

Agenda for Licensing & Enforcement Sub Committee

Wednesday, 19 December 2018; 9.30am



[Members of the Committee](#)

Members of the Sub Committee will be Councillors:
Steve Hall, Brian Bailey and Geoff Jung.

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

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Contact: [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 11 December 2018

- 1 Minutes for 12 December 2018 (page 2)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#) – none identified
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

Part A Matters for Decision

- 6 **To consider an application for the variation of an existing premises licence – To replace the front shop window and the installation of a small fixed bar in the downstairs area at The Rusty Pig, Yonder Street, Ottery St Mary, EX11 1HD (pages3-67).**

Due to the requirements of the Licensing Act 2003 only parties to the hearing are permitted to address the sub-committee (through their representative as appropriate)

[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing &
Enforcement Sub-Committee held at Knowle,
Sidmouth on Wednesday, 12 December 2018

Present: Councillors:
Steve Hall (Chairman)
Megan Armstrong
Jim Knight

Also Present: Councillor Brian Bailey

Officers: Giles Salter – Solicitor
Lesley Barber – Licensing Officer
Chris Lane – Democratic Services Officer

The meeting started at 9.30 am and ended at 10.20 am.

- *42 Minutes
The minutes of the meeting of the Licensing and Enforcement Sub-Committee held on 28 November 2018, were confirmed and signed as a true record.
- *43 Exempt Information
RESOLVED that the classification given to the documents to be submitted to the Sub-Committee be confirmed and that the report relating to exempt information be dealt with under Part B of the agenda.
- *44 Exclusion of the Public
RESOLVED that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discussing this item in private session.
- *45 Hackney Carriage Driver Suitability
Consideration was given to whether a new applicant was a fit and proper person to be licensed as a Hackney Carriage Driver.
- Members considered the Council's policy on all issues, the overriding duty of the Sub Committee was protection of the public.
- RESOLVED that, Mr LPB's Hackney Carriage Drivers application for his licence be granted, as he was considered to be a 'fit and proper' person.

Chairman Date



Report to: **Licensing and Enforcement Sub Committee**

Date of Meeting: 19 December 2018

Public Document: Yes

Exemption: None

Agenda item: **Item 6**

Subject: Application to vary a premises licence under the Licensing Act 2003

Purpose of report: The report summarises an application for the variation of a premises licence to be considered by the committee.

Recommendation: Recommendation

That members consider an application to vary an existing premises licence at The Rusty Pig, Yonder St, Ottery St Mary, EX11 1HD as follows:

1. The replacement of the front shop window on the ground floor with a bi fold opening window with the same dimensions.
2. Installation of a small fixed bar in the downstairs area, to separate customers from the working area.

Reason for recommendation: To comply with statutory processes.

Officer: Lesley Barber lesley.barber@eastdevon.gov.uk
01395 517411

Financial implications: The only financial implication is if the applicant appeals against the decision made, with the possibility of court costs.

Legal implications: Legal implications are included within the report.

Equalities impact: Low Impact

Risk: Low Risk

Links to background information: **Appendices**

- Appendix A – variation application
- Appendix B – new plan showing the bar position and window
- Appendix C – photo showing the new window at the front of premises
- Appendix D – location plan
- Appendix E – current premises licence
- Appendix F – current premises plan

Link to Council Plan: Not applicable

1 Description of Application

- 1.1 An application has been received from Rusty Pig Ltd to vary the premises licence at The Rusty Pig, Yonder St, Ottery St Mary. A copy of the application is provided at **APPENDIX A**
- 1.2 The application relates to two alterations to the ground floor area:
 -) To replace the front shop window with a bi fold opening window.
 -) Add a small fixed bar to separate customers from the working area.
- 1.3 The plan of the new premises layout accompanying the application is provided at **APPENDIX B**.
- 1.4 A photo of the new front window is provided at **APPENDIX C** along with a location plan at **APPENDIX D**.
- 1.5 The committee are asked to note that these alterations to the window and the installation of the bar have been completed prior to this licensing variation application being submitted.
- 1.6 The premise has a current Premises Licence number PLWA0708 issued January 2016, a copy of this licence is attached at **APPENDIX E**. The premises is licensed for performance of a play, exhibition of films, performance of live music, late night refreshment and the sale of alcohol. The timings vary for each, as set out on page 1 of the premises licence.
- 1.7 In summary, the premise is licensed Monday – Sunday. All licensable activities are to cease by midnight and the premises is to be closed to the public by 00:30.

2 Statutory Bodies' Response

- 2.1 Devon & Cornwall Constabulary
No representations have been received.
- 2.2 Devon & Somerset Fire & Rescue Service
No representations have been received.
- 2.3 Area Child Protection Committee and Local Safeguarding Children Board
No representations have been received.
- 2.4 **Devon Trading Standards**
No representations have been received.
- 2.5 East Devon District Council, Environmental Health Service
No representations have been received.
- 2.6 East Devon District Council, Planning & Countryside Service
No representations received. Confirmation received that there are no relevant restrictive planning conditions. Confirmation also received that an application for Building Control is required and that the applicant will be contacted by Building Control.

2.7 Primary Care Trust
No representations have been received.

2.8 Home Office
No representations have been received.

3 Representations and Responses to Notices of Hearing

3.1 Representations have been received from one local resident who lives in a property across the road from the Rusty Pig. Details of the representation are attached at **APPENDIX G** along with photos provided in support.

3.2 Details of the response to the statutory Notice of Hearing are attached at **APPENDIX I**. It is noted that Mrs Pang advised she would be unable to attend the hearing.

4 Mediation

4.1 A mediation meeting chaired by the Licensing Authority was held at The Rusty Pig on Tuesday 4 December 2018, attended by Robin Rea and Agata Domarecka from the Rusty Pig along with Mrs Eleonore Pang, local resident.

4.2 A discussion was held around a possible compromise of the opening of the new window, along with any measures that could be put in place to prevent customers (and passers-by) from sitting on the front window ledge.

4.3 The possibility of a condition being attached to the licence to ensure the window would remain closed after a certain time of the evening was discussed, along with a structure being placed in front of the 'window seat' to prevent this being used.

4.4 Mr Rea indicated that he would consider a compromise, with the new window not being opened after a certain time in the evening. However, Mrs Pang felt that she could not accept any compromise on her original request that the window remain closed at all times that the premises was in use for licensable activities.

4.5 No agreed position could therefore be reached. All parties were advised that the matter would proceed to a hearing before the Licensing Sub- Committee.

5 Relevant Licensing Policy Considerations

Licensing Objectives

5.1 Section 3.1.1 of the Policy states: 'The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives.'

These are:-

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

5.2 Section 3.1.2 of the policy states: These objectives are the only matters to be taken into account in determining the application and any conditions attached must be appropriate in achieving the licensing objectives.

5.3 Section 3.2.4 states: the aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the licensing authority's wish to facilitate well run and managed premises with licence holders displaying sensitivities to the impact of the premises on local residents.

Conditions

5.4 Section 6 of the policy sets out what the Sub Committee should consider before imposing conditions on a licence.

5.5 Section 6.1 states: licensing relates to the control of licensed premises and other events within the terms of the Act and any conditions, which may be attached to the license, and the various other permissions, which will focus on matters falling within the control of individual licence holders.

5.6 Section 6.2 states: These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. In this regard the licensing authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.

5.7 Section 6.3 of the policy states: Generally it is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned. But the Licensing Authority's discretion may be engaged if relevant representations are made and there is an evidential link between the disturbance and the licensed venue.

5.8 The licensing authority will avoid imposing disproportionate and over burdensome conditions on premises. The licensing authority does not propose to implement standard conditions on licenses across the board but instead, if its discretion is engaged, will attach conditions as appropriate given the circumstances of each individual case.

Related Legislation

5.9 Section 3.2.8 of the policy states: the licensing authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there is no legal basis to refuse a licence application because it does not have planning permission. Applicants are recommended, however, to ensure that appropriate planning permissions are obtained before an application for a premises licence or club premises certificate is made.

Nuisance

5.10 Section 16.1 of the Policy states: To promote the licensing objectives, applicants for licences for licensable activities will be required to demonstrate the measures they have in place for the prevention of public nuisance. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. The prevention of public nuisance can include low-level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of interested parties.

5.11 The **Guidance** issued under Section 182 Licensing Act 2003 states:
The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are appropriate to

promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.

It is perfectly possible that in certain cases, because the test is one of what is appropriate, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned.

Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose.

Licensing authorities should only impose conditions which are appropriate and proportionate for the promotion for the licensing objectives. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate to impose the same or similar duties.

The **Guidance** under Section 182 states the following in relation to **Public Nuisance**:

- 5.12 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 5.13 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 5.14 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 5.15 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning

when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

6. Observations

- 6.1 Following the implementation of the first set of regulations under the Police Reform and Social Responsibility Act on 25 April 2012 a new provision relating to the ‘test’ that Licensing Committees should consider when deciding on licensing applications was introduced. The evidential level for Licensing Committees has been lowered so that the test now is that their decisions need only be ‘appropriate’ and no longer ‘necessary’.
- 6.2 The concerns expressed by the objection relate to all four of the licensing objectives: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- 6.3 The Sub Committee will now need to consider whether to grant this application as it stands or in the light of the representation to refuse the application or grant it in a different form.

Legal Advice

1. As relevant representations have been made in respect of the application, this hearing must be held. (Relevant representations are about the likely effect of the grant of the application on the promotion of the licensing objectives, by any person, bodies representing them or responsible authorities). The sub-committee must disregard any information or evidence not relevant to the licensing objectives.
2. The sub-committee must consider this application in accordance with Section 4 of the Licensing Act 2003, which requires that licensing functions must be carried out with a view to promoting the four licensing objectives. The licensing authority must also have regard to its own licensing policy and the Secretary of State’s guidance, but may depart from both if it has good reason to do so. Those reasons should be stated.
3. Section 35 of the Act requires the licensing authority to grant an application unless it considers additional steps are needed for the promotion of the licensing objectives having regard to any relevant representations.

The steps are –

- (a) to modify the conditions of the licence;
- (b) to reject the whole or part of the application;

The conditions of the licence are modified if any are altered or omitted or any new condition is added. Different conditions may be applied to different parts of the premises, and to different licensable activities. The sub-committee must give its reasons for its decision to take any of these steps. Similarly, if any part of an application is rejected, the sub-committee must give its reasons.

4. Human Rights Act 1998

- 4.1 The sub-committee must also have regard to the provisions of the Human Rights Act 1998 when determining this application. The 1998 Act made the European Convention of Human Rights directly enforceable in British courts. The relevant provisions are Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 11 (freedom of association) and Article 1 of the First Protocol (right to peaceful enjoyment of one’s possessions). These provisions are explained below. Essentially, they require the sub-committee to identify correctly the competing interests, give each appropriate weight in the

circumstances of the case, and balance them against each other in order to arrive at a fair and reasonable decision.

- 4.2 Under Article 6, “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”. The procedures established by this Council for hearings under the Licensing Act 2003 are compliant with Article 6.
- 4.3 Under Article 8, “everyone has the right to respect for his private and family life, his home and his correspondence”. This right may not be interfered with except in accordance with the law and as may be “necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”. In Licensing Act cases this means that the sub-committee must have regard to the effect of its decisions on local residents, and balance their interests against those of the public at large (e.g. the customers of the premises under consideration) and the people operating the business from the premises.
- 4.4 Under Article 11, “everyone has the right to freedom of peaceful assembly and to freedom of association with others” except where it is lawful to restrict that freedom in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others”. In Licensing Act cases this means, for example, that the sub-committee is entitled to impose conditions to ensure that patrons of licensed premises do not unreasonably disturb others living or working nearby. Again, the sub-committee should balance the competing interests.
- 4.5 Article 1 of the First Protocol (that is, the first amendment to the Convention) says that every natural or legal person (meaning a human being or a company) is entitled to peaceful enjoyment of his possessions, except where the law provides for restrictions on that right in the public interest. This means, for example, that it is compliant with the Convention to impose restrictions, such as those provided in the Licensing Act 2003, upon business premises where it is in the public interest to do so. On the other hand the same applies to the owners and occupiers of neighbouring premises.

5. Appeals

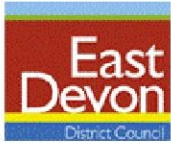
If the sub-committee imposes conditions on the licence with which the applicant disagrees, or modifies the licensable activities permitted or refuses to specify a person as a designated premises supervisor, he or she may appeal within 21 days of notification of the decision to the Magistrates’ Court. The applicant may also appeal if an application for a premises licence is rejected. Those making relevant representations may appeal if they believe that the licence should not have been granted, or that, when granting the licence, the licensing authority ought to have imposed different or additional conditions or excluded a licensable activity or refused to specify a person as a designated premises supervisor. The magistrates’ court may dismiss the appeal, or substitute its own decision, or send back the case to the licensing authority with directions as to how the case is to be dealt with. The magistrates’ court may make any costs order it thinks fit.

6. Review Provisions

If extended hours/licensable activities are granted, the Licensing Act contains review provisions which enable any person, bodies representing them or any of the responsible authorities to apply to this licensing authority for a review of the licence. A hearing follows which enables the sub-committee to use the normal powers at a hearing (set out above) but also to suspend the licence for a period of up to three months or to revoke it.

7. Police Closure

A senior police officer may close any premises for 24 hours (this can be extended) where s/he reasonably believes there is or is likely imminently to be disorder on, or in or in the vicinity of the premises and their closure is necessary in the interests of public safety. Closure can also be affected if public nuisance is being caused by noise coming from the premises and closure of the premises is necessary to prevent that nuisance



East Devon
Application to vary a premises licence
Licensing Act 2003

For help contact
licensing@eastdevon.gov.uk
Telephone: 01395 517410

* required information

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You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?
 Yes No
 Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:
 Applying as a business or organisation, including as a sole trader
 Applying as an individual
 A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No
 Note: completing the Applicant Business section is optional in this form.

Registration number

Business name If your business is registered, use its registered name.

VAT number Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

- Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable value of premises (£)

Section 3 of 18

VARIATION

Do you want the proposed variation to have effect as soon as possible? Yes No

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? Yes No

You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

The business is a restaurant, butchers and cafe.
The restaurant is situated over two floors we are applying for two variations.
One: Replacement of front shop ground floor window with same dimensions, but now a bi fold opening window.
Two: Small fixed bar in downstairs area, to separate customers from working area.

Section 4 of 18

PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will the schedule to provide plays be subject to change if this application to vary is successful? Yes No

Section 5 of 18

PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will the schedule to provide films be subject to change if this application to vary is successful? Yes No

Section 6 of 18

PROVISION OF INDOOR SPORTING EVENTS

Continued from previous page...

[See guidance on regulated entertainment](#)

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

- Yes No

Section 8 of 18

PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide live music be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

- Yes No

Section 10 of 18

PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

- Yes No

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PROVISION OF LATE NIGHT REFRESHMENT

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes No

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SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

Yes No

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ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

N/a

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Continued from previous page...

SATURDAY

Start End

Start End

SUNDAY

Start End

Start End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Asexisting

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Asexisting

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

None

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

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LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

Continued from previous page...

b) The prevention of crime and disorder

Asexisting, with the addition of cctv.

c) Public safety

Asexisting.

d) The prevention of public nuisance

Asexisting.

e) The protection of children from harm

Asexisting.

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NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Non domestic Rateable Value Band A No rateable value to £4,300 B £4,301 to £33,000 C £33,001 to £87,000 D £87,001 to £125,000 E £125,001 and above

A multiplier will be applied to premises in Bands D & E where they are used exclusively or primarily for the supply of alcohol for consumption on the premises Band D X2 (£900) Band E X3 (£1905)

* Fee amount (£)

0.00

DECLARATION

I/WE UNDERSTAND THAT IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

Robin rea

* Capacity

Managing Director

* Date

24 / 10 / 2018
dd mm yyyy

Add another signatory

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/east-devon/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

OFFICE USE ONLY

Applicant reference number	<input type="text" value="n/a"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#) [17](#) [18](#) [Next >](#)

APPENDIX B

THE RUSTY PIG LTD.
FIRST FLOOR PLAN
 11A YONDER STREET
 OTTERY ST MARY
 DEVON
 Ex 11 1HD

Rooms N^o → 5
 N^o Windows → External → 3
 → Internal → 2
 N^o Doors → 4

Key
 - Structure and fixtures
 - licenced area

4.80cm
 98cm 117cm 1.87.5cm 1.0cm 98cm
 306cm

Page 3/5.

THE RUSTY PIG LTD
GROUND FLOOR PLAN
 11A YONDER STREET
 OTTERY ST MARY
 DEVON
 Ex 11 1HD

N^o Rooms → 3
 N^o Windows → External - 1
 → Internal - 1
 N^o Doors - 1

Indicator
 - walls and physical objects
 - licenced area
 - kitchen Areas
 - Bar Service Areas
 - washing up Areas

Down to Cellar
 DOWN.
 Chef Counter
 Dish Wash
 Sink
 Sink
 Pizza Counter
 Chef
 Chef Counter
 U.P.
 BAR.
 TABLE
 Inward Folding Window
 Door Entrance

Page 1/3

THE RUSTY PIG LTD
CELLAR FLOOR PLAN
 11A YONDER STREET
 OTTERY ST MARY
 DEVON
 Ex 11 1HD

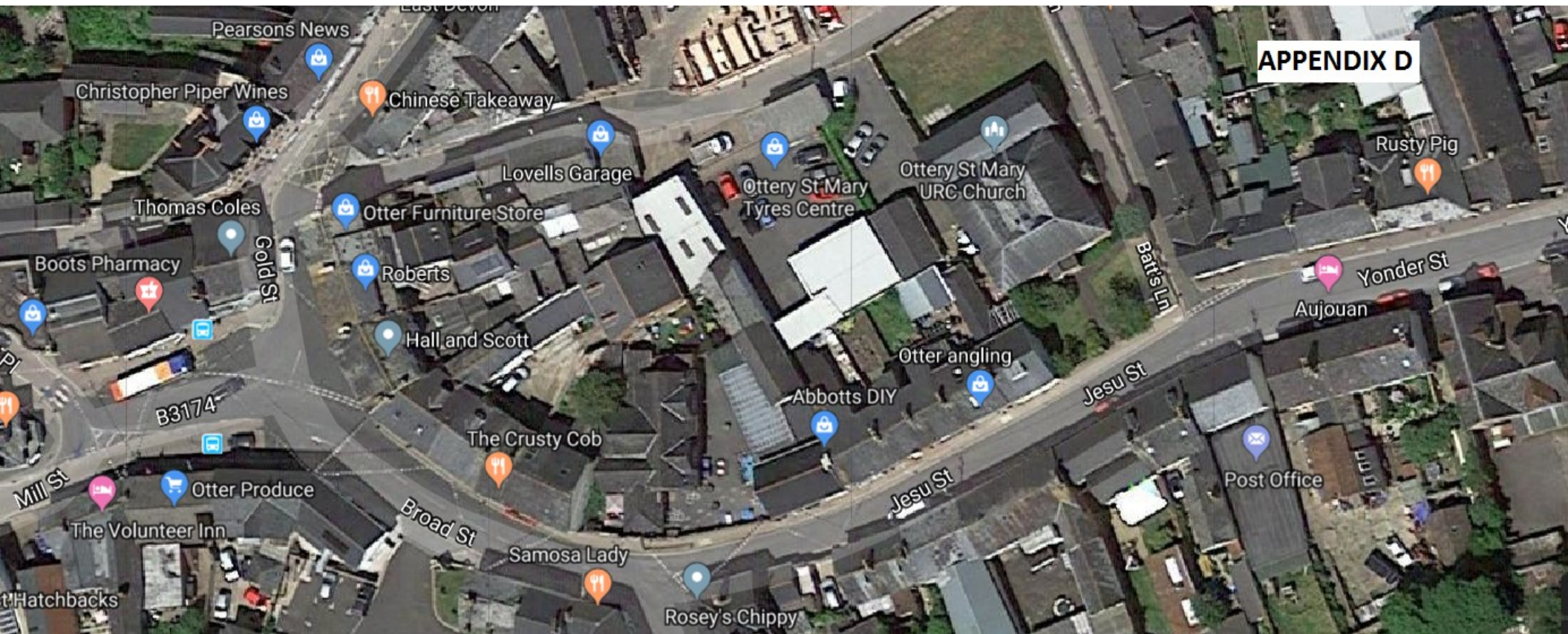
N^o Rooms - 1
 N^o Windows - 1
 N^o Doors - 1

Counter
 Sink
 Bottle Chaisers
 ↓ up to kitchen

Page 2/3



APPENDIX C



APPENDIX D



Licensing Act 2003
Premises Licence

PLWA0708

East Devon District Council has granted this Premises Licence in accordance with the Licensing Act 2003. The licence authorises the identified premises to accommodate the licensable activities set out in the document and the plan deposited with and approved by the Licensing Authority. Where the sale of alcohol is authorised as a licensable activity the licence identifies the Designated Premises Supervisor.

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Rusty Pig

Yonder Street, OTTERY ST MARY, Devon, EX11 1HD.

Telephone 01404 815580

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of a play
- an exhibition of a film
- a performance of live music
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
A. Performance of a play (Indoors)	Sunday & Monday	10:00am	10:00pm
	Tuesday to Saturday	10:00am	Midnight
B. Exhibition of films (Indoors)	Sunday & Monday	10:00am	10:00pm
	Tuesday to Saturday	10:00am	Midnight
E. Performance of live music (Indoors)	Friday & Saturday	10:00am	Midnight
I. Late night refreshment (Indoors & Outdoors)	Monday to Sunday	11:00pm	Midnight
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Sunday	9:00am	Midnight
	New Year's Eve	9:00am	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Tar Barrel Night	9:00am	2:00am
	Any sales after midnight to be to invited guests only.		



East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL
DX 48705 Sidmouth
Tel: 01395 516551
Fax: 01395 517507



Licensing Act 2003
Premises Licence

PLWA0708

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	12:30am
New Year's Eve	9:00am	12:30am
And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
Tar Barrel Night	9:00am	2:30am

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises



Licensing Act 2003
Premises Licence

PLWA0708

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Rusty Pig Limited

Yonder Street, OTTERY ST MARY, Devon, EX11 1HD.
Telephone 01404 815580

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Rusty Pig Limited

8032801

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Robin REA

74 Yonder Street, OTTERY ST MARY, Devon, EX11 1HG.
Telephone 01404 815580

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. EDVE1638

Issued by East Devon



Henry Gordon Lennox
Strategic Lead - Governance & Licensing



Licensing Act 2003

Premises Licence

PLWA0708

ANNEXES

ANNEXE 1 - MANDATORY CONDITIONS

1.
 - (a) There shall be no sale or supply of alcohol when there is no designated premises supervisor in respect of this premises licence or at a time when the said premises supervisor does not hold a personal licence or when his/her licence is suspended.
 - (b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
2.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
4.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and



Licensing Act 2003

Premises Licence

PLWA0708

ANNEXES continued ...

- either-
- (a) a holographic mark, or
 - (b) an ultraviolet feature.
5. The responsible person must ensure that-
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."
6. (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- (2) For the purposes of the condition set out in paragraph 7(1) -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

where-

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall



Licensing Act 2003 Premises Licence

PLWA0708

ANNEXES continued ...

- be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
7. (a) Admission of children (under the age of 18) to any exhibition of films must be restricted in accordance with the film classification applied by the body designated as the authority under Section 4 of the Video Recordings Act 1984.
- (b) Where the film classification is not specified or where the Licensing Authority notifies the licence holder that Section 20(3) (b) applies to the film in question, admission of children must be restricted in accordance with any recommendations made by the Licensing Authority.
8. Any person used to carry out a security activity as required under any condition of this licence/certificate must be licensed or authorised to do so by the Security Industry Authority.

ANNEXE 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

1. The Licence Holders will address the four licensing objectives through staff training and quarterly refreshers throughout the year.
2. On the annual Tar Barrels event SIA registered door staff will be employed from 6pm until close. On all other occasions when the premises hold an event the Premises Licence Holder or Designated Premises Supervisor will risk assess the need for door staff.
3. On the annual Tar Barrels event the premises will use plastic or toughened glass and all bottles will be decanted. On all other occasions the premises hold an event the Premises Licence Holder or Designated Premises Supervisor will risk assess the need for plastic or toughened glass.
4. On the annual Tar Barrels event customers on the premises after midnight must be invited guests only whose names will be listed. A copy of the list must be made available to relevant authorities on the night if requested.
5. The premises will adopt a Challenge 21 policy the only acceptable forms of ID will be passport, photo driving licence or government approved pass card.
6. The premises will keep an incident book where all incidents, refusals or challenges will be recorded.
7. Regular checks of the toilet areas will be made.
8. Drinking games will not be promoted.
9. Staff will not serve intoxicated persons and will do regular checks of toilets for intoxicated people or any that look as if they are involved in substance abuse.
10. A first aider will be available when the premises are open to the public.
11. The Licence Holder will ensure regular clearing of rubbish from work areas to ensure a safe



Licensing Act 2003

Premises Licence

PLWA0708

ANNEXES continued ...

workplace and staff will be vigilant of any spillages on the floor that might cause a hazard to the public.

12. Rubbish will be put in the storage area and then put out in out plastic bins to be collected.
13. Noisy parties that may disturb local residents will not be held and customers will be asked to respect our neighbours or else leave the premises.
14. All doors and windows must be kept closed at all times during regulated entertainment.
15. Alcohol will be dispensed from designated areas out the reach of children and appropriate soft drinks will be on sale for children.

ANNEXE 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None

ANNEXE 4 - PLAN APPROVED BY THE LICENSING AUTHORITY

The licensable activities authorised by this licence must be restricted to the areas as indicated on the legend on the plan deposited with and approved by the Licensing Authority.



Licensing Act 2003

PLWA0708

Premises Licence Summary

East Devon District Council has granted this Premises Licence in accordance with the Licensing Act 2003. The licence authorises the identified premises to accommodate the licensable activities set out in the document and the plan deposited with and approved by the Licensing Authority. Where the sale of alcohol is authorised as a licensable activity the licence identifies the Designated Premises Supervisor.

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION

Rusty Pig

Yonder Street, OTTERY ST MARY, Devon, EX11 1HD.

Telephone 01404 815580

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of a play
- an exhibition of a film
- a performance of live music
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
A. Performance of a play (Indoors)	Sunday & Monday	10:00am	10:00pm
	Tuesday to Saturday	10:00am	Midnight
B. Exhibition of films (Indoors)	Sunday & Monday	10:00am	10:00pm
	Tuesday to Saturday	10:00am	Midnight
E. Performance of live music (Indoors)	Friday & Saturday	10:00am	Midnight
I. Late night refreshment (Indoors & Outdoors)	Monday to Sunday	11:00pm	Midnight
J. Supply of alcohol for consumption ON and OFF the premises	Monday to Sunday	9:00am	Midnight
	New Year's Eve	9:00am	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Tar Barrel Night	9:00am	2:00am
	Any sales after midnight to be invited guests only.		



Licensing Act 2003

Premises Licence Summary

PLWA0708

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	9:00am	12:30am
New Year's Eve	9:00am	12:30am
And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
Tar Barrel Night	9:00am	2:30am

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Rusty Pig Limited

Yonder Street, OTTERY ST MARY, Devon, EX11 1HD.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Rusty Pig Limited

8032801

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Robin REA

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Not applicable



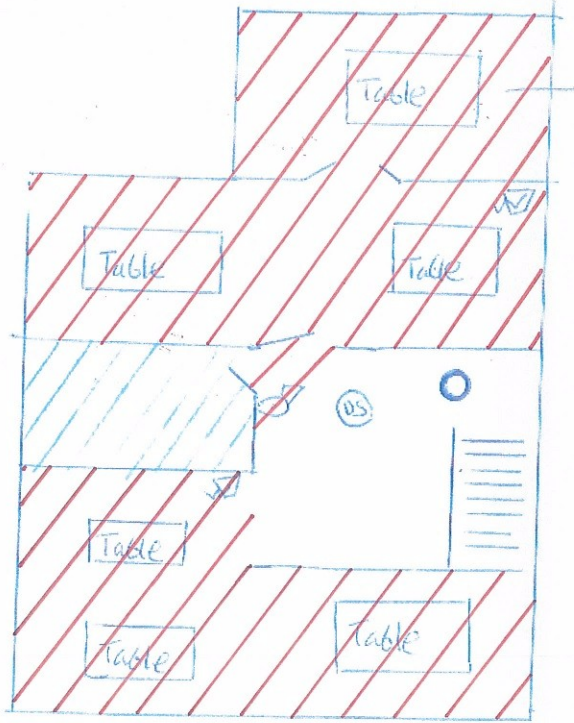
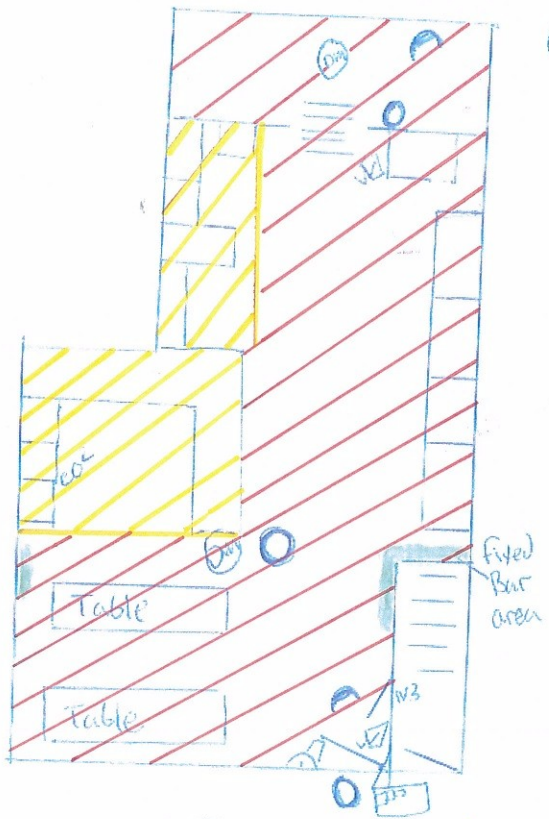
Henry Gordon Lennox
Strategic Lead - Governance & Licensing



DownStairs

Rusty Pig floor plan APPENDIX F
11a Yonder Street
Offery St Mary
Devon
EXU 110

upStairs



Stairs or steps

Door

Kitchen stuff area

Storage of 333 + bar sales

Consumption of Alcohol

Toilet

East Devon Licensing Authority
Approved Plan

Date of Approval	27.01.2016
License No.	PLWA 0708
Signature	Ned McDonald.

REPRESENTATIONS LIST APPENDIX G

Application No: 047702
Licence Type: Premises Licence WITH Alcohol
Application Type: Variation Application

Application Date: 30 October 2018
Licence No: PLWA0708

Premises: Rusty Pig
Yonder Street, OTTERY ST MARY, Devon, EX11 1HD.

Applicant: Rusty Pig Limited
Yonder Street, OTTERY ST MARY, Devon, EX11 1HD.

Person making Representation: Eleonore Pang
10 Yonder Street, OTTERY ST MARY, EX11 1HD.

Representation Accepted: Representation has been accepted

Reason: N/A

Details: Prevention of crime and disorder: See attached statement relating to disorder but not crime:

Premises Licence Variation application no. : 047702
Premises: 11, Yonder Street, Ottery St. Mary , EX 11 1 HD

(Appendix 1)
Additional information to Section 3 of the Representation (Objection Form):

Proposal: replace the 'shop front' with a bi-fold opening 'window'.

I wish to object to this application and raise strong concern about the mis-representation of facts in the application.

I wish to oppose this (retrospective) application unless strict and unmistakable conditions are applied to alleviate noise pollution and public nuisance (undue public assembly) from this business , inside and outside the premises. Furthermore, to apply such conditions to the 'premises' and any subsequent premises/Licence-holder.

The application before you refers to a retrospective full Licence Variation to:
" Replace the 'shop front 'window' with a bi-fold opening window
- following rejection by your office of a 'minor variation' (no. 047702) ,earlier this year.

The 'wording' of this application is incorrectly and deceptively disguising the fact of a substantial, material and functional change of the shop-front.

This is not a replacement of a 'window' but replacement of a standard, glazed shop-front with a 'window' which can be fully opened and, often, is.

This already installed 'window' - regularly/often opened - not only causes noise pollution from the business activities therein, e.g. disturbing and sometimes rowdy party-and- entertainment noise into the surrounding area but also promotes noisy assembly and interface with customers inside and passers-by outside. (Photos enclosed).

These 'parties' can last from 11am right through into the evening - sometimes well into the night ... in an otherwise residential area.

During the 'pre-licencing' meeting it was made absolutely clear and there was unequivocal agreement from the owner of the premises that there will be no disturbance / noise from the of this business and strictly monitored by the owner. (see original Licence application no 047702). Not only is this agreement not abided by but 'enabled' to contravene this agreement, by changing the standard 'shop-front' to a 'window' used inappropriately and clearly in breach of the assured (by the applicant) conduct and use of this business.

The arbitrary use of incorrectly describing the original shop-front as 'window' instead of 'shop front' clearly serves to disguise the substantive change that has been made and for which this Full Premises Licence Variation is before you. I trust that this will be taken into account when considering this application.

Public safety: Intimidating to, especially older people to pass by assembly of customers outside the premises, pedestrians, parents with pram/pushchairs may need to step into the road. Also mobility scooters and walking frame users.

Prevention of public nuisance: included in above section (disorder)

Protection of children from harm: I have seen toddlers and small children coming out onto the pavement outside the premises as front door nearly always open or with assembly outside the premises.

Evidence: Additional sheets (Appx 1) and 18 photographs taken by myself over a period 2017-2018 enclosed and posted by recorded mail. Photos taken randomly but showing what I hope to describe in (appx 1)

Application No: 047702

Premises: Rusty Pig

Yonder Street, OTTERY ST MARY, Devon, EX11 1HD.

Suggestion:

That the shop front (not window) remains closed at ALL times, as a standard shop front would be.

If as the premises are small and the eating (party) area shares the space with the kitchen an air condition system would alleviate the need to open windows upstairs and the shop front = window now replacing the shop front.



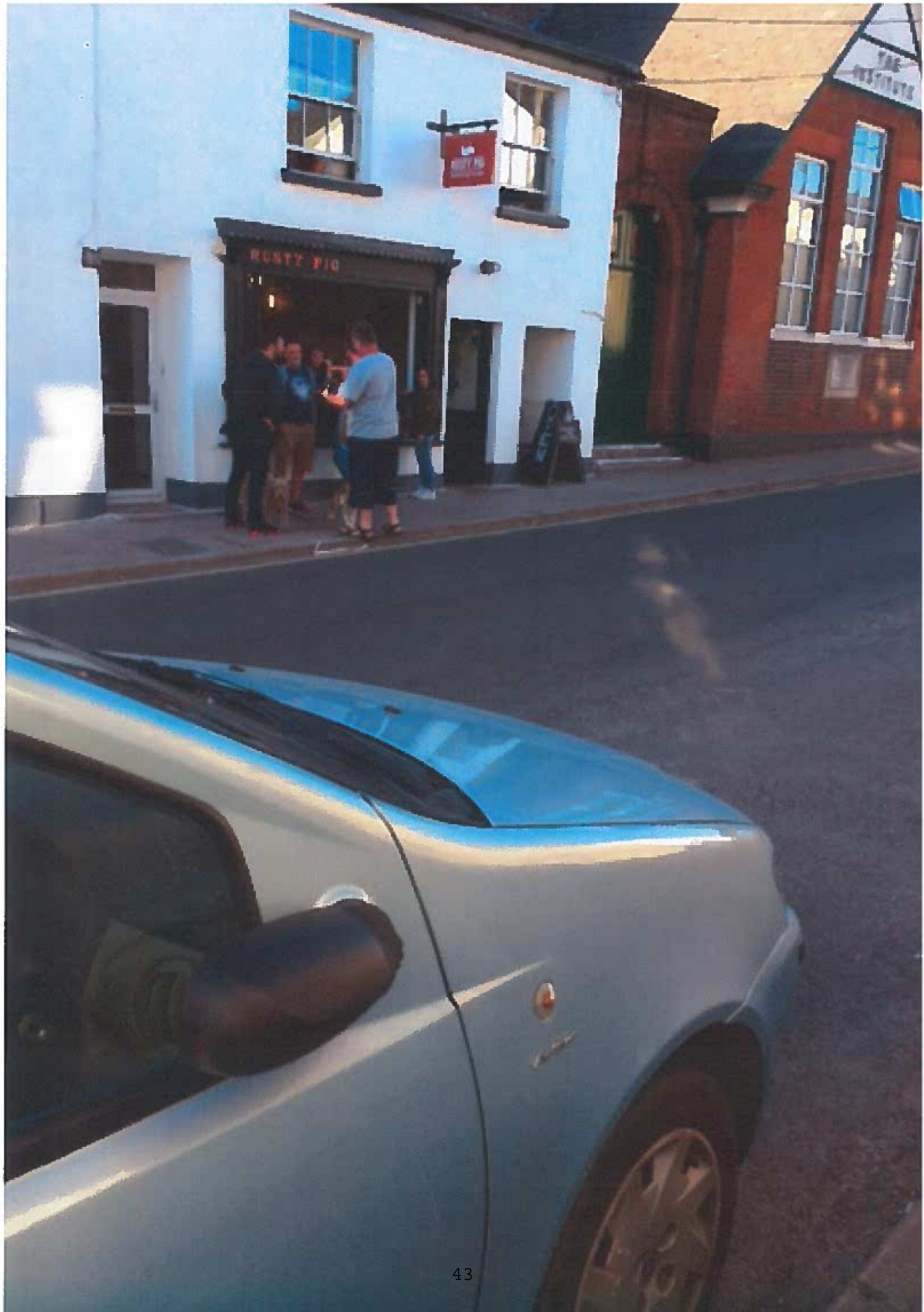








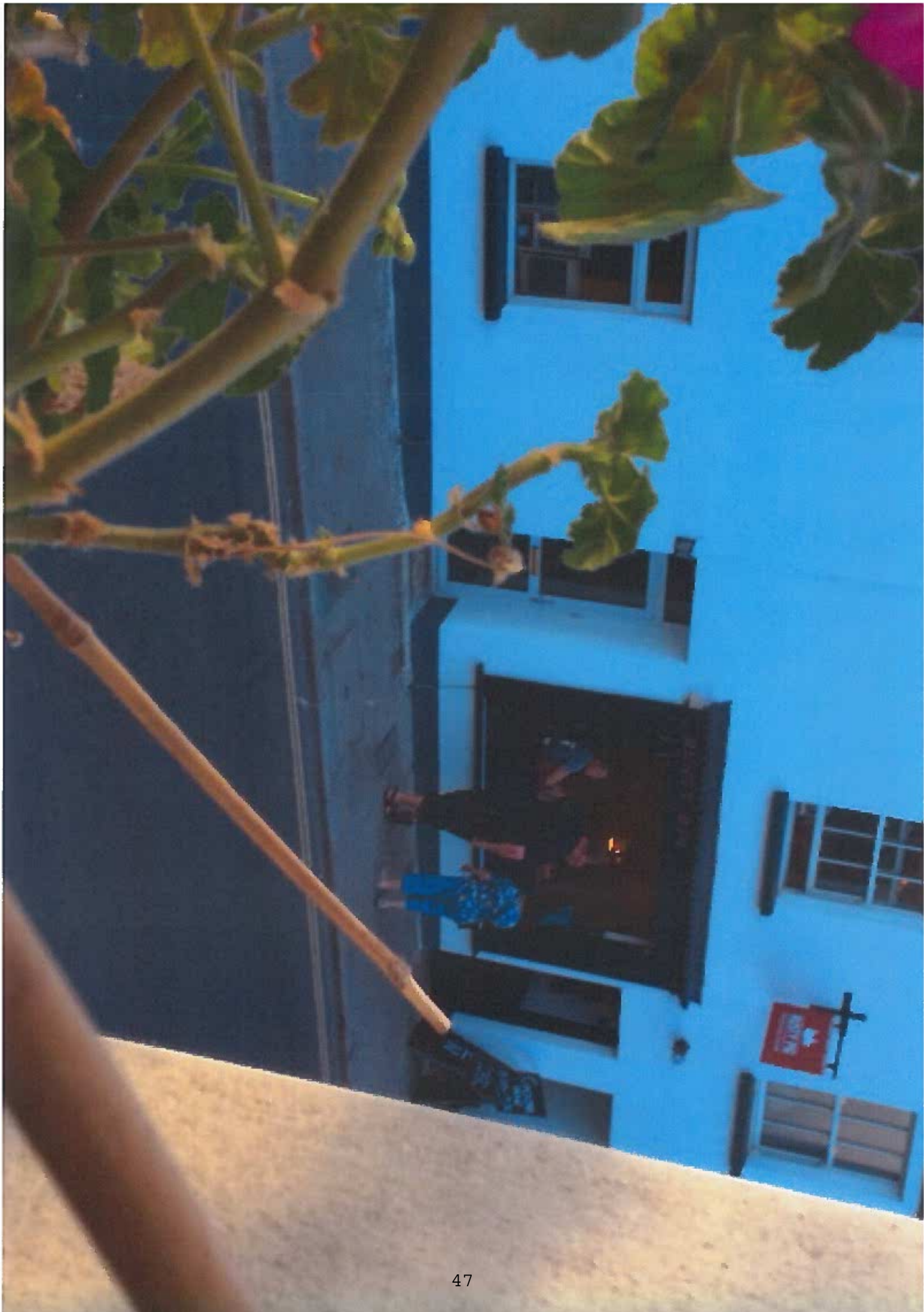












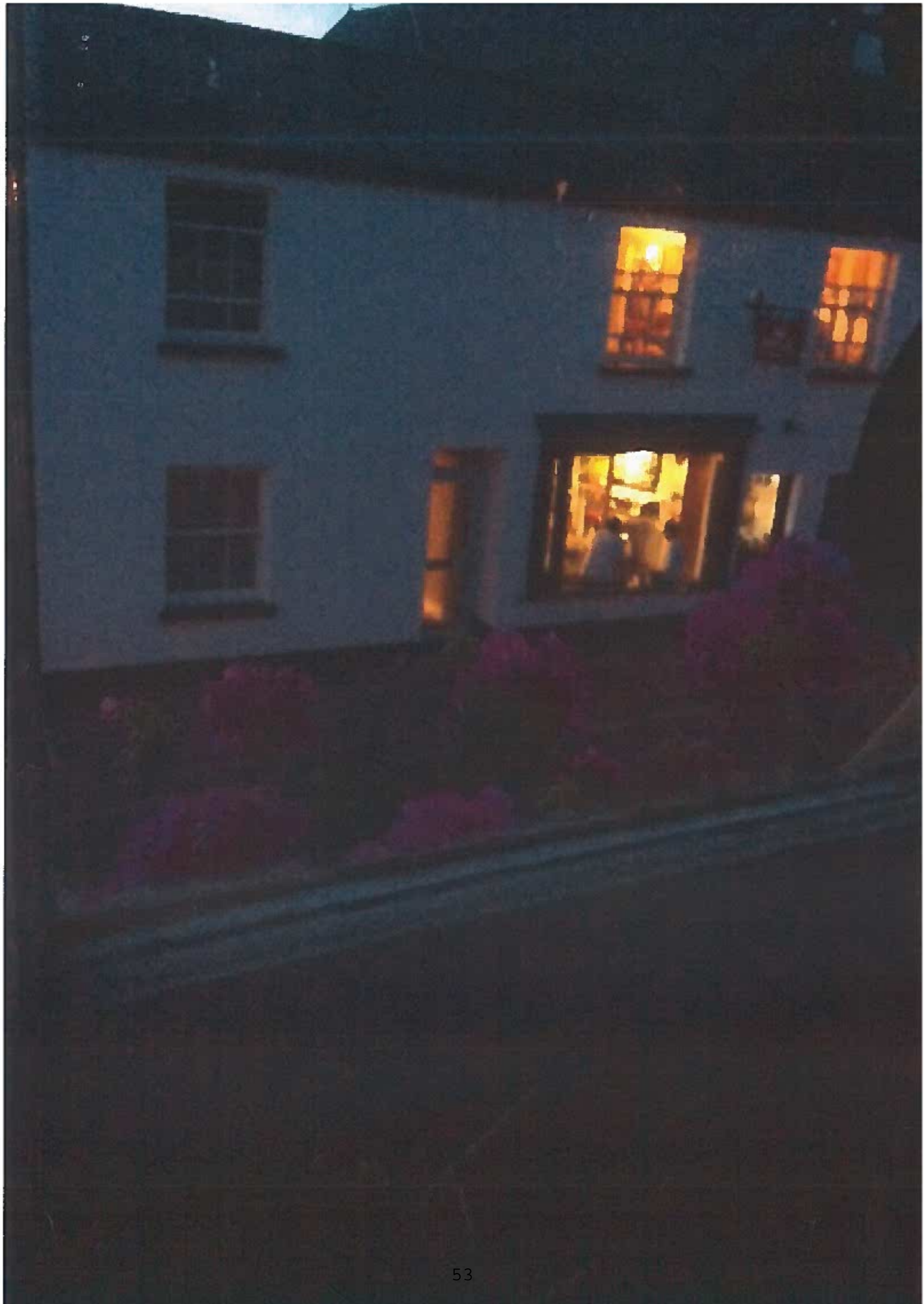














APPENDIX I

The Rusty Pig – Responses to Notice of Hearing

Applicant

Rusty Pig LTD, 11a Yonder Street, Ottery St Mary, EX11 1HD	
Hearing Unnecessary	N/A
Attending	Yes
Supporting documents	5 letters from local residents 5 photos at the shop front before and after new window (see below)
Summary of key points	None

Interested Parties

1.	Mrs E Pang, 10 Yonder Street, Ottery St Mary, EX11 1HD
Hearing Unnecessary	No
Attending	No
Supporting documents	None
Summary of key points	None

Robin Rea
Rusty Pig
11a Yonder Street
Ottery St Mary
EX11 1HD

To Whom it may concern,

The Rusty Pig has been trading since 2011 with an ethos of sustainability and low environmental impact.

We opened 3 days a week for the first few years while building trade using a BYO policy. We are currently closed three nights of the week and all day on Mondays, Since getting our alcohol licence we now employ 28 members of staff who all live in Ottery St Mary or the surrounding area. At the Rusty Pig we promote respect for our neighbours and listen to any concerns. Supporting local charities is important to us and we donate regularly to Hospice care, Devon Freewheelers and Carnival Committee amongst others.

The previous window was rotten and unsafe and needed to be replaced, the replacement window, which is the same four glass pane dimensions, is now a bi-fold double glazed window which increases sound proofing when closed and is considered a positive step giving a very cosmopolitan feel to Yonder Street.

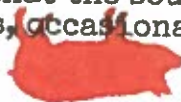
The windows at the premises are usually closed before 22:00 and are very rarely open in the winter months. We open them in the summer to allow fresh air into our premises to maintain good working conditions for our staff and pleasant environment for our customers.

We considered the use of air conditioning and decided against this because air conditioning units can be noisy and due to cfc's used can contribute to climate change, which is currently part of the greatest environmental crisis in modern history.

We keep a diary to record any unusual activities or events in our area regardless of whether they are associated with the activities of the Rusty Pig.

Miss Pang voiced her concerns early in the year about the alleged noise, so i called East Devon Environmental Health to ask to have our premises assessed for noise control. They felt that this would not be necessary as far as they are concerned the Rusty Pig does not have a noise problem. We feel that on this occasion that Miss Pang is being unreasonable in regards to this matter.

Taking matters into my own hands I decided to download a decibel meter on my smart phone and over the course of a week I took readings inside the building and across the road by Miss Pangs house, and inside the shop. The highest reading I recorded within the restaurant was 62dB and across the road talking from the shop was read at 30dB, but when a car drove past the dB's went up to 78dB. This shows that the sound from the Rusty Pig does not exceed normal background sounds, occasionally there might be a



RUSTY PIG

Licensed FEASTING House

spontaneous out bursts for the singing of a happy birthday if this is a celebration of the like and is commonly believed perfectly acceptable for any establishment and I believe it would be unreasonable for any establishment to be punished for this.

In eight years of trading there has been no incident that has required police intervention and has not to our knowledge ever been any incident with anybody's safety compromised in passing our premises since we started trading.

We ask that our business is allowed to trade within the same constraints as other business and establishments of the like in the town and we feel it would be unfair for us to have to comply to a different set of regulations.

The premises has an historical open door policy and use of the street for business operations which had been accepted by the community. (photo 1) The Rusty Pig is a destination venue, offering a high quality dining experience. Families are encouraged and are frequent visitors, when present children are under close parental supervision.

I would also like to point out that we have received no other complaints from the residents of yonder street and I have attached some letters of support from residents surrounding Rusty pig.

Kind Regards


Robin Rea



RUSTY PIG

Licensed FEASTING House

10 Jesu Street
Ottery St Mary
EX11 1EU

To whom it may concern,

We are writing this letter in support of a local businessman, Mr Robin Rea, owner of The Rusty Pig. As residents of Ottery St Mary for over 20 years and currently residing in the immediate vicinity of The Rusty Pig, we feel that the area and town in general is enhanced by the presence of this business. The establishment is very professionally, and thoughtfully, run by Robin and his hard-working team. Living close to the centre of Ottery St Mary we have, on many occasions, been disturbed by late night revellers from local pubs and from late night events held at The Institute. Never have we been disturbed by patrons leaving The Rusty Pig. We have witnessed first-hand the efforts that Robin and his team go to impress upon their customers the importance of leaving the premises peacefully and being aware of the local residents.

Since opening Robin has made substantial improvements to the external look of the premises. This includes the bi-fold window which has greatly enhanced the building and the Rusty Pig experience. These are all efforts which have no doubt had a positive effect on the town, as visitors come to the town, drawn by the excellent reputation Robin has built up in just a few years. As fellow business owners within the town, we own The Pine Store, we greatly appreciate the positive impact that The Rusty Pig has upon trade in the town. This is something that should be greatly encouraged as it is to the benefit of all.

Robin and his team are also very conscientious about the footpath outside the shop and make every effort to ensure that it is not obstructed - not something that can be said for other parts of the town. They are always very aware of their Health and Safety requirements throughout the business, something that was very evident when I visited with Devon and Somerset Fire and Rescue Service, for whom I am a retained Crew Manager in the town, for a risk visit.

In short, we feel that a one person campaign against The Rusty Pig should not be permitted to detract from the great work this business continues to do as an employer, and venue in the town.

Yours faithfully,

Martin and Lyn Shaw

18, Yonder Street
Ottery St Mary
Devon
EX11 1HD

4th December 2018

To whom it may concern,

I am writing as a close neighbour to the Rusty Pig on Yonder Street, owned by Robin Rea, who has asked me to write a letter with my views on a complaint of noise from the business and a complaint of a public safety issue regarding the windows.

From February 2004 until November 2017 I lived at 3, Yonder Street, four doors down from the Rusty Pig, I then moved to 18, Yonder Street, still just a stones throw away. I can honestly say in all this time I have never once been affected or disturbed by any aspect of this business. The only disturbance I experienced was the turning out of the nearby pubs in the early hours. I would also like to point out the noise generated when events are held at The Institute with no apparent noise restriction. When an event is held there, it is actually deafening and continues relentlessly for hours.

Regarding the public safety complaint regarding the window. There is no public safety issue. The window was designed to fit the fascia of the property, its design fits in with the architecture of the street. It does not project in any way onto the public right of way, it enhances the front of the shop and only adds to the street as a point of interest. In contrast, I would point out that there is a public safety issue regarding the permanent installation of wheely bins down Batts Lane, a public highway nearby.

As a long standing resident of Ottery St Mary, it has been a pleasure to see a new and exciting business thrive here. It has opened up this part of the town centre, and increased footfall into the town. Robin uses other local tradespeople, for example Otter Produce, and contributes to many local events, such as the Ottery St Mary Food & Families Festival. He cares about the town, and is adding a huge amount to it by having his business here. The Rusty Pig is very popular and well thought of by so many residents and people from further afield who appreciate the feasting house, charcuterie and general ethos of the business.

I have only positive things to say about the Rusty Pig, all who work there and everything they strive to do. It is an exciting, forward-thinking addition to our town. In order for Ottery to thrive we need to welcome and support businesses like this in order to continue to grow. I would be dismayed if any working practises at the Rusty Pig were restricted in any way due to the petty views of someone who should clearly consider living outside the centre of our town. I happily live within the centre of town and only feel positively about the Rusty Pig.

Yours faithfully,

Lisa J Worwood (Miss)

9a Jesu Street
Ottery St Mary
EX11 1AD

To whom it may concern,

I am a resident very close to the Rusty Pig, and I been requested to give my opinions on the effect that the establishment has on the residents within a close proximity. I live very close by and I can honestly say, that in the time I have lived at this address I have never had any disruption that I can link to the Rusty Pig.

There are many points I could raise about parking, Volume levels from community events in the next door Insitute building, Refuse bins lined up permanently on roads, and very high noise levels from Pubs. I would like to stress that the establishment in question has done nothing, in my eyes, to ever affect the road we live on in a negative way.

Robin and his team have created a wonderful space with incredible food and impeccable service. The Rusty pig is a vital establishment in the town of Ottery St Mary, and has helped encourage other business owners to invest in Ottery and support the traditional community driven nature of this town.

It is my opinion that any restrictions imposed on the establishment will unjustly limit the businesses capabilities and damage the aesthetic of the Restaurant. I feel that any cause for these restrictions would be based on other factors that do not link back to the establishment in question.

Throughout the summer, when the weather was warm and many houses had windows open throughout the night, it was common knowledge that noise levels could be an issue from various pubs and late closing convenience stores, but never The Rusty Pig.

Imposing any restrictions on The Rusty Pig would set a negative precedent for the progression of business and local investment in the area.

Thank you for your time.

Yours faithfully,

Richard Hills-Ingyon

8 Yonder street

Ottery St Mary

Devon

Ex11 1hd

To whom it may concern,

We would like to give our opinion on the Rusty Pig, which we live only two doors along from in Yonder Street, which is very close in terms of experiencing any problems.

We've never been upset or bothered by the Rusty Pig or its customers at any time of the year. There hasn't been loud music that has disturbed us. The music seems very low-key and we don't hear it, even in summer when the window is sometimes open. As far as we have seen, the window is always closed before it gets dark anyway.

The type of people who go to the restaurant aren't a noisy lot so that hasn't caused us any problems either.

We think that Rusty Pig makes a real difference to Ottery and really good for Yonder Street. It's somewhere close to pop in for a coffee or a quick drink. The staff are really friendly.

Quite a few local people are involved in the business, which has got to be a good thing. Rusty Pig also uses local suppliers for ingredients and drinks, so it supports lots of people in the area.

Yours Faithfully



N. G. FRANKS

1

PIP GASCOIGNE-PEES
9 YONDER STREET
OTTERY ST MARY
DEVON EX11 1HD
TEL: 01404 811469
MOB: 07855 861513

Monday 3rd December 2018

To whom it may concern,

As a close neighbour of the Rusty Pig on Yonder Street, Robin Rea has asked me to pen a few lines on the impact of his business on me as a local resident.

Firstly, I have welcomed with open arms the arrival of a friendly, local business which provides exceptional food and service on my doorstep, using local produce and suppliers, and which attracts a substantial amount of business to the town from outside the area.

Secondly, and perhaps more importantly, I have been hugely impressed with the way in which the managers and staff have minimised any potential impact of the business on local residents. When I moved to my current address in 2010, I was frequently woken, or kept awake by, customers from the nearby pubs rolling out into the street in the early hours of the morning, drunk and often arguing at the top of their voices. In fact I am still disturbed on a regular basis by functions held at the Institute (next door to the Rusty Pig), which seems to have no restrictions on the volume at which music can be played with no apparent sound-proofing or regard for the impact of open windows at the venue on local residents. By complete contrast, I can honestly say that I have never once been disturbed by the customers or staff at the Rusty Pig, and this despite the fact that their balcony and kitchens overlook my back garden and their front window/door is next door but one from mine. I welcomed the installation of the sliding windows at the front of the property as an attractive addition to the ambience of the neighbourhood, and have witnessed first hand the diligence of the staff in ensuring that no obstruction is caused on the pavement outside and that the windows are closed in a timely manner to ensure that local residents are not disturbed or inconvenienced. I cannot see that there should be any concern for public safety or noise in the manner in which these windows are currently operated, and I would go so far as to say that there are a number of local businesses and operations which could learn a great deal from the consideration with which Robin and his team have treated their neighbours. I would welcome any new business onto my street who would operate in the same manner.

In summary, as someone who lives and works in close proximity to the Rusty Pig, I have only positive things to say about the business and would hate to see any restrictions imposed on their current mode of operation. It is of vital importance to the town's future that we encourage vibrant and forward-thinking businesses like this to thrive here rather than hampering their success through petty bureaucracy.

Kind regards,



Pip Gascoigne-Pees



RUSTY PIG ^{hand} Pigging Delicious!





RUSTY PIG

RUSTY PIG
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KRUSTY PIG

