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Dear Councillor

### SOUTH HAMS LICENSING SUB-COMMITTEE - THURSDAY, 18TH APRIL, 2024

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

Agenda No Item

### 5. <u>Application to vary the Premises Licence of The Crabshell Inn, Embankment Road,</u> <u>Kingsbridge, TQ7 1JZ</u> (Pages 1 - 28)

Yours sincerely

Darryl White Democratic Services Manager

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### Dear Sirs

The following note is a brief written submission to assist the licensing committee and parties to the licensing application for The Crabshell at the licensing hearing now listed for 2pm on 18 April.

We have attached some photographs of the premises, the Shepherds Hut (Hut) and the outside space.

### Application

The application is a variation application predominantly directed toward permitted an external additional dispense point, the Shepherd's hut, at the side of the premises. This unit will sell a modest range of drinks (alcoholic and non-alcoholic) and is also seeking to permit pizzas to be dispensed as well.

This Hut is a dispense point to reduce wait times on the internal bar and our client will ensure that any guests who have purchased from this point are kept within the current seating arrangements.

### **St Austell Brewery**

St Austell Brewery are a very well-known brewer and pub operator. They have a significant volume of premises across the southwest (and increasingly further afield) and their estate of public houses will be well known to the licensing committee. St Austell are responsible for the delivery of all licensable activities within the business and will bring their standards and controls to bear.

### Presenter

We attach a presenter that discloses a little bit about the background to the St Austell operations. St Austell have a field-based operations team who help support the manager on site, who are involved in training and who undertake regular assessments of the operation in terms of standards, cleanliness, compliance, regulation, as well as sales.

### Crabshell

These premises were acquired by the St Austell Brewery last year. The premises is very well appointed and the photographs that we have attached to this submission can be seen by the committee to confirm its design and position. This is a premium pub business with fantastic views, great beers and a good food offer.

There is already an area externally for families to eat, drink, stand, and socialise.

#### **Responsible authorities**

It is of note that none of the responsible authorities have objected to this application. The licensing committee will be familiar with Section 9:12 of the national guidance which states as follows: "Each responsible authority will be an expert in their respective field and in some cases, it is likely that particular responsible authorities will be the licensing authority's main source of advice in relation to a particular licensing objective... The police usually therefore will be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective".

The police (and other Responsible Authorities (Health and Safety)) would most usually be associated with concerns that are raised by the Parish clerk and Town council, particularly in relation to vehicular traffic and the interaction with those who may be utilising the facilities.

#### Food and soft drinks

This submission is not proposing to address the issue of the food or soft drink dispense from the Shepherd's Hut. Whilst late night refreshment is a licensable activity, attending to the late-night service of hot food and hot drink, it is not proposed that these premises will operate beyond 11pm and will not open before 5am.

The Hut will if granted a permission dispense a much reduced range from the internal bar, four draught lines, and some bottled beers and ciders. It also proposes to serves pizza, direct from the Hut, which is the same offer that can be ordered inside.

### Representations

There are two representations that have been served.

### Kingsbridge Town Council

This says that the car park is in the vicinity of the Shepherd's Hut. Whilst we accept that, of course, we do not accept that it may therefore fairly be said that the licensing objectives will be undermined because of this. Many pubs, bars, restaurants, hotels and other licensed units (as well as many other hospitality premises that do not oblige a premises licence to be obtained in order to conduct their activities) are in proximity to car parks. 15 St Austell sites currently operate a similar set up, three of these are in car parks and external spaces.

This is generally a quiet car park, and only for use of the pub. It has 18 spaces and usually fills up quite quickly at peak periods (when the Hut will more likely be open) without a significant amount of moving traffic. The Hut is in in the back corner of the car park, and will be "protected" by planters as referenced in the photographs above. Cars will still be able to park in the area in front of the Hut, but this is also used by staff and this is not a part of the car park that has a lot of movement once full.

The second point that is raised against the application is the suggestion that the variation to the licence would create greater footfall in the area. We do not accept that that can fairly be said to be something that would undermine the licensing objectives. The tables, chairs, and covers we have at the premises are not being increased.

The suggested conclusion that that would in and of itself be a hazard for families with children attempting to negotiate traffic flow is not accepted. Adults, parents, guardians and children walking through busy car parks is part and parcel of much of life, unrelated to licensable activities.

### **Barrier/Protection**

We propose to position some planters to act as a barrier outside the immediate vicinity of the Shepherd's hut as a means of protecting against this modest concern. A condition to that effect can readily be attached to the licence and would, we respectfully suggest, entirely address the concern.

#### West Alvington Parish Council

It is unclear from the representation as to the degree to which the representation is put forward on behalf of the parish council itself.

The first point raised is that a planning application has recently been refused. The licensing committee will be familiar with its own licensing policy and the national guidance. Planning and licensing are not identical regulatory regimes, a point recognised within paragraph 2.5.8 of the licensing policy. As the policy states *the planning and licensing systems involve consideration of different (albeit related) matters. Home Office guidance makes it clear that licensing committees are not bound by decisions made by planning committee and vice versa.* 

For the avoidance of doubt, this variation application will not be operated in breach of its planning permission.

The second point raised against the premises is the proximity of a public right of way. The public house, the external seating area and the Shepherd's hut are all in proximity to one another and we are unaware of, and the representation does not seek to suggest, that the existing operations cause conflict, difficulty or any undermining of the licensing objectives as a result. We presume that this is in relation to the right of way to the immediate residential neighbour, no challenge has come from this individual, our client has a strong relationship with them and although they have vehicle access to their house, it is not in constant use. In fact it is infrequent.

The third point raised is that the premises is busy throughout the year, it is particularly popular with both residents and visitors and that peak season footfall should not be underestimated. As above, we are do not accept that the application could and should be refused as a result of this comment. This does not attend to the licensing objectives, it does not suggest that the existing busy premises is in any way undermining the licensing objectives, nor causing any difficulties.

This proposal is a perfectly legitimate and natural extension to the premises, providing an additional dispense point, which cannot, respectfully, fairly be said to be such a departure as to invite the conclusion that the licensing objectives would not continue to be promoted.

The fourth paragraph suggests that noise will likely impact on surrounding businesses and neighbouring properties including those across the water. This is not accepted. Whilst it is right that there will be an additional dispense point and customers will be able to take a drink from this space, this is to help facilitate the premises and the occupation of the outside area. There is no suggestion within the representation that the existing external area, to the front of the premises, on the waterside, also adjacent to the car park, is undermining the existing licensing objectives.

We do not accept that the dispense and/or sale of alcohol (or food) will adversely impact the Licensing objectives through smell. It is right that the premises proposes to operate a pizza oven, wood fired, but that is not something can reasonably lead to the conclusion that a public nuisance will arise. The suggestion that those "across the water" will be adversely impacted by such a modest development of the premises is perhaps instructive.

### Evidence

We submit that the licensing sub committee can only really make a finding based on the admissible materials submitted to it. What the licensing committee cannot be asked to do is to speculate, as the High Court made clear in R (Daniel Thwaites) v Wirral Borough Magistrates Court (2008) EWHC838 (Admin). The committee will also note, in parallel to the Thwaites matter that the light touch legislation, the absence of any responsible authorities making representations, are factors that should weigh heavily in the applicant's favour.

We also submit that all of the materials produced by the applicant support the proposition that the Shepherd's hut can perfectly legitimately operate without there being any suggestion of the licensing objectives being undermined.

### **Existing operations**

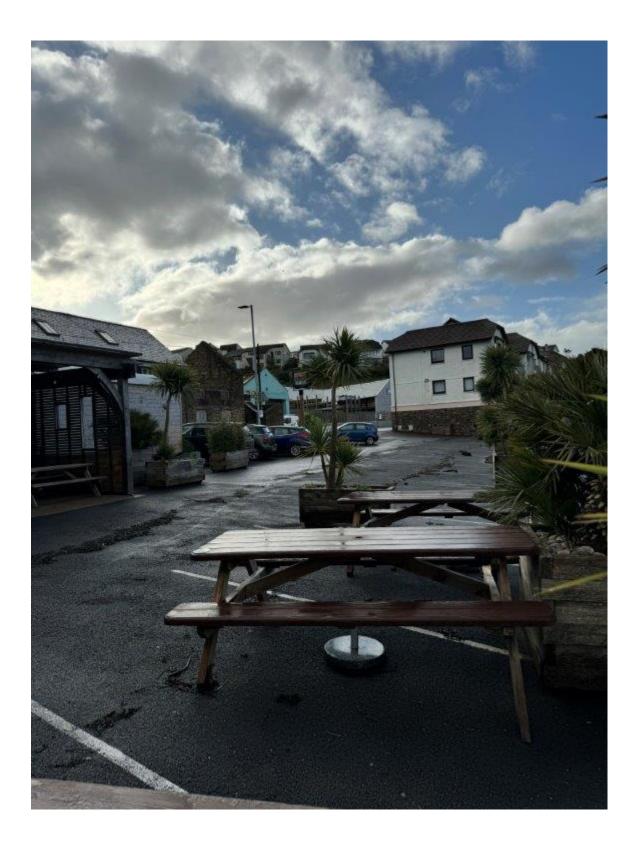
Finally, of very great significance is the fact that the two representors do not suggest that there is any undermining of the licensing objectives being undertaken by the operation on site at present. This application merely supports a modest extension of the existing proposal.

### Conditions to consider

If the committee consider the concerns raised are relevant representations, and additional restrictions may help support the objectives promotion, then our clients will propose to limit the hours between 12 and 9pm 1April to 31 October and 12-6pm 1 November to 31 March. The Hut will always be manned when open, and will covered by CCTV. These may be appropriate conditions for the committee to consider.

Best wishes

Matthew Phipps Partner Head of Licensing England and Wales This page is intentionally left blank











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# St Austell Brewery



## **About St Austell Brewery**

- Founded in 1851 by Walter Hicks, we remain a 100% independent and family-owned business.
- We own and operate over **160 pubs, inns and hotels** across the South West, including 44 managed houses and a tenanted estate.
- We are one of the **region's largest employers** with ver 1,900 people across our business.
- <sup>•</sup>With a network of six depots across the West
  <sup>•</sup>Country (from St Columb to Wimborne) we are the leading wholesale distributor of beers, wines, spirits, ciders, minerals, and soft drinks in the region (with over 3,000 freetrade customers).
- Our Charitable Trust has raised over £1m to donate to charities, individuals and good causes across the South West.
- We achieved **record sales in 2022**. Despite significant economic headwinds, the company's annual turnover grew by 34% to £209.2m (surpassing pre-pandemic sales by 10%).

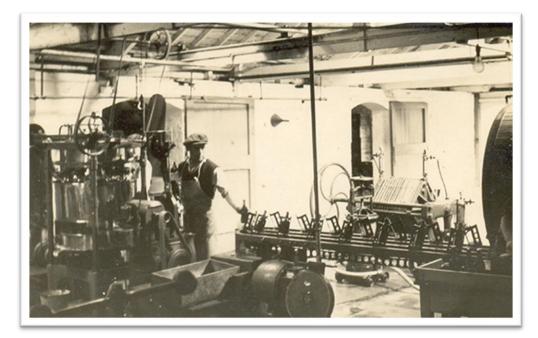






# **Brewing history**

- Our story began in 1851 when our founder Walter Hicks mortgaged his farm for £1,500 to set up a new family business in St Austell.
- Walter started out as a modest wine merchant and maltster before buying the local Seven Stars Inn in 1863. Nestled on East Hill in St Austell, it was here where he learned the art of brewing.
- The business rapidly outgrew its original site, leading to relocation on Tregonissey Lane in 1893, where St Austell Brewery remains to this day. There have been many alterations and improvements over the years, but the essential brewhouse of 1893 still sits firmly at the heart of it all.







# **Brewing today**

- We have two breweries. Across both sites, we brew over **50 million pints** of beer a year.
- We brew two internationally recognised ale brands in Tribute Pale Ale and Proper Job IPA.
- We have our own on-site bottling, cask racking, kegging and canning facilities.
- We use hops from the UK, Europe, West Coast
  USA and even Tasmania all sourced for the
  quality and authentic flavours required for each beer.
- We are committed to **innovating and investing in the cask and premium ale** categories and launched a new permanent cask brand last year – Anthem British Pale Ale (3.8% ABV) alongside Cornish Best, available in the off trade in 500ml.
- We are equally committed to our keg portfolio and meeting customer demand. Volumes of korev (our flagship lager) have **doubled since 2021**, following significant investment in the brand.







## What makes us different?

- One of the **top two** independent family brewers in the UK.
- Our flagship pale ale, Tribute, recently won two medals International Brewing Awards 2024 – 25 years' since it was first brewed.
  - The only brewery in the UK to have been awarded **Champion Bottled Beer of Britain** three times with three different beers, including Proper Job IPA and its big brother Big Job Double IPA.
- We were recently named **Best** Accommodation Operator at the Publican Awards 2024 – the Oscars of the industry.
- Proper Job is the **best-selling bottled** IPA in the country's biggest supermarket – Tesco.









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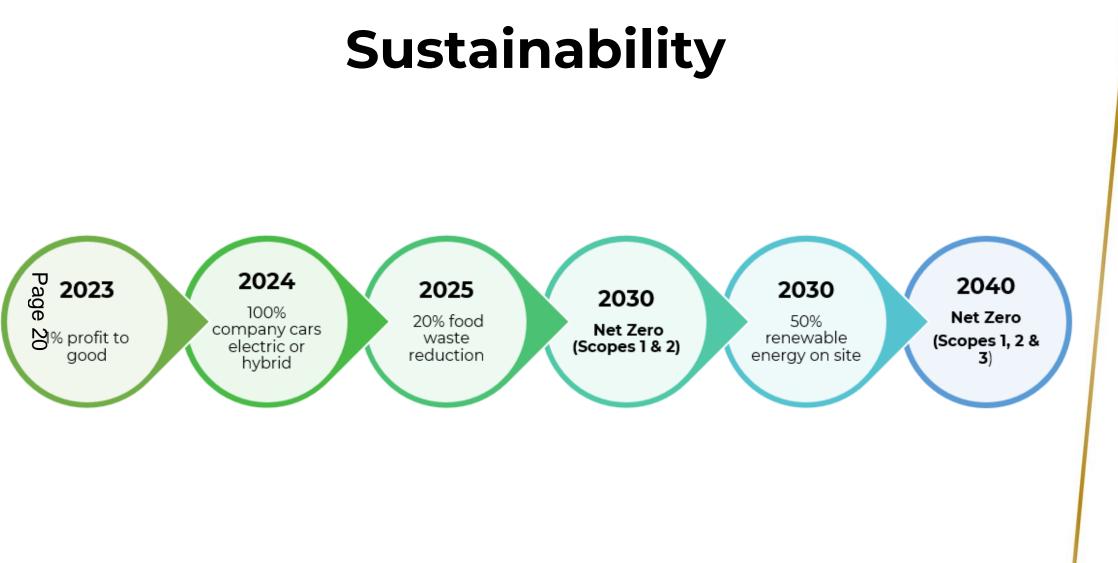
## **Charitable Trust**

- Since its launch in 2003, St Austell Brewery's Charitable Trust has been supporting local charities, good causes, and individuals in need across the South West.
- Our Trust is funded by contributions from
  the business, along with donations and
  money raised through fundraising events
  held in our head offices, depots and pub estate.
- To date, the Charitable Trust has raised over £1 million over £118K in 2023 alone.
- One of our biggest fundraisers since the Trust first launched is our annual Celtic Beer Festival. Held in the brewery cellars, the event has generated over £200,000 from ticket sales over the years.











## **Our strategic partners**







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## **OUR RANGE**

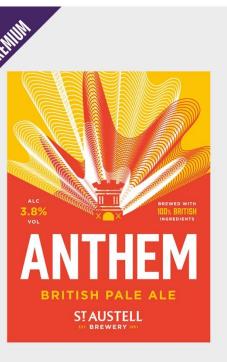




## Our Cask **Brands**

## **KEY STATS:**

- St Austell Brewery is the 2nd
- Pag largest Cask Ale brewer in the
- South West.
- Tribute is one of the top 10
- 23 selling Cask Ale's across Great Britain.
- Proper Job Cask is outperforming the market leading Cask Ale in the South West.
- Tribute & Proper Job are both in the top 10 selling Premium Ale's across total off trade.
- Proper Job is the No.1 selling premium ale IPA across all of off trade.
- Tribute is the best performing of the top 30 premium ale brands in off trade.



ANTHEM

BRITISH PALE ALE • 3.8% ABV

Anthem is our new golden pale ale brewed

with 100% British ingredients. The four

hop varieties - Target, Olicana, Jester and

Harlequin - bring the beer's mango, peach,

apricot, melon and tangerine flavours.





### TRIBUTE PALE ALE $\cdot$ 4.2% ABV

Zesty and fresh pale ale brewed with Cornish Gold malt and hops from the UK and the USA. The malty base brings character and flavour and balances the beer's fresh orange and grapefruit notes.

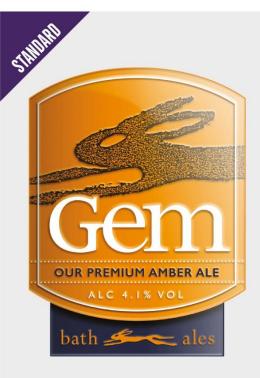


An authentic IPA, packed full of citrus, pineapple and grapefruit flavours. Proper Job is a big, bold and strong beer with a crisp bitter finish; perfect for pairing with full-flavoured dishes.

### STRATEGIC BRANDS

## Our Cask Brands





TACTICAL BRANDS



### **CORNISH BEST** BEST BITTER • 3.4% ABV

A traditional best bitter, Cornish Best delivers a full, well-balanced flavour despite its low strength. Toffee and biscuit notes complement a hint of bitterness.

### **GEM** Amber Ale • 4.1% Abv

A full-bodied, malty amber ale. Gem's rich aroma of spicy hops, malt, and toffee is met with a deep, bittersweet finish. A well-balanced, dependable beer crafted from traditional British malts and hops.



Hicks is a legendary ale named after St Austell Brewery's founder, Walter Hicks. It's full-bodied, strong, and distinctly Cornish.



### KOREV LAGER

## 4.8% ABV

Born on Cornish shores, open horizons inspired us and nature's elements shaped us. Pale gold like the morning sun, fresh and crisp like a coastal breeze, full-on refreshment like waves crashing against our shores: this is the coast in a glass. Drink it all in.

### **REASONS TO STOCK:**

- Rebranded to reposition between World & Modern Craft backed with a £1m On-Trade and marketing investment.
- · World lager continues to be driven by premiumisation korev can firmly tap into that trend.
- World beer attracted 1.3m additional shoppers in Off-Trade during lockdown in 2020\*.
- Target audience of 18-27 year olds are looking for premium eye-catching brands when they engage with the On-Trade korev delivers on this across all touchpoints.

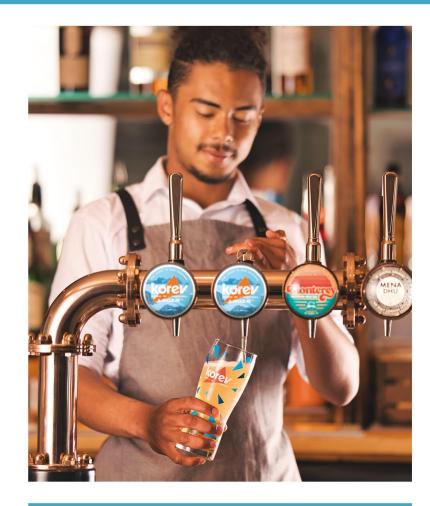
<b>COLOUR:</b>	Pale, Platinum Gold			
AROMA:	Delicate, Herbal, Honey, Popcorn			
TASTE:	Crisp, Clean, Fresh, Delicate			
<b>BITTER</b> :	$\bullet \bullet \circ \circ \circ$			
SWEET:	$\bullet \bullet \circ \circ \circ$			

### FORMAT AVAILABILITY:

Keg: 30L, 50L. Bottle: 500ml, 330ml. Can: 330ml.

### **ALLERGENS:**

Barley.



### **KEY PARTNERSHIPS:**

- Marine Conservation
- Surfing England.
- Watergate Bay

- Blue Earth Summit.
- Lakefest.
- The Eden Sessions.
- Great Estate Festival.





25,109

**BB MAT** 

**67**%

KOTEV

THE COAST IS OUR COMPASS

**DRAUGHT VOLUME** 



The Licensing Department, South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE. Tel:- 01803 861336 Email:- <u>licensing@swdevon.gov.uk</u>

### SUMMARY OF KEY POINTS

These are the key points I rely on to support my representation:

Application Variation to Premises Licence

By: St Austell Brewery Company Limited

of: 63 Trevarthian Road, St Austell, Cornwall, PL25 4BY

Name of premises: The Crabshell Inn, Embankment Road, Kingsbridge, TQ7 1JZ

Key Points					
Which of the four licensing objectives does your <i>application,</i> <i>representation or</i> <i>objection relate</i>		( <b>√</b> )		a summary of your key points in the table below. additional page if necessary	
Prevention of crime & disorder					
Public safety			Please see the attached sheet.		
Prevention of public nuisance					
Protection of ch from harm	ildren				
Your Signature:		ı		Your address: Kingsbridge Town Council, Quay House, Ilbert Road, Kingsbridge, Devon, TQ7 1DZ	
Name:	Martin Johnson, Town Clerk		on, Town Clerk		

### Summary of Key Points

1. Planning application 3360/23/FUL from the St Austell Brewery for a proposed new shepherds hut/shack on wheels, consisting of a bar dispense area and pizza kitchen with servery (retrospective) was Refused by South Hams District Council on 7 March 2024 for 4 reasons. Reason no.1 was: "The siting of the hut would place customers in conflict with manoeuvring cars and does not safeguard the health and amenity of customers contrary to (Joint Local Plan policies) DEV1 and DEV2". Said decision was supported by the Planning Officer's Report also dated 7 March 2024 and the Environmental Health Team's response dated 5 March 2024 which included: "I would be concerned about this being located in the small car park where there will also be cars reversing into and out of spaces. There would be a tendency for customers, including small children, to circulate in this area whilst queuing or after being served. These people will then be in direct conflict with cars and we would consider this a significant safety issue. This could only be resolved by providing a barrier across the car park, resulting in the loss of 6-8 spaces, not just the 2 suggested".

2. Kingsbridge Town Council's Planning Committee held on 5 March 2024 considered the variation to the Premises Licence at The Crabshell Inn. It is compelling, that contemporaneously and without any knowledge of the information contained in paragraph 1. above, Members independently came to exactly the same conclusion:

"Recommend Refusal on the grounds that one of the licensing objectives "Public Safety" would not be met. The area in the vicinity of the Shepherd Hut is a car park. A Premises Licence would create greater footfall in the area and therefore be a hazard for families with children to attempt to negotiate traffic flow".

3. It is requested that the Licensing Sub-Committee carefully considers Kingsbridge Town Council's representation and refuses the proposed variation to Premises Licence at The Crabshell Inn.