

North Somerset Council

REPORT TO THE LICENSING COMMITTEE

DATE OF MEETING: MONDAY 23 JULY 2018

**SUBJECT OF REPORT: RENEWAL OF A STREET TRADING CONSENT
ISSUED TO: MS BRITTANY HAWKER T/A SPINIFEX COFFEE LTD**

TOWN OR PARISH: EASTON IN GORDANO

**OFFICER/MEMBER PRESENTING: DIRECTOR OF DEVELOPMENT AND
ENVIRONMENT**

KEY DECISION: NO

RECOMMENDATIONS

That the Licensing Sub-Committee considers and determines the renewal application made by Ms Brittany Hawker, T/A Spinifex Coffee Ltd for the renewal of a Street Trading Consent in the district of North Somerset.

1. SUMMARY OF REPORT

- 1.1 An application for the renewal of a Street Trading Consent has been received from Brittany Hawker trading as Spinifex Coffee Ltd. The application made is for the sale of refreshments and pre made food. Consultations have been carried out and a complaint about the operation of the unit was received from property occupiers in the vicinity of the unit. The complaint received relates to noise and nuisance. A letter supporting the business was also received from a local resident who was previously an objector to the initial application made in 2018.
- 1.2 Consultations have also been carried out with the relevant enforcement agencies and no adverse observations have been made.

2. POLICY

- 2.1 On 1 April 2008 the full Council adopted a revised district wide Street Trading Scheme for the North Somerset area. The revised scheme became operative on the 4 June 2008. The application made falls within the Council's street trading scheme.
- 2.2 At the same meeting the Council adopted guidelines for the administration of the Street Trading scheme. A copy of the Guidelines is available to the Committee and has been given to the applicant.

3. DETAILS

- 3.1 A renewal application has been received from Brittany Hawker T/A Spinifex Coffee Ltd to carry out street trading within the Council's area at the carpark of the Rudleigh Inn, Martcombe Road, Easton in Gordano. Details of the application made is shown at **Appendix 1**.

3.2 The street trading activity being renewed is for the sale of refreshments and pre made food on the following days and times:

	MON.	TUES.	WED.	THURS.	FRI.	SAT.	SUN.
FROM	0630 hrs	0630 hrs	0630 hrs	0630 hrs	0630 hrs		
TO	1100 hrs	1100 hrs	1100 hrs	1100 hrs	1100 hrs		

3.3 The application site for street trading is shown on the map at **Appendix 2**.

3.4 Photographs of the site subject to the application will be available at the hearing.

3.5 There are commercial and residential properties situated within 100 metres of the proposed site and these are shown on the map at **Appendix 2**.

3.6 This is a renewal application and a Street Trading Consent has previously been granted by the Licensing Sub-Committee to Brittany Hawker at this site. A copy of the Committee's decision can be found at **Appendix 3**.

4. CONSULTATION

4.1 Officers have followed the consultation process as outlined in the agreed Street Trading Guidelines. The following responses have been received:

Consultee	Response
Avon and Somerset Constabulary	No adverse comment
Avon Fire and Rescue Service	No adverse comment
Food, Health and Safety Team	No adverse comment

4.2 During the period of the initial Street Trading Consent a complaint was received from a local property owner with regards to the operation of the unit, the allegations made were that noise from the generator was so loud it could clearly be heard from her property

4.3 Following the complaint an unannounced compliance visit was carried out on 10 May 2018 by Sioux Isherwood the North Somerset Council Licensing Manager and Caz Horton a North Somerset Council Licensing Officer. A copy of the file note following this visit can be found at **Appendix 4**

4.4 On the 20 May 2018 a further complaint was received from Mr and Mrs Puzey, a copy of this email is shown at **Appendix 5**

4.3 A written objection to the proposed renewal of the Street Trading Consent and supporting diary sheets were received from Mr and Mrs Puzey the property occupiers within the immediate vicinity of the street trading site. The principle objections made are as follows:

- Noise
- Nuisance

4.4 A copy of the objection and diary sheets can be found at **Appendix 6**

4.5 An email from a local resident who had made objections to the initial Street Trading application; now supporting the renewal application. A copy of this email is shown at **Appendix 7**

5. FINANCIAL IMPLICATIONS

Costs – None

Funding - None

6. LEGAL POWERS AND IMPLICATIONS

6.1 The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the service. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder Partnerships and the Vehicle and Vehicle Standards Agency (DVSA) towards the promotion of any licensing objectives.

6.2 In undertaking its licensing function, the Licensing Authority has regard to the following legislation:

- Town and Police Clauses Act 1847
- Transport Act 1980 & 1985
- Road Traffic Acts The Local Government (Miscellaneous Provisions) Act 1976, as amended
- Environmental Protection Act 1990
- Health Act 2006
- The Smoke-free (Premises and Enforcement) Regulations
- The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007
- The Equality Act 2010
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002
- Local Government (Miscellaneous Provisions) Acts 1976, 1982
- Highways Act 1980

6.3 The Licensing Authority also has regard to any other relevant legislation, strategies, policies and guidance in its decision-making.

7. RISK MANAGEMENT

7.1 Regularly reviewing licensing policies and practices and using a risk-rated approach to both proactive and reactive enforcement reduces the risk to the Authority. Ensuring MoU agreements are in place with external partner agencies will also help strengthen roles and responsibilities surrounding Licensing work.

8. EQUALITY IMPLICATIONS

None

9. CORPORATE IMPLICATIONS

9.1 Under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 the Council may grant a Street Trading Consent if they think fit. When granting a Consent, the Council may attach such conditions to it as they consider reasonably

necessary, including those to prevent obstruction or danger or nuisance or annoyance.

- 9.2 There are no legal rights of appeal against the Licensing Sub-Committee's decision to refuse to grant a Street Trading Consent. Judicial Review on procedural issues in dealing with the application is though possible.
- 9.3 The provisions of the Human Rights Act 1998 apply to the process of granting Street Trading Consents.

10. OPTIONS CONSIDERED

- 10.1 The following options are available to the Licensing Sub-Committee with regard to the application that has been made:
- a) Grant the application as applied for.
 - b) Grant the application as applied for but with modifications to the terms sought.
 - c) Refuse the application.
- 10.2 Should the application be granted the standard street trading conditions are recommended to be attached to the Consent granted.

AUTHOR

Caz Horton, Licensing Officer

Tel: 01934 426 800

BACKGROUND PAPERS

The relevant background papers are attached as appendices.


LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
APPLICATION FOR THE GRANT OR RENEWAL OF A STREET TRADING CONSENT

PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS AND IN BLACK INK

I/We Brittany Hawker _____

Of Spinifex Coffee LTD _____

Telephone Number 0796 1871 295 _____

Email Address
SpinifexCoffee@mail.com _____

Trading as Spinifex Coffee _____

HEREBY APPLY FOR THE GRANT/RENEWAL of a Street Trading Consent in accordance with the following particulars:

The Street/Location I/We wish to trade is: The Rudleigh Inn, Martcombe Rd, Easton-in-Gordano, BS20 0QD _____

I/We wish to trade as detailed below

	MON.	TUES.	WED.	THURS.	FRI.	SAT.	SUN.
FROM	6.30	6.30	6.30	6.30	6.30		
TO	11.00	11.00	11.00	11.00	11.00		

Date or dates Consent is sought: from 1st July 2018 _____

The articles I/We wish to trade in are: Coffee and pre made baked goods _____

Please detail toilet facilities for persons working on a static site:

Mobile toilet facilities available for staff _____

Will the Consent Holder be present when street trading takes place? Yes No

If no, name of the person who will be present and responsible for the unit/stall:

Charles Pratt _____

I/We will be trading from a:

Van

Trailer

Cart

Barrow

Other (describe) _____

Dimensions: 2.5m x 1.75m _____

Colour stainless steel and black _____

Will you have tables and chairs on the site? Yes No

If yes, Number of Tables: _____ Number of Chairs: _____

Will you be trading on private land? Yes No

If yes, name and address of landowner: Katherine Lincoln, The Rudgliegh Inn, Martcombe Rd, Easton-in-Gordano, BS20 0QD _____

Do you hold, or have you previously held, or been refused, a Street Trading Consent with this or any other Council? If yes, please give details

Yes, for this same location. Consent number ST072 _____

I/We declare that I am/we are NOT under the age of 17 years

Date of Birth(s) 11/12/1994 _____

I/We declare that the information given in this application is true.

Signature of applicants *Brittany Hawker* _____

Date 12/06/2018 _____

Please return this form to: Data Protection Act 1998

North Somerset Council
Licensing Team
Town Hall
Walliscote Grove Road
Weston-super-Mare
BS23 1UJ

The personal data you provide on this form will be used by North Somerset Council to administer your licence. In order to protect public safety, this may include the use of sensitive personal data (criminal offences) to help assess whether you are a fit and proper person to hold a licence.

We may occasionally share your personal data with other Council departments and with other bodies (notably Housing Benefits, the Police, Inland Revenue) for the purposes of protecting public money, preventing and detecting crime and/or fraud and ensuring public safety. Such sharing will only occur on a case-by-case basis where a justifiable purpose in line with legislation has been demonstrated. The information may also be used for internal training.



**NOTICE OF INTENTION TO APPLY TO
NORTH SOMERSET COUNCIL FOR THE
GRANT OF A STREET TRADING CONSENT**

FULL NAME OF APPLICANT(S) Brittany Hawker

LOCATION OF PROPOSED STREET TRADING SITE:

The Rudgeleigh Inn, Martcombe Rd, Easton-in-Gordano, BS20 0QD

ARTICLES TO BE SOLD: Coffee and pre made baked goods

DESCRIPTION OF STALL OR OTHER STRUCTURE TO BE USED:

Catering Trailer made of stainless steel

PROPOSED TIMES OF TRADING:

	MON.	TUES.	WED.	THURS.	FRI.	SAT.	SUN.
FROM	06.30	06.30	06.30	06.30	06.30		
TO	11.00	11.00	11.00	11.00	11.00		

PROPOSED COMMENCEMENT DATE (if the application is granted) 1st July 2018

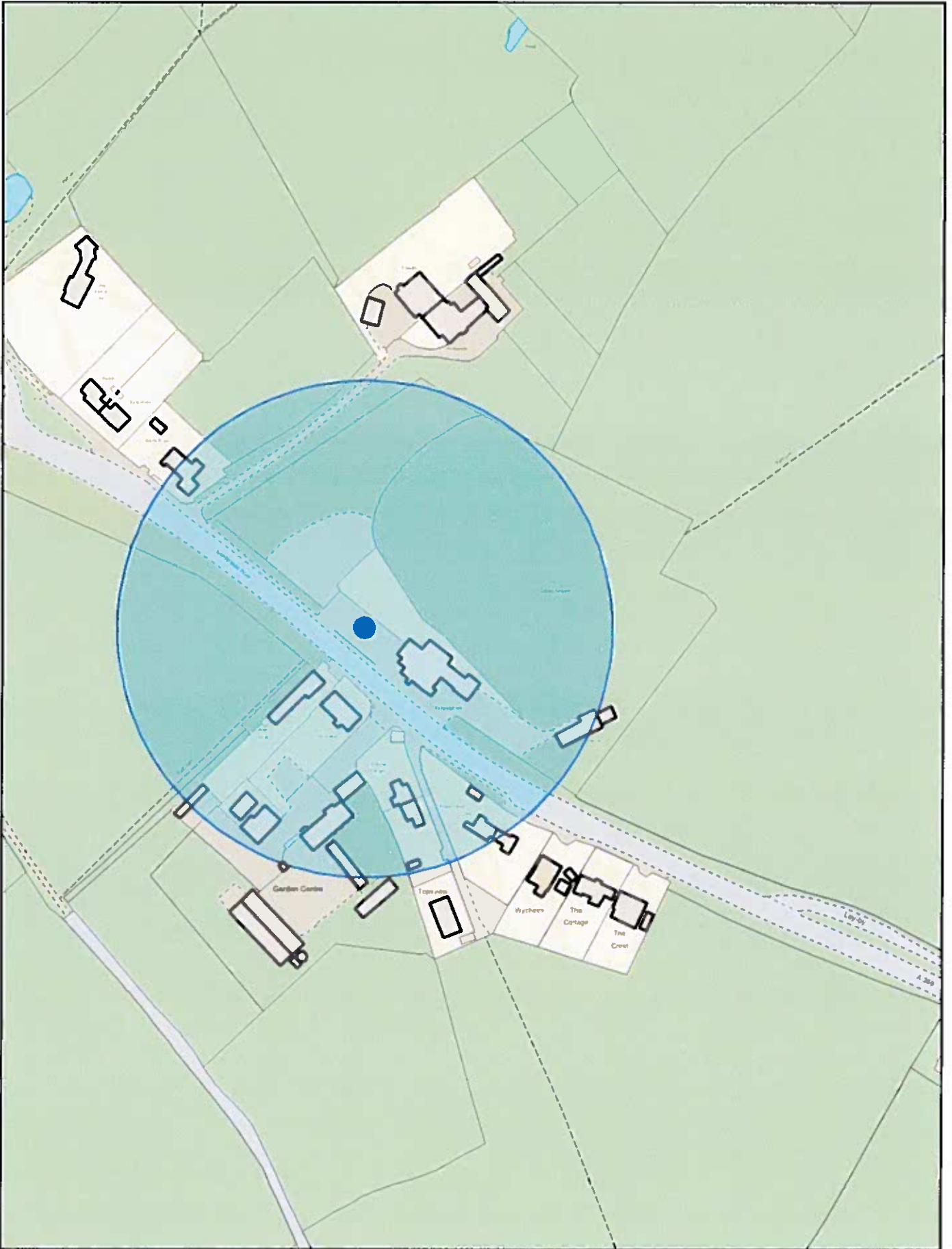
SIGNATURE OF APPLICANTS(S) *Brittany Hawker*

DATED 12/06/2018

ANY PERSON WISHING TO MAKE A REPRESENTATION REGARDING THE APPLICATION SHOULD WRITE TO NORTH SOMERSET COUNCIL, LICENSING TEAM, TOWN HALL, WALLISCOTE GROVE ROAD, WESTON-SUPER-MARE, BS23 1UJ WITHIN 21 DAYS OF RECEIPT OF THIS NOTICE

Issued by North Somerset Council Licensing Team, telephone 01934 426 800

APPENDIX 2



Date: 1st March 2018
Contact: Sara Saunders
Direct dial: 01275 884180
Email: sara.saunders@n-somerset.gov.uk



Ms Brittany Hawker
 The Garden
 Barleywood Stables
 Long Lane
 Wrington
 North Somerset. BS40 5SA

PRIVATE & CONFIDENTIAL

Dear Ms Hawker,

Re: Licensing Hearing – Application for Street Trading Consent: Spinifex Coffee, The Rudleigh Inn, Martcombe Road, Easton-in Gordano. BS20 0QD

I am writing to you following the Licensing Sub-Committee hearing that took place on Tuesday 27th February 2018, when the North Somerset Licensing Sub Committee considered your application for a Street Trading Consent to trade as Spinifex Coffee, The Rudleigh Inn, Martcombe Road, Easton-in Gordano. BS20 0QD.

The Sub-Committee heard from yourself as to why you want to trade from this particular site, and the kind of food & drink you propose to be serving. The Sub-Committee members had before them photographs of your vehicle, the location and your application form.

The Sub-Committee also heard from local residents who objected to your application on the grounds that your proposed business was not suitable for the location, which is situated in the car park of The Rudleigh Inn, directly opposite their house. Their main concerns were the noise from the generator and customer's vehicles, smells from the food being served, and possible increase in road traffic accidents.

The members of the Licensing Sub-Committee heard all the evidence presented by the Licensing Officer, the objectors and yourself, and also considered any paperwork submitted in support of your application.

The Sub-Committee decided to grant the Street Trading Consent with the following modifications:

Times of trading – Monday to Friday 6:30am to 11am

*A great place to live where people, businesses and communities flourish.
 Modern, efficient services and a strong voice for North Somerset.*

www.n-somerset.gov.uk

Town Hall, Weston-super-Mare BS23 1UJ



The Committee had regard to North Somerset's Street Trading Policy, as well as the provisions of the Human Rights Act and Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976, in considering your case at the Licensing Sub-Committee today.

Yours sincerely,

Sara Saunders
Solicitor and Legal Advisor Licensing Sub-Committee

Cc The Licensing Team (Ref: SI/KT)
 All those who objected to the application

APPENDIX 4

FILE NOTE

DATE:

10 MAY 2018

SITE:

SPINIFEX COFFEE, RUDGLEIGH INN CARPARK, MARTCOMBE ROAD,
EASTON IN GORDANO

OFFICERS VISITING:

SIoux ISHERWOOD (SEI) AND CAZ HORTON (CNH)

On Thursday 10 May 2018, SEI and CNH visited the street trading unit known as Spinifex coffee located at the Rudleigh Inn carpark, Martcombe Road, Easton in Gordano following a complaint from Mrs Puzey who is a property occupier within the vicinity of the Street Trading unit who had also made representation against the permit being granted.

On arriving at the site there were no customers waiting to be served. We sat inside our vehicle with the windows open only a slight muffled noise could be heard coming from the generator running the coffee unit.

The generator was located in a grassed area of the garden to the public house, behind a wooden fence. The generator was covered by an insulated wood box.

After identifying ourselves to the unit operator Mr Charles Pratt, he was advised that a complaint had been received and the allegations were about the noise from the generator, operating outside his permitted hours and that he was constantly staring through the property owners windows.

Mr Pratt advised that he felt intimidated by the occupiers of White Lodge, the house opposite, as they were constantly watching his every move. It was suggested to Charles Pratt that he may wish to relocate the unit further down the carpark out of the eyeline of the local resident, he said he was willing to give it a go, he was advised that this compromise would be put to the complainant.

SEI & CNH crossed over to the opposite side of the very busy and noisy A369 (Martcombe Road) opposite the Spinifex Coffee unit, outside White Lodge and the Tynings to monitor the noise coming from the unit.

Noise from the unit could not be heard from outside either of these properties.

SEI and CNH spoke with the complainant Mrs Puzey inside White Lodge, which is directly opposite Spinifex Coffee unit. The complainant was advised on the process for reviewing a Street trading permit.

Mrs Puzey advised the unit was ruining her life by being there, the noise from the generator could not be heard from inside Mrs Puzey's property at the time of the visit .

Mrs Puzey was advised that diary sheets to record nuisance incidents would be sent to her for her to complete and return to the licensing department, Mrs Puzey was also advised that if she had any complaints or concerns she should contact the Licensing Office for the complaint to be logged.

Mr Pratt was advised that Diary sheets would be sent out to the complainant, Mr Pratt advised that he was more than happy to discuss with Mrs Puzey any concerns she may have.

APPENDIX 5

→ obscure??

From: John Puzey [<mailto:john.puzey@btconnect.com>]

Sent: Sunday, May 20, 2018 8:02 PM

To: Kellie Trego <Kellie.Trego@n-somerset.gov.uk>

Subject: Complaint about Spinifex Coffee

Dear Ms Trego

We recently had a site visit from your Licensing Sub Committee, after we let our views be know on the continued nuisance we are suffering, from the trading by Spinifex Coffee who operate from the Rudleigh Inn car park opposite our home. It was agreed that in order to minimise the problems we have with this trader, he would be asked to move his trailer to another position in the car park which was directly in our view. The trader has partially done this, but instead of parking in the far corner of the site as requested, his trailer now occupies one of the parking bays which is still clearly in our view. He also now does not put the generator to power his unit, behind the car park fence to lessen the noise from it, which was part of the original agreement for him to trade on that site. I would like to ask you to contact him and tell him to honour what has been agreed, or suspend his licence to trade from that site, as his presence there continues to disrupt our enjoyment of our own home on a daily basis.

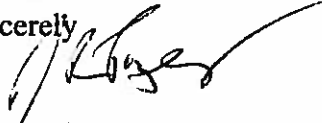
Your faithfully

John & Geraldine Puzey

come to pass. Also, please understand how that decision has impacted on our own rights to enjoy our home and surroundings, by the actions of a third party whose right to trade can easily be accommodated elsewhere.

If all else fails, we are willing to consider a compromise to this situation which would involve re-siting the van on the other side of the pub out of our view and further away in terms of noise and nuisance. We are not unreasonable but we simply wish to enjoy our own home in peace and without the intrusion of people staring in hour after hour on a daily basis.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John & Geraldine Puzey', written over the typed name below.

John & Geraldine Puzey

APPENDIX 6

F.T. A CAZHORTON

Licensing Development and Environment
North Somerset Council
Floor 1
Town Hall
Weston super Mare
BS23 1 UJ

Ref: 340886
19th June 2018

Dear Sir/Madam,

I understand that a renewed licence application has to be made by Spinfex Coffee, to allow that business to continue trading on the car park of the Rudleigh Inn, Martcombe Road, Easton in Gordano.

I would like to ask that the Licensing Team re consider their original decision to grant this application, as that decision has been, and still is affecting our quality of life on a daily basis. Our original objections still stand, and those points that were raised previously about noise, nuisance, and the close proximity to our property, have been demonstrated by the trader's actions since the original licence was granted. We are awoken every morning when he arrives by the noise made when unloading the generator, and the setting up of the unit. He does not keep to the times of trading that were granted him, there have been many occasions when trading has continued after 11.00 which was the time set for trading to cease, and the site is never vacated before 11.30am. We have had to make several calls to the licensing office regarding this, as well as the fact that his van has been parked directly opposite our main kitchen window, which means whenever there are any customers, they all stand staring across the road at us working and going about our own affairs in our own home. After a site visit by two members of the Licensing Office, the unit was moved to the corner of the car park, which did alleviate part of that problem, but the unit this week has been moved back to its original position.

The Licensing committee previously dismissed our objections along with other objections by residents, the Parish Council, and Nature Groups. Now this application has to be renewed there is the opportunity for the Committee to reconsider that decision, and consider the demonstrable reality that this application is affecting the quality of life of other people's enjoyment of their home and neighbourhood, which should have been given greater consideration when the original application was submitted. The majority of mobile catering vans are sited in layby's in rural areas, where they do not impact on local residents in any way, but to allow this particular site to be used for this purpose, where it does affect residents, offends against the criteria for such licences. There is an ideal site half a mile away next to the motorway junction, where many people stop each day and park their cars, which would be a much more viable site, compared to the current location.

My wife and I urge you this time to give greater credence to the Council's own criteria for granting these applications now that the reality of what we anticipated has

The nuisance I have experienced is listed below:

Date	Time started	Time finished	Description of nuisance	How it affects you; how severe is it?; where were you?
16.5.1	6.38		engine noise outside generator	As above, cannot have window open in bedroom as noise is unbearable. please see below
				Generator in room in car park next to Mr Poble
				live
				generator still running in car park. feet from my
30.5.16	6.40		Generator in car park Mr Poble is now in position now in position of car park NOT 50 yards	Reduction: can be heard with window open and on P also at front of house

Signature:
 Please return to: Environmental Protection, Floor 1, Town Hall,
 Walliscote Grove Road, Weston-super-Mare BS23 1UJ

RECORD OF NUISANCE FORM
CONTINUATION OF WITNESS STATEMENT

RN2 (C)

Date	Time started	Time finished	Description of nuisance	How it affects you; how severe is it?; where were you?
June 12	6:40	11:30	Board of England nursery	Generator now moved back to garden behind fence, can still hear, but not so loud.
June 12th	6:25	Mr Pratt here to start is 6:30		
June 12th	8:15	8:40		Customer bring 2 chairs from car sit with young child in car park having drink & food.
June 13th	8:30	8:50		Same Customer with young child sit on car park having food and drink. Directly facing my kitchen window
June 13th	6:37	11:46		Mr Pratt has now moved his Unit back directly opposite our Bedroom & kitchen window. Even more noise unloading generator!!!
June 14th				Last customer leaves 11:05 am Mr Pratt takes signs down at 11:18 am Still on car park at 11:46 am.

Signature: 

APPENDIX 7

Caz Horton

From:
Sent: 09 July 2018 15:27
To: LICENSING; Rudgeleigh Inn; Charles Pratt; tom.wright@archant.co.uk;
eleanor.young@archant.co.uk
Subject: Street traders licence - Spinifex coffee

To whom it may concern

When the application for a coffee stall on the forecourt of the Rudgeleigh Steakhouse was first submitted I was not in favour and put in an objection. However upon consideration I changed my mind. I thought that to pursue the matter I had to follow up my objection, so thought I was no longer involved.

Obviously that was wrong and so I was annoyed that I was quoted in the local press as speaking against the application, especially as I was not contacted before my name was used.

Now that the matter is up for review I would like to make it abundantly clear that I have no issue with this business at all. Vehicles using the carpark cause no more danger or obstruction than has always been the case. The exit is not ideal but with care any sensible driver will have no problem.

My main issue was with the possibility of extra litter. The evidence is that there is no rubbish from Spinifex. In fact a great deal of the items that we pick up on St. George's Flower Bank can be identified as coming from fast-food outlets belonging to major chains, either from Portishead or the motorway services. That issue is being actively pursued at the moment.

I trust that my position on the subject is now clear.

NAME + ADDRESS SUPPLIED.