This is not a safe setting to introduce increased traffic, especially given that many of these users will not be familiar with the associated perils and difficulties.

If we posit the following situation where a new driver approaches a blind corner at too much speed and is forced to veer into a resident's drive to avoid oncoming traffic and as a result hits a resident or family member. Surely this would be an added risk as a direct result of the implementation of this license and constitute a hazard to public safety. Any resolution needs careful and planned system to avoid these hazards. It should be in place before the granting of the license is considered.

### **Prevention of public nuisance**

By encouraging more traffic along a road recognised by the planning authority as an already hazardous route, I believe the granting of this license will have the potential to cause needless stress, arguments and unrestricted congestion. See Below.

The applicants made this application with the knowledge that the planners deemed this road unsuitable for increased traffic and appear to be using the licensing authority to circumvent this restriction. See Below.

### **Protection of children from harm**

Only to the extent that use of drives as passing places can lead to blind reversing and potential harm to residents and their families.

### **Notes:**

The applicants use Millington as a precedent but the similarities are tenuous to say the least. The road to that vineyard is some 150 mts long, straight and fairly wide. In addition the area is already accustomed to tourist traffic due to the Roman site after which the vineyard is named. The main road it joins is the same size as the B3196. The B3196 is 1 mile in either direction from Calancombe and the road is full of right angle bends, few passing places (none publicly owned) and few areas wide enough for two cars to pass. I also can find no record of any planning restrictions placed on their vineyards usage similar to those contained in the permissions granted by the planning authority for the barn ( 1373/16/FUL/highways). See supporting documents. I note especially M/s Halls comments re highways and more pertinently usage; The plans attached to the license application show the whole area of the extension made over to the shop, bar and kitchen with a visitor centre above and this is at odds with the stated objective and usage of the permission granted (expansion of agricultural barn to allow additional storage area).

'Highways/Access:@='

The existing barn is considered to generate its own traffic, but it is likely that the vast majority of this will be confined to the farm itself, as farm machinery and plant. The proposal, although adding to the area of the barn is therefore considered to be unlikely to have any capacity to generate traffic that would have a significant impact on the highway. The barn is located at the end of an agricultural track.'

The above is just an excerpt and the full document is attached.

This agricultural barn is now proposed to be used as a visitor centre with catering kitchen and shop. Although no further permissions have been sought as far as we are aware. To confirm the extract of the ruling above relating to the highway is what the licensing authority will be overturning when granting the license based on the Millington case and I seek your advice on whether this is correct/intended. I must assume that that condition has been included by the planning officer from a solely safety concerned viewpoint and if the jeopardization of public safety on a shared public access route is not causing a public nuisance, then what is?

The applicant makes pointed reference to the fact that we have not complained about the road's quality previously, but I think it is fair to point out that we have had no cause to as it is currently fit for its present purpose. Equally it has to be said that the applicants were aware of its limitations when they chose to purchase the property and alter its use. And even if they weren't then they clearly were made aware after the planning officers ruling. To choose to ignore these facts in their license application and attempt to circumvent them is fairly disingenuous and they cannot be surprised by others bringing it to their attention.

#### **Objection 7 - Further Comment :**

The Millington case is key to this whole situation. The applicants are using it to justify the bypassing of due process and I would suggest it is important for the council to be clear about its content prior to rubberstamping a license allowing the dangerous usage inherent in this proposal. (Millington v Secretary of State for the Environment, Transport and the Regions). Millington established that producing wine cider etc from your own grapes, trees etc is an agricultural process and therefore it is perfectly acceptable that the farmer is allowed to sell his products on site. The same principle is applied to selling honey eggs etc produced on your premises at your front gate. However Millington had applied to the planning authorities for permission for a shop etc and been refused and it was this ruling the high court overturned. The similarities with the present case and Millington end here. If anyone wishes to open a farm shop they must ensure it poses no safety problem due to access and egress. The ruling by M/s Ball when Calancombe converted said storage barn, draws attention to the inadequacy of the road for any increased traffic and the restriction on the usage of the barn extension to storage only. At no point does she allow for a shop, cafe and visitor centre usage. Equally Millington restricts usage to the sale of products produced on the farm. The applicants wish to serve charcuterie, hot food etc and as far as I am aware produce none of these products. The applicants use Sharpham as a paradigm but visits there are restricted to wine and cheese produced on the premises. The cafe overlooking the Dart has Planning Approval and is separate to the vineyard visits. Finally the applicants rely on the access issues at both Sharpham and Millington to justify their decision to ignore the road limitations. However Sharpham is virtually the only building accessed by their 300m road which has traffic calming, passing places and speed restrictions and the nearby village has a road with passing for two vehicles. Similarly Millington has an access road which is some 150mts long and straight before meeting a two car wide highway similar to the B3196. This is in contrast to the 1 mile long access routes to Calancombe in either direction.

It appears that whilst licensing cannot supersede planning, the decisions you make can legitimize the position of applicants looking to circumvent both planning and highways by relying on an unrelated judgement (Millington). I would suggest it is incumbent on the licensing department to make any license subject not only to the road system being agreed but also to the applicants producing proof that all other departments of the council have agreed the proposed development. It seems odd that said proof has not been provided with the application or that you haven't required it already, given that you are aware of the the restrictions imposed by M/s Ball. Surely any license granting is not possible until the licensing committee has had sight of these agreements? Otherwise how can the premises be adjudged suitable for purpose?

The applicants at Calancombe seem happily intent on relying on the Millington route to ensure their goals and I feel, that once the premises license is acquired, they will seek no further permissions to convert the use of the storage barn. They have already talked of brown tourist signs and yet with access roads of over two miles in total which are both dangerous and impassable, they have made no apparent plans to resolve the issue of the access either by entering into meaningful discussion with the other residents or the highways department. It concerns me that the applicants have had 5 years to resolve these issues and put a plan in place. Even though they had knowledge of the planning officer's ruling they appear to have tried to bypass the issue rather than try to find a resolution . What really upsets me is that in our case the applicants by attempting to circumvent the need for planning are essentially preventing the people in the valley from being given the chance to object to the development based on the criteria the planning officers would decide upon (ie highways and location). In fact, your office is the only one we can object to and unfortunately, you appear to be reluctant to consider anything outside of your 4 key points. To summarise it seems the reason the applicants haven't attempted to gain the correct planning permissions is due to their reliance on the granting of the license to give them permission to operate and convert the storage barn without seeking any



further approvals. It sadly seems like a loophole in the system allows them to ignore the safety not only of the residents but also their potential customers.

On another matter I find it difficult to understand the apparent urgency your department has to grant a license to a vineyard which does not rely on passing trade and chose to site themselves in an inaccessible location. We are in the middle of a Covid pandemic when meetings are difficult and at a time of year when the council is virtually unavailable due to the Christmas/ New Year holidays. At present, the residents of the valley had to meet in a farmyard in order to discuss these matters and three were unable to attend due to Covid isolation. Additionally illness and closures have led to delays in communication between residents and your department. One resident is at present in touch with our local MP Gary Streeter, another has contacted the local Highways department and is awaiting a response whilst yet another has asked the local and county councillors to intervene. It is sadly a fact of life that the vagaries of the holiday period have delayed any responses. Given all these delays I think it is unfair to expect the residents to prepare their response during a period of 17 working days when the applicants have had years. One thing I really cant understand is why your department doesn't require, or intend to wait for clarification that the property has the correct permissions for the development. This seems to me, one of the key aspects in deciding whether the premises is suitable for purpose or not.

Sadly many of the residents are not able to access or operate in a virtual field and the insistence on continuing this process in such a short timeframe by video link is somewhat difficult to justify as even handed, when considered alongside the many objections and complications arising from the applicant's suspect approach to the application (i.e.relying on an obscure unrelated judgement to bypass the normal procedures ). To claim, as you appear to be doing, that these matters are outside your remit is unacceptable when your ruling could eliminate the residents ability to object to any other authority. Given the dangers inherent in encouraging a tourist attraction in an inaccessible location the ruling could be seen as irresponsible if in the future an unfortunate situation, as a result of this permission, were to occur. Simply stating that these things aren't your issue will not discount blame when it has clearly been brought to your department's attention that both the planning office and highways have regarded the road as inadequate for the proposed usage. Your sub committee comprises local councillors who have no direct knowledge of the area and could possibly be accused of favoring one party over the other unless they are seen to be acting in the best interests of all parties, including the potential visitors who will have to negotiate a dangerous road to reach the vineyard.

After meeting with the local residents I understand it is their intention to appeal any decision that fails to acknowledge their legitimate concerns and sadly you have become central to the issue. Surely as part of South Hams District Council it is your responsibility to ensure all necessary permissions are in place before considering legalizing a usage. Yet it seems that it is our responsibility to have to raise these matters. It should be the councils duty to ensure a road is suitable for a proposed usage and at the very least you can simply ask all parties including the applicants to produce the relevant agreements prior to any license being formalized? Surely the safety of the road users is critical and it is therefore well within your remit under the heading of "public safety" given that navigating the public road is necessary in order to access the site.

The urgency does seem unnecessary as this is not an event license requiring instant action and therefore, the deadline is not mandatory for the event's success. So a wholly satisfactory resolution should be sought. No one appears to oppose the idea of wine tastings at a vineyard, but everyone (even the applicants) are aware that the road poses major problems. All current passing places are controlled by the landowners of the valley and the continued use of these is dependent on their goodwill which at present is sadly lacking. Having tried to find a genuine resolution to these objections at the recent meeting, I regret I find the view of the other residents is very much opposed to the development. Worst of all it seems such is the ill feeling generated by the attitude of the applicants that the residents are even considering blocking their own passing places. If you watch the videos my son sent you; you will see that without the farm or resident-owned places the road would be impassable and I am very concerned this will be the outcome. An outcome that will cause me and other more amiable residents untold disruption and distress.

I still insist there are possible resolutions available, but trying to explore these in the middle of a pandemic and an extended holiday period is difficult. These are matters which are important to the

people living and working here and their concerns deserve to be listened to not subject to a seemingly rushed judgement where half of them can't make fair representation. It would seem prudent for the council and your committee to postpone the hearing pending the comments of both planning and highways or a satisfactory resolution of the matter agreed by all the residents.

Failing this, as you say that it may only be possible to place conditions upon the granting of the licence, I would propose the following, to allow for fair representation of all parties;

The license be granted upon the basis that planning permissions be sought for the barn to convert it to a visitor centre with catering kitchen and dining area; until this proof is provided the license would not become active. Doing this would ensure the applicants follow the same set sensible procedure that our laws dictate and are not allowed to cause a traffic hazard by circumventing said procedures. I repeat that if this license is granted without a condition like this, then we as residents may be faced with no further chance to object. The applicants seem to have little regard for the correct procedure and I believe this is because they are unsure they will attain it based on the planning officers comments (attached previously). By following the route they are on, they seem to intend to ignore this ruling by using your set of rules to achieve their ends.

As a note, the applicant suggests that in order to assist his enterprise, farmers should avoid his designated (to be agreed by you) opening hours and move their livestock, hay and other activities outside his opening hours. If this is approved it seems your committee is happy to endorse random tourists having priority over working residents who have lived in the area and farmed for centuries. Perhaps if the applicants seriously wish to open a cafe /shop etc in this area they should liaise with their neighbours at Fowlescombe whose products they apparently intend to offer and who are developing artisan products only some few hundred metres from Calancombe. Their lands adjoin and they could reach the new area being built with little investment. This would bypass the road and allow them to develop their business without the access problems being now addressed.

I have tried to be even-handed (as have most of the other residents) but am exasperated by the intransigence of the applicants and the reticence to take responsibility of the licensing authority. If the license is granted, the licensing authority would be endorsing an application that intends to circumvent the normal rules. How would the licensing authority justify it, if in any future appeal it came to light that you were aware of the potential evasion but chose to ignore it?

I apologise for the length of this letter but as I am sure you are aware it is important for any future appeal to ensure I have made plain these objections and brought to the councils attention their possible culpability, if by ignoring the points raised above there should be an accident or injury caused. The road as it stands is dangerous and totally unsuitable for the traffic associated with a tourist attraction/cafe. The licensing committee and yourself have been made aware that your own planning department has acknowledged this fact. You have allowed the objection to be raised on the grounds of public nuisance for which I thank you. I have made plain we do not have any objection to the wine tastings as long as the road issues have been resolved and as you are aware we have tried to reach an amicable solution. However the unhelpful and changeable position the applicants have adopted means we need to have any permission made dependent on an enforceable resolution of the road issues.

I would like this communication used as part of my attached information mentioned in the summary of key points for any future hearing.

## **OBJECTION 8**

### **Prevention of Public Nuisance**

Access Roads to premises totally unsuitable. Existing Traffic already causing problems and incidents

## Responses to Applicants Letter 21/12/20

### Response 1.

After viewing the letter that you forwarded to me from the applicant it has done nothing to alleviate my concerns item 1 on the letter states that they will not be hosting third party events, yet on their web site the applicant clearly states that they will be .

Item 5B they suggest a one way system for traffic, this would make the situation worse for me, I harvest 50 loads of silage in total during the summer with a tractor and forage wagon. I turn right at the entrance to Spriddlescombe Manor, on to the lane travel 600m and then turn off across fields, if the traffic from the winery was restricted to only one way I would have no problems in one direction but in the other I would meet a continuous stream of cars .My only option would be to make a detour via Marys cross and Witchcombe cross a 6 mile extra journey with a loaded wagon approximately 30 minutes extra per load The cost to hire a tractor and wagon being over £100 per hour that would add £50 per load or £2500 per year to my cost .There are many other agricultural operations I carry out that would be similarly affected eg seeing livestock/moving round bales/shifting muck.

5c The applicant suggests more passing places, as all of their neighbours who own the hedges are strongly opposed to the application; it is highly unlikely they would agree to that .

5d The applicant also seems to suggest we restrict farming activities to times when the winery is not open; this is not possible for us as we milk the herd mornings and evenings leaving only the middle of the day for moving stock . After all it is a public road and we have just as much right to use it when we want as visitors to the winery.

I have looked over the plans for the visitor centre. The second plan seems to show a viewing area on the second floor that is overlooking my property and not the vineyard. I consider this an invasion of my privacy. Any viewing point should be facing the vineyard not me.

### Response 2.

Our objection to the granting of a new premises license to the Calancombe Estate still stands for the reasons stated in our original email viz the long narrow single track lanes leading to the premises are totally unsuitable There has already been unpleasant incidents and problems associated with Calancombe traffic for those living and working in the valley, and the fear is these will escalate.

In the letter sent to neighbours by Mr & Mrs Whitehead. it seems that rather than addressing these concerns, they seem to be going out of their way to bring even more traffic into the valley thus compounding what is already a very difficult and challenging situation.

Eg Placing brown tourist signs would not only aid those invited "guests" to the winery/vineyard but passing traffic both interested and those just curious would follow the signs.

Commenting on other suggestions in the letter:- (referring to their paragraph numbers)

2 & 5d: The Estate website may display the opening times but farmers cannot be expected to look up the website and plan their work accordingly.

There are so many factors and variables involved it is just not viable or practical or sensible.

4: The owner can advise his guests on behaviour etc but he can not enforce it and judging by some unfortunate incidents that have already occurred ,if advise was given, it was ignored.

5b: There are 3 lanes leading to Calancombe, if one is chosen as the specified route it is very unfair on those living & working there to have all the passing traffic.

Similarly, a one way system for guests would be problematic even unworkable, especially at busy times in the farm year.

5c: The lanes for the main part are bordered by high hedges . Hedgerows are protected and can not be dug out to make passing places. Any alteration to the structure of the road would have to have permission from the Highways authority and if such permission was granted it costs. Who pays?

5e: The same applies to signage. Unofficial signs have no legal authority and the 'powers that be' do not encourage too many roadside signs.

Permanent signs and reducing the speed limit would have to be approved by the relevant authorities. And even if agreed, which is doubtful would be costly.

Calancombe already has an on line business for its wine & produce. Could that be expanded by arranging wine tasting events at premises that already have an alcohol license.?

There are numerous such venues in the South Hams and beyond this would bring more potential customers that would not be aware of the Calancombe previously, and could also benefit the host venue, this would also solve the problem of increased traffic in the valley.

Replying to your email sent yesterday I can tell you that the photographs were taken last week on 8th & 10th December 2020 ( this can be proven by the meta data on the camera). One shows the lane from the entrance to Croppins Combe, looking east to Cherry Hill The other two were taken at the junction at Cherry Hill where the lane from Leycombe and Croppins Combe meets and joins the one from Yarnacombe One of these photos was taken looking up Cherry Hill ,the other looking down









