

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





