

# NORWICH CITY COUNCIL

## Report for Resolution

Report To Regulatory sub-committee

21 February 2011

**Item**

**4**

Report of Head of Citywide Services

Subject Application for renewal of licence to place tables  
and chairs on the highway – The Gardeners  
Arms PH 2-4 Timberhill Norwich

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### **Purpose**

To ask Members to determine an application to place tables and chairs on the highway.

### **Recommendations**

1. That members determine the renewal application to place tables and chairs on the highway submitted in respect of The Gardeners Arms PH 2-4 Timberhill Norwich.
2. If members are minded to approve the application they determine appropriate conditions to attach to the licence.

### **Financial Consequences**

The financial consequences of this report are nil.

### **Corporate Objective/Service Plan Priority**

The provision of outdoor refreshment facilities can enhance the character and vitality of an area and contribute to Norwich as a vibrant city of culture.

### **Contact Officers**

Ian Streeter

Phone No  
212439

### **Background Documents**

Report and minutes Regulatory committee: 13 May 2008; and 17 February 2009.

## Background

1. Section 115E of the Highways Act 1980 (The Act) provides for a council to grant a person permission to use objects or structures on certain categories of highway for a purpose which will result in the production of income.
2. The Act also provides for a council to attach such conditions as they think fit to a permission granted under Section 115E. A copy of the conditions attached to the last licence issued to The Gardeners Arms under The Act is attached at Appendix A to the report.
3. The Act gives councils a wide discretion to determine such applications and to impose conditions. Each case must be considered on its own merits with due weight being given to relevant considerations only. Existing policies or guidelines should not be applied so rigidly that an exercise of discretion in each individual case is precluded. Accordingly, the adopted standard conditions could be added to or amended depending on the circumstances of each individual application.

## The Application

4. An application to renew an existing licence to place tables and chairs on the highway has been received from Philip Cutter in respect of an area outside The Gardeners Arms 2-4 Timber Hill Norwich, a copy of which is attached at Appendix B to the report.
5. A licence granting permission to place tables and chairs outside the Gardeners Arms was first granted in September 1996. The council's Regulatory committee have previously considered applications to renew The Gardeners Arms tables and chairs licence at their meetings on 13 May 2008 and 17 February 2009. Copies of the relevant reports and subsequent minutes are attached at Appendix C to the report.
6. Members will note from the applicant's correspondence that he is requesting additional wording to be added to condition 10 of his licence, which currently reads:-

7.

*The Licensee shall ensure that the licensed area is mainly enclosed by a barrier that is in keeping with the visual appearance of the area, not less than 800mm high and with no more than 150mm between the base rail and the ground, or other design as previously agreed in writing by the Council. Neither the barrier nor other furniture should carry strident advertising that goes beyond the purpose of discreetly identifying that the pavement cafe is associated with a particular business.*

The applicant has requested that the following wording be added:

*"The licensee may display articles attached to the barriers which may advertise events for a limited period only".*

### **Consultation**

8. Details of the application have been forwarded to the Norfolk Constabulary and Norfolk Fire Service and their responses are attached at Appendix D. Copies were also sent to the City council planning, transportation and environmental protection sections for comment. The council's Principal Transportation Officer has responded on behalf of planning and transportation and his comments on the current application, together with his comments that were considered by the Regulatory committee in February 2009, are attached at Appendix E.
9. Environmental protection have responded by confirming that they received complaints in June and August 2010 concerning unauthorised advertising in respect of the tables and chairs licence and a photograph of the advertising in June 2010 is attached at Appendix F. The complaints were resolved by way of written advice being given to the licensee.

The complaints also referred to tables and chairs being left outside after the terminal hour on the licence although at the time of the complaint there was no evidence provided to substantiate this. Environmental protection has confirmed that there have been no other complaints from a licensing / noise perspective.

10. Occupiers of nearby premises have also been notified of the application and this has resulted in one objection and four letters of support. The response objecting to the application is attached at Appendix G and those in support are attached at Appendix H.

### **Licensing Act 2003**

11. The Gardeners Arms hold a premises licence under the Licensing Act 2003 that permits the retail sale of alcohol every day between the hours of 07:00 – 01:30. The licence also permits the supply of alcohol for consumption both off and on the premises. The conditions consistent with the Operating Schedule in respect of The Gardeners Arms premises licence are attached at Appendix I.
12. The Licensing Act 2003 provides for a person living or working in the vicinity of a licensed premises to apply for a review of a premises licence, if the grounds for the review relates to one of the licensing objectives, that is:-
  - a. Prevention of Crime and Disorder
  - b. Promotion of Public Safety
  - c. Prevention of Public Nuisance
  - d. Protection of Children From Harm



NORWICH  
City Council

APPENDIX A  
REG CTTE  
21-2-11

NORWICH CITY COUNCIL

**Highways Act 1980, Part VIIA – Provision of Amenities  
on Pedestrian Ways**

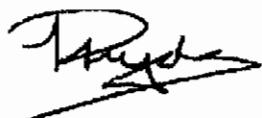
THE CITY COUNCIL OF NORWICH (hereinafter called “the Council”) in exercise of the provisions of Section 115E of the Highways Act, 1980, hereby grant **Mr Philip Cutter** (“the Licensee”) permission, subject to the following conditions, to place tables and chairs (“the objects or structures”) to accommodate a maximum of **7** tables and **21** chairs on the area of the public highway known as **2-4 Timberhill Norwich Norfolk NR1 3LB** shown coloured red on the attached plan (“the application site”) for the purposes of providing refreshment in connection with the premises known as **The Gardeners Arms** (“the premises”) from **12th November 2009** to **11th November 2010**.

The conditions of this Licence are:

- 1 The Council's reasonable expenses in connection with the granting of this permission shall have been paid and the annual fee starting with the date of this permission shall have been paid before the permission is first exercised.
- 2 The Licensee shall indemnify the Council against any claim whatsoever, in respect of injury, damage or loss arising out of the grant of this permission other than injury, damage or loss which is attributable to the negligence of the Council.
- 3 The objects or structures shall be placed only on the licensed area and on no other part of the public highway.
- 4 The objects or structures shall be used only for the purposes stated above and only in connection with the premises.
- 5 The objects or structures shall be removed from the public highway forthwith upon the direction of a Police Constable in uniform or a Traffic Warden.
- 6 The objects or structures shall be removed from the public highway forthwith to enable the passage of any emergency service vehicles or any vehicle engaged on the repair or maintenance of the public highway or apparatus within the public highway or any other vehicle authorised by the Council to proceed on the public highway.
- 7 Permission for the tables and chairs is granted from **08:00 to 23:30, Everyday** (subject to earlier termination under clause 13).
- 8 No amplified music or live music shall take place on the licensed area.
- 9 The tables and chairs, the subject of this Licence, shall be removed from the licensed area each day outside of the licence period.

- 10 The Licensee shall ensure that the licensed area is mainly enclosed by a barrier that is in keeping with the visual appearance of the area, not less than 800mm high and with no more than 150mm between the base rail and the ground, or other design as previously agreed in writing by the Council. Neither the barrier nor other furniture should carry strident advertising that goes beyond the purpose of discreetly identifying that the pavement cafe is associated with a particular business.
- 11 The Licensee undertakes to ensure that the licensed area is closely monitored and kept clean and tidy at all times.
- 12 No alteration to the highway surface shall be permitted to be carried out by the Licensee in implementing this Licence.
- 13 The Council may, by service of a notice in writing on the Licensee or owner of the premises, withdraw the Licence forthwith:-
- (a) in an emergency or in the event that the Council considers the exercise of the Licence causes a substantial and unreasonable obstruction of the right of the public to pass or re-pass on the public highway,
  - (b) if any condition of this permission is broken,
  - (c) if the Council considers it to be necessary in connection with the exercise of any of its functions or the functions of any statutory undertaker or public utility,
  - (d) for any other reasonable cause.
- 14 The Licensee shall inform the Council's Head of Legal and Democratic Services in writing of any change in the owner or occupier of the premises within one month of that change.
- 15 This permission is for tables and chairs and barriers only. No other items, for example space heaters, are permitted by this licence.
- 16 The licensee shall take all reasonable and necessary steps to ensure that customers of The Gardeners Arms using the licensed area do not cause a nuisance and annoyance to neighbouring occupiers and that as far as possible those customers are enjoined not to use parts of the highway other than the licensed area.

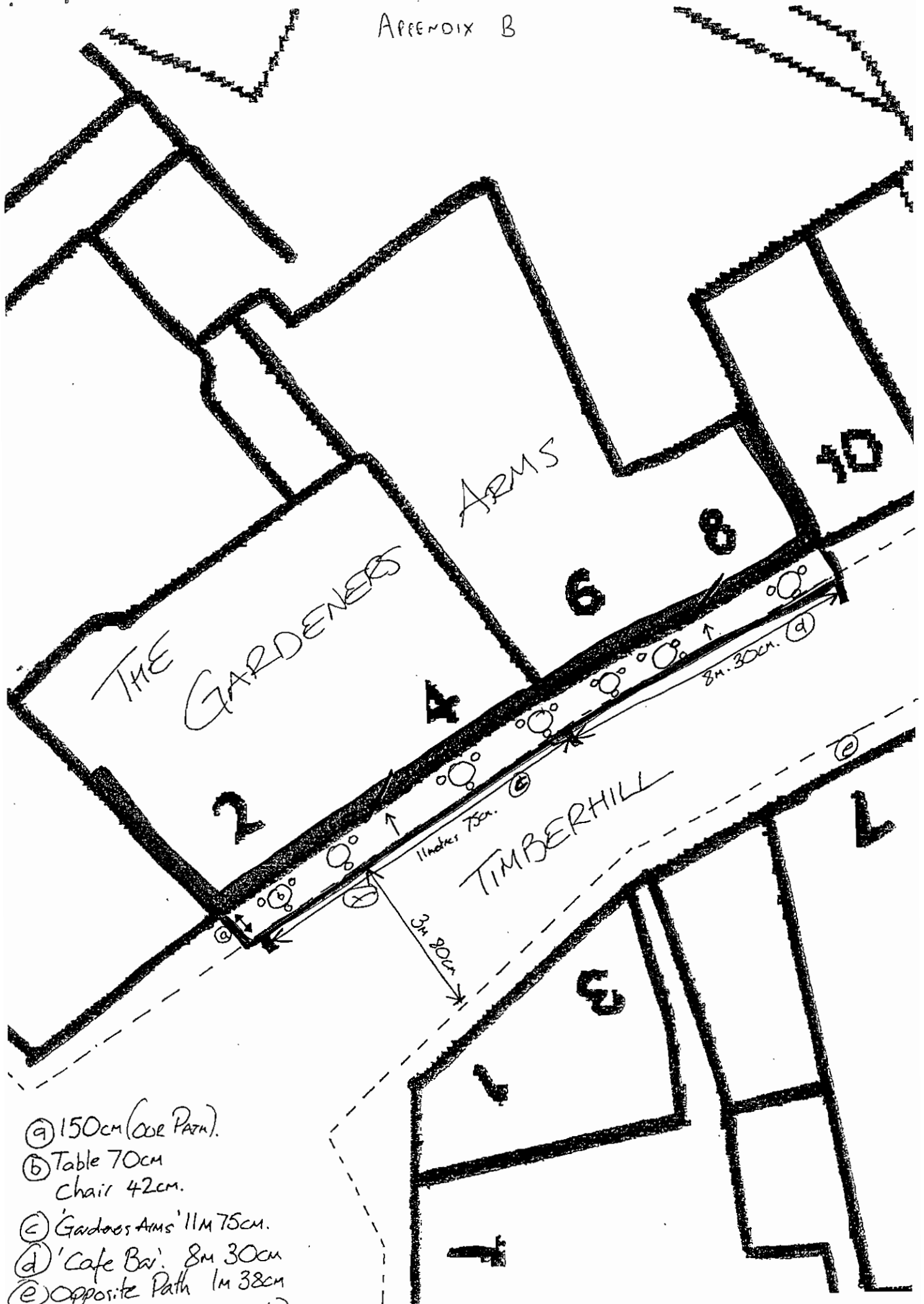
DATED 18th December 2009



Head of Democratic & Regulatory Services

**IT IS THE SOLE RESPONSIBILITY of the licence holder to ensure that any application to renew this licence must be received by the Licensing Section of Norwich City Council on or before the renewal date shown above.**

# APPENDIX B



① 150cm (Opp. Path).

② Table 70cm  
Chair 42cm.

③ Gardeners Arms 11m 75cm.

④ 'Cafe Bar' 8m 30cm

⑤ Opposite Path 1m 38cm

⑥ (Excluding Paths)

**The Gardeners Arms Free House,  
& Murderers Café Bar.**



Date:-  
5th October 2010

**APPENDIX**  
**REG CTT**  
**21-2-11**  
**The Gardeners Arms Public House.**  
**2-8, Timber Hill.**

Norwich.  
Norfolk.  
NR1 3LB.

Telephone 01603-621447

Fax 01603-812475

E-mail enquires@themurderers.co.uk

Web Site. www.themurderers.co.uk

Proprietors. Mr I.D. Brown, Mrs J.A. Brown  
& Mr P.A. Cutter

09/02044/TABCHA

Dear Mr Streeter,

I am led to believe that our insurance broker has already forwarded onto you the required information for the renewal of our tables and chairs licence.

Please find enclosed a cheque for £98.00 for the cost of the renewal of the licence.

On the matter of this licence, I would like to make an observation, on some degree of 'ambiguity' on the matter of condition 10, on our licence. Licensing officers visited my premises on April 23rd 2009, June 10th 2010, and on June 17th 2010, to discuss the issue of condition 10, where on each occasion it was deemed that we were not in contravention of Condition 10 of our tables and chairs licence. I believe that a slight variation on this condition, may clarify it.

I fully understand that Timberhill is a beautiful and historic street, indeed the barriers which are currently in place, were very expensive to create, to comply with condition 10 on this licence, and to work with the conservation department of the council streetscape. Whilst I fully accept the current interpretation of this condition, I fail to understand that how the concerns of a local trader, who, whilst they continue to object anonymously, it seems entirely probable that this complainant is Mr David Fosket, from the opticians opposite the Gardeners Arms. I do not wish to, nor intend to alter these current barriers, we DO NOT require any form of permanent advertising on these barriers. However, as with most businesses, we may on occasion require to advertise our own events, or even to advertise events for the entire street. I agree that long term, or permanent advertisements on these barriers would be detrimental to the streetscape of TimberHill, to which I would also disagree to. Therefore a slight variation to Condition 10, could read, as an addition at the end.

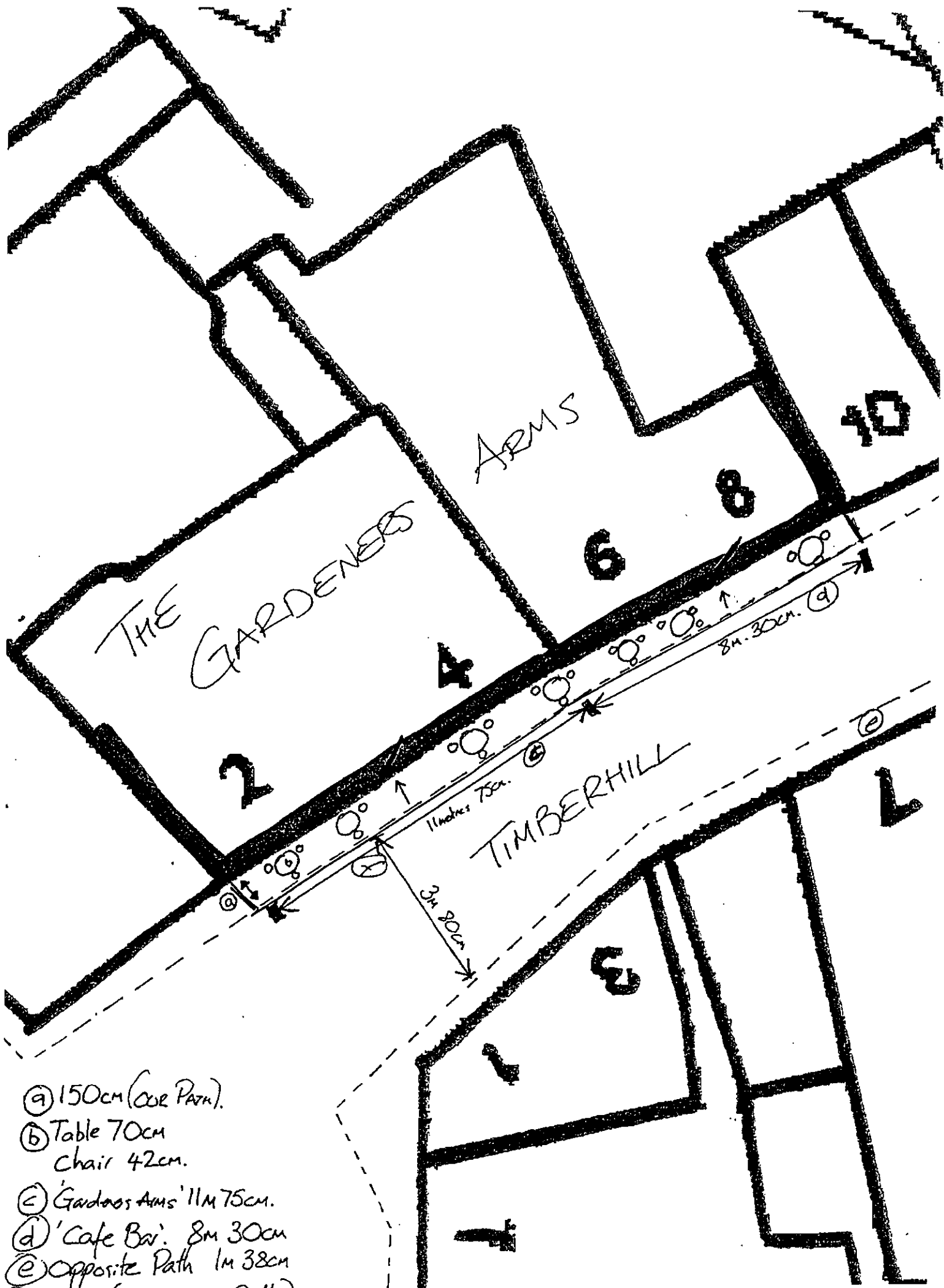
"The licensee may, display articles, attached to the barriers, which may advertise events, for a limited period only"

May I respectfully bring it to the attention of the licensing department and this committee, that during these austere times, it remains a sincere disappointment that this licence seems again likely to reach the Regulatory Committee. With the coalition government likely to impose further cuts to the budgets of local authorities, in there spending review on 20th October 2010, and the leader of Norwich City Council, Steve Morpew has identified savings of £15 Million over the next 4 years. It seems to me entirely unnecessary to go through the expensive ritual of consultations, solicitors, and a regulatory committee hearing. I am happy to enter into dialogue and meet with the complainant with Licensing officials, to discuss the concerns of the complainant. This seems a practical, and much cheaper alternative. I believe that over of the past 4 hearings for our tables and chairs licence, that the complaints made, are, in our opinion, have become increasingly frivolous. To this end, it should be considered that if the option of dialogue be refused from the complainants, the cost of the Regulatory committee hearing be passed onto the complainants, and not shouldered by Council Tax payers.

Many thanks!

A handwritten signature in black ink, appearing to read "P. Cutter", is written over a horizontal line.

Philip Cutter.



- ① 150cm (over Path).
- ② Table 70cm  
Chair 42cm.
- ③ 'Gardens Arms' 11m 75cm.
- ④ 'Cafe Bar' 8m 30cm
- ⑤ Opposite Path 1m 38cm
- ⑥ Road (excluding Paths)  
2m 20cm



**The Gardeners Arms Free House,  
& Murderers Café Bar.**



**The Gardeners Arms Public House.  
2-8, Timber Hill .  
Norwich.  
Norfolk.  
NR1 3LB.**

Date:-  
**22nd December 2010**

Telephone 01603-621447

Fax 01603-812475

E-mail [enquires@themurderers.co.uk](mailto:enquires@themurderers.co.uk)

Web Site. [www.themurderers.co.uk](http://www.themurderers.co.uk)

Proprietors. Mr I.D. Brown, Mrs J.A. Brown  
& Mr P.A. Cutter

Dear Mr Streeter,

Having successfully renewed our tables and chairs license in November 2009, without any complaints made to either police, or local authority, it seems unexplainable why after nearly 2 years with no issues regarding our premises, we are once again likely to meet, and discuss our tables and chairs license. Meaning that, this exact same license will have been reviewed on four occasions over the past 4 years. It is genuinely regrettable that, whilst it seems that I have the support of many other traders along Timberhill, it is 'the biggest voice who shout loudest', which seems to be heard.

Following allegations at the last review of this license in February 2009, when Mr. Foskett of Moss and Leaky, walked out of the meeting, (claiming that his Human Rights had been infringed, as the Committee had not allowed him a full, or fair hearing). Spenser Fisher Harrison, from the Anti social behaviour unit of Norwich City Council, suggested that, these allegations be addressed in the form of Restorative justice, (RJ), between myself, and Mr. Foskett. During a 3 month period from spring 2009, this process addressed the perceptions about me, and my business. It is regrettable that at the end of the RJ mediation, Mr. Foskett believed that RJ had been a 'waste of time', however, I feel confident that all allegations of bullying, intimidation and harassment, made against me were proved entirely without foundation. It is interesting to point that in conclusion to this process, Mr Foskett believed that a resolution to these accusations would be simply to remove our furniture. My simple suggestion from RJ that Mr. Foskett move his desk to a different location within his store has ENTIRELY ELIMINATED all complaints to the police and local authority about nuisance!

On the matter of this licence, there seems to have been some degree of 'ambiguity' on the matter of condition 10, of the licence. Licensing officers visited my premises on April 23rd 2009, June 10th 2010, and on June 17th 2010, to discuss the issue of condition 10. Bunting had been placed upon the barriers to celebrate St. Georges Day, and England flags on the barriers for England games during the World Cup Finals. On each occasion it was deemed that we were not in contravention of Condition 10 of our tables and chairs licence. (It was later considered to be in breach of Condition 10, at which point we ceased placing objects onto the barriers). I have suggested a slight variation on this condition, may clarify this matter, to the satisfaction of all parties.

I fully understand that Timberhill is a beautiful and historic street, indeed the barriers which are currently in place, were very expensive to create, to comply with condition 10 on this licence, and to work with the conservation department of the council streetscape. Whilst I now fully accept the current interpretation of this condition, I fail to understand how, (for example bunting), can either directly or indirectly, can affect any other local traders. I do not wish to, nor intend to alter these current barriers, we DO NOT require any form of permanent advertising on them. However, as with most businesses, we may, on occasion, require to advertise our own events, or even to advertise events for the entire street. I agree that long term, or permanent advertisements on these barriers would be detrimental to the streetscape of TimberHill, to which I would also disagree. Therefore a slight variation to Condition 10, could read, as an addition at the end.

"The licensee may, display articles, attached to the barriers, which may advertise events, for a limited period only"

During these austere times, it remains regrettable that this licence seems again likely to reach the Regulatory Committee. With the budgets of local authorities, in the spending review of 20th October 2010, the leader of Norwich City Council, Steve Morpew identified savings of £15 Million over the next 4 years. It seemed to me entirely unnecessary to go through the expensive ritual of consultations, solicitors, and a regulatory committee hearing. I suggested that we, once again, enter into dialogue and

meet with the complainant, along with Licensing officials, to discuss the concerns of the complainant. This seemed a practical alternative, and would achieve more.

The facts speak for themselves. I have the full support of many local traders and residents, of Timberhill. Whilst the local authorities and police have no issue with me, my staff, or the way I run my premises, I have also faced unsubstantiated accusations made about my behaviour. Throughout the entire period between the last committee meeting, to today, the installation of a CCTV camera, which both record the movements and conversations, of my patrons and staff. Yet this has still led to no complaints to the police about any form of nuisance from my premises. So, what has changed from the last Committee Meeting? The answer is simple, very little.....The Murderers has been voted into the Top 6 Pubs/Bars in the World in an online poll, conducted by the lonely Planet travel guide. We featured on the BBC 1 programme 'Inside Out', recreating the 'Legend' of The Murderers. We are one of just 4 pubs in Norwich who have invested in the new 3D technology, from Sky. We have launched 4 extremely successful real ale festivals within the pub, which has helped us to secure a place in the Good Beer Guide 2011. We have also been inducted in the Famous Grouse 100, making us one of the most historic pubs in the UK, and have been given a Blue Plaque to show our Heritage status within Norwich. I continue to work hard to promote Timberhill, and am in the process of arranging a street fayre, which will benefit everyone on the hill, (and hope for this to become a bi-annual event if it is successful). I am also hopeful of instigating an annual city wide event to promote Norwich pubs and Brewing, which will hopefully further create tourism opportunities for Norwich. At the same time, I have a business to run, staff to organise and a wife and 3 children to support.

I am proud of my pub, and what I do to promote it. I am the only licensee to sit on the prestigious CCP. I am committed to my licensing objectives and my obligation to my customers, and the wider general public. Like all of the traders on our beautiful street, we rely on quality. Anything that happens on this street which is detrimental to other traders, is also detrimental to me, and is wholly unacceptable. However, in the same way that snow and ice is detrimental to our trade, crime and disorder is also.....despite this, (as with poor weather), crime is still remarkably infrequent on Timberhill. Either way, (snow or crime) it will never entirely be eradicated. I understand that there has been concerns raised from another local trader, who has regularly raised the same issue of a incident of violence that occurred in August 2005. It is an unfortunate fact that crime and disorder is a constant issue across the streets in Norwich city centre. We have seen this in recent years with 3 robberies at jewellers on London street. However, historically too, violence has occurred in Norwich streets. Adrian Parmenter, a leading Parliamentarian, had his house ransacked by a 'violent mob' on 24th April 1648. In the mid 19th Century The 'Hell Fire Club', described themselves as 'gentlemen of principles inimical to government, and with a determination to crush the Methodists', violence often ensued with frequent fights and knife attacks. The 'Hell Fire Club' met at the Bell Hotel, and Adrian Parmenter's house was practically next door to the opticians!! It is an unfair assumption that any incidents of disorder that occur on Timberhill are directly associated with my premises. My door has been, and remains open to all of my trading neighbours should they wish to discuss reasonable and rational issues, if they arise. (This applies to the staff and management of Moss & Leaky.) Relationships such as these are built up over time, they don't just 'happen' - It is an unfair assumption that any one traders opinion is right, and everyone else's is wrong, or 'mis-guided'

Pubs remain the most regulated industry in this country, with premises holding, on average, around 13 different licences, whilst alcohol remains a political 'hot-potato'. 2011 sees my 25<sup>th</sup> year working at the pub, and in an industry which is now entirely unrecognisable from that which I joined in 1986. We cannot look back, only forward, and as the licensing act of 2003 allowed all, and anyone to review a license with just one complaint, as a publican we must accept this. It seems that this will be another 'roll of the dice' for Mr. Foscett. I am sure he will present new points of objection in addition to those which have preceded them, over the previous hearings. On this occasion, I cannot predict what these objections might be.

Remember, following the last review, Mr Foscett vowed to 'bring the matter to the attention of the Local Government Ombudsman on maladministration grounds, as well as seeking a judicial review' (Evening News, February 2009), and walked out of the last meeting when things were simply not going 'his way' I will continue to steadfastly continue to defend my 'corner', and if ANY-BODY has reason to dispute your intentions, I am happy to stand up and be accounted for.

Regards

Philip Cutter

**The Gardeners Arms Free House,  
& Murderers Café Bar.**



Email enquires the [murderers.co.uk](http://murderers.co.uk)  
Web Site [www.themurderers.co.uk](http://www.themurderers.co.uk).  
Proprietor's, Mr. I. Brown & Mr. Philip Cutter.



The Gardeners Arms.  
2-8 Timberhill.  
Norwich.  
Norfolk  
NR93HY.  
Tel 01603812475.  
Mobil 07836291699.  
V.A.T. Reg No 394408627.

29 DEC 2010

Date 2<sup>nd</sup> Dec 2010.

Dear Mr. Ian Streeter.

Being one of the longest Licenses in Norwich, we again will be applying for the renewal of our table and chair license for the forthcoming year. I believe that we have operated within all the terms of our licence, which were laid out by your good selves. It is such important part of our business, and for our customers, many of which are visitors to our City during the year, giving them the opportunity to enjoy the continental feel of our City, and to control the smoking section of our customer base, keeping them in the a designated area within our barriers.

Without this facility we would have major problems, not only financially, but also keeping a control on what happens outside the Public House. I therefore hope that you have no objections with this application for the Licence of the 7 tables and 21 chairs for 2011.

Yours faithfully

A handwritten signature in black ink, appearing to be "Ivan Brown", written over a horizontal line.

Ivan Brown.



Report To Regulatory Committee

13 May 2008

Report of Head of Legal & Democratic Services  
Subject Application for renewal of licence to place tables  
and chairs on the highway – The Gardeners  
Arms PH 2-4 Timberhill Norwich

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**Purpose**

To ask Members to determine an application to place tables and chairs on the highway.

**Recommendations**

That Members determine the renewal application to place tables and chairs on the highway submitted in respect of The Gardeners Arms PH 2-4 Timberhill Norwich.

**Financial Consequences**

The financial consequences of this report are nil.

**Corporate Objective/Service Plan Priority**

The provision of outdoor refreshment facilities can enhance the character and vitality of an area and contribute to Norwich as a vibrant city of culture.

**Contact Officers**

Ian Streeter

Phone No  
212439

**Background Documents**

**APPENDIX C**  
**LEG STTE**  
**21-2-11**

## **Background**

1. Section 115E of the Highways Act 1980 (The Act) provides for a council to grant a person permission to use objects or structures on certain categories of highway for a purpose which will result in the production of income.
2. The Act also provides for a council to attach such conditions as they think fit to a permission granted under Section 115E. A copy of the conditions attached to the last licence issued to The Gardeners Arms under The Act is attached at Appendix A to the report.
3. The Act gives councils a wide discretion to determine such applications and to impose conditions. Each case must be considered on its own merits with due weight being given to relevant considerations only. Existing policies or guidelines should not be applied so rigidly that an exercise of discretion in each individual case is precluded. Accordingly, the adopted standard conditions could be added to or amended depending on the circumstances of each individual application.

## **The Application**

4. An application to renew an existing licence to place tables and chairs on the highway has been received from Philip Cutter in respect of an area outside The Gardeners Arms 2-4 Timber Hill Norwich. The current licensed area is shown on the plan attached to Appendix B to the report.
5. A licence granting permission to place tables and chairs outside the Gardeners Arms was first granted in September 1996. The most recent licence issued was approved by the Regulatory Committee at their meeting on 17 April 2007 and a copy of the report and subsequent minute is attached at Appendix C to the report.

## **Consultation**

6. Occupiers of nearby premises have been consulted and details of the application have also been forwarded to the Norfolk Constabulary and the City Council's Planning, Transportation and Pollution Control sections for comment.
7. The comments of the responsible authorities are attached at Appendix D to the report and the responses from the occupiers of nearby premises are attached at Appendix E.

## **Complaints**

8. Since the last licence was approved by members in April 2007, one of the occupiers of a nearby premise has made a complaint concerning the application premises. This was referred to the Enforcement Section for investigation and their comments in respect of the current application are included in Appendix F. Since that time both the Enforcement and Licensing Sections have been copied in on hand delivered correspondence (marked 'private and confidential') between the manager of the nearby premise and the holder of the tables and chairs licence.
9. In order to clarify some of the issues raised, the Senior Licensing Officer wrote to the complainant in September last year and a copy of the letter is attached at Appendix G to the report.

## **Licensing Act 2003**

10. The Gardeners Arms hold a premises licence under the Licensing Act 2003 that permits the retail sale of alcohol every day between the hours of 07:00 – 01:30. The licence also permits the supply of alcohol for consumption both off and on the premises. The conditions consistent with the Operating Schedule in respect of The Gardeners Arms premises licence are attached at Appendix H.
11. The area to which the premises licence relates is within The Gardeners Arms itself, so no retail sale of alcohol could take place outside the premises without the existing licence being varied. However, consumption of alcohol can take place outside the premises without the need to vary the existing licence, as consumption of alcohol is not a licensable activity under the Licensing Act 2003.
12. The Licensing Act 2003 provides for a person living or working in the vicinity of a licensed premises to apply for a review of the licence, if the grounds for the review relates to one of the licensing objectives, that is:-
  - a. Prevention of Crime and Disorder
  - b. Promotion of Public Safety
  - c. Prevention of Public Nuisance
  - d. Protection of Children From Harm



**NORWICH**  
City Council

## **NORWICH CITY COUNCIL**

### **Highways Act 1980, Part VIIA – Provision of Amenities on Pedestrian Ways**

THE CITY COUNCIL OF NORWICH (hereinafter called "the Council") in exercise of the provisions of Section 115E of the Highways Act, 1980, hereby grant **Mr Philip Cutter** ("the Licensee") permission, subject to the following conditions, to place tables and chairs ("the objects or structures") to accommodate a maximum of **7 tables and 21 chairs** on the area of the public highway known as **2-4 Timberhill Norwich** shown coloured red on the attached plan ("the application site" for the purposes of providing refreshment in connection with the premises known as **The Gardeners Arms** ("the premises") from **17th April 2007 to 16th April 2008**.

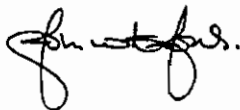
The conditions of this Licence are:

- 1 The Council's reasonable expenses in connection with the granting of this permission shall have been paid and the annual fee starting with the date of this permission shall have been paid before the permission is first exercised.
- 2 The Licensee shall indemnify the Council against any claim whatsoever, in respect of injury, damage or loss arising out of the grant of this permission other than injury, damage or loss which is attributable to the negligence of the Council.
- 3 The objects or structures shall be placed only on the licensed area and on no other part of the public highway.
- 4 The objects or structures shall be used only for the purposes stated above and only in connection with the premises.
- 5 The objects or structures shall be removed from the public highway forthwith upon the direction of a Police Constable in uniform or a Traffic Warden.
- 6 The objects or structures shall be removed from the public highway forthwith to enable the passage of any emergency service vehicles or any vehicle engaged on the repair or maintenance of the public highway or apparatus within the public highway or any other vehicle authorised by the Council to proceed on the public highway.
- 7 Permission for the tables and chairs is granted from **08:00 and 23:30, Everyday** (subject to earlier termination under clause 13).
- 8 No amplified music or live music shall take place on the licensed area.

- 9 The tables and chairs, the subject of this Licence, shall be removed from the licensed area each day outside of the licence period.
- 10 The Licensee shall ensure that the licensed area is mainly enclosed by a barrier that is in keeping with the visual appearance of the area, not less than 800mm high and with no more than 50mm between the base rail and the ground, or other design as previously agreed in writing by the Council. Neither the barrier nor other furniture should carry strident advertising that goes beyond the purpose of discreetly identifying that the pavement cafe is associated with a particular business.
- 11 The Licensee undertakes to ensure that the licensed area is closely monitored and kept clean and tidy at all times.
- 12 No alteration to the highway surface shall be permitted to be carried out by the Licensee in implementing this Licence.
- 13 The Council may, by service of a notice in writing on the Licensee or owner of the premises, withdraw the Licence forthwith:-
- (a) in an emergency or in the event that the Council considers the exercise of the Licence causes a substantial and unreasonable obstruction of the right of the public to pass or re-pass on the public highway,
  - (b) if any condition of this permission is broken,
  - (c) if the Council considers it to be necessary in connection with the exercise of any of its functions or the functions of any statutory undertaker or public utility,
  - (d) for any other reasonable cause.
- 14 The Licensee shall inform the Council's Head of Legal and Democratic Services in writing of any change in the owner or occupier of the premises within one month of that change.
- 15 This permission is for tables and chairs and barriers only. No other items, for example space heaters, are permitted by this licence.

**DATED 20th April 2007**

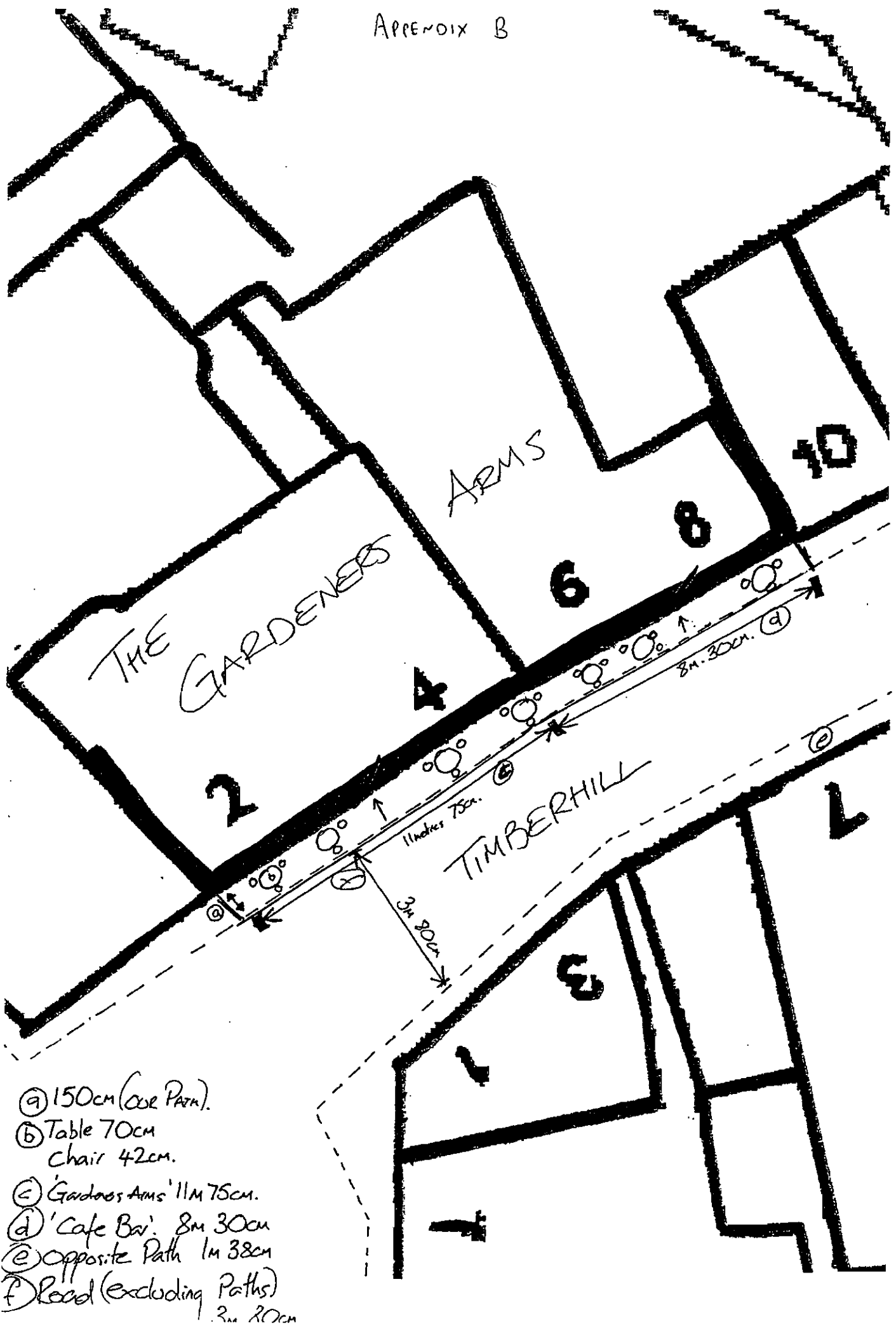
**John Jones**  
**Head of Legal & Democratic Services**



|   |
|---|
| <p><b>IT IS THE SOLE RESPONSIBILITY of the licence holder to ensure that any application to renew this licence must be received by the Licensing Section of Norwich City Council on or before the renewal date shown above.</b></p> |
|---|



# APPENDIX B



## **Report for Resolution**

**Report to** Regulatory Committee  
17<sup>th</sup> April 2007

**Report of** Head of Legal and Democratic Services

**Subject** Application for Licence to Place Tables and Chairs on the  
Highway – The Gardeners Arms, 2-8 Timberhill, Norwich.

---

### **Purpose**

To ask members to consider the application to place tables and chairs on the highway in respect of The Gardeners Arms, 2-8 Timberhill, Norwich.

### **Recommendations**

1. To grant a licence to The Gardeners Arms, having regard to objections received and subject to the normal conditions relating to public liability insurance, cleaning of the highway, removal of tables and chairs when not in use and roping off the area.

### **Financial Consequences**

None.

### **Corporate Objective/Service Plan Priority**

The provision of outdoor refreshment facilities enhances the character and vitality of the area and contributes to Norwich as a vibrant city of culture, arts and heritage.

### **Contact Officers**

Gerry Smith

01603 212762

### **Background Documents**

Application and related correspondence.

## **Report**

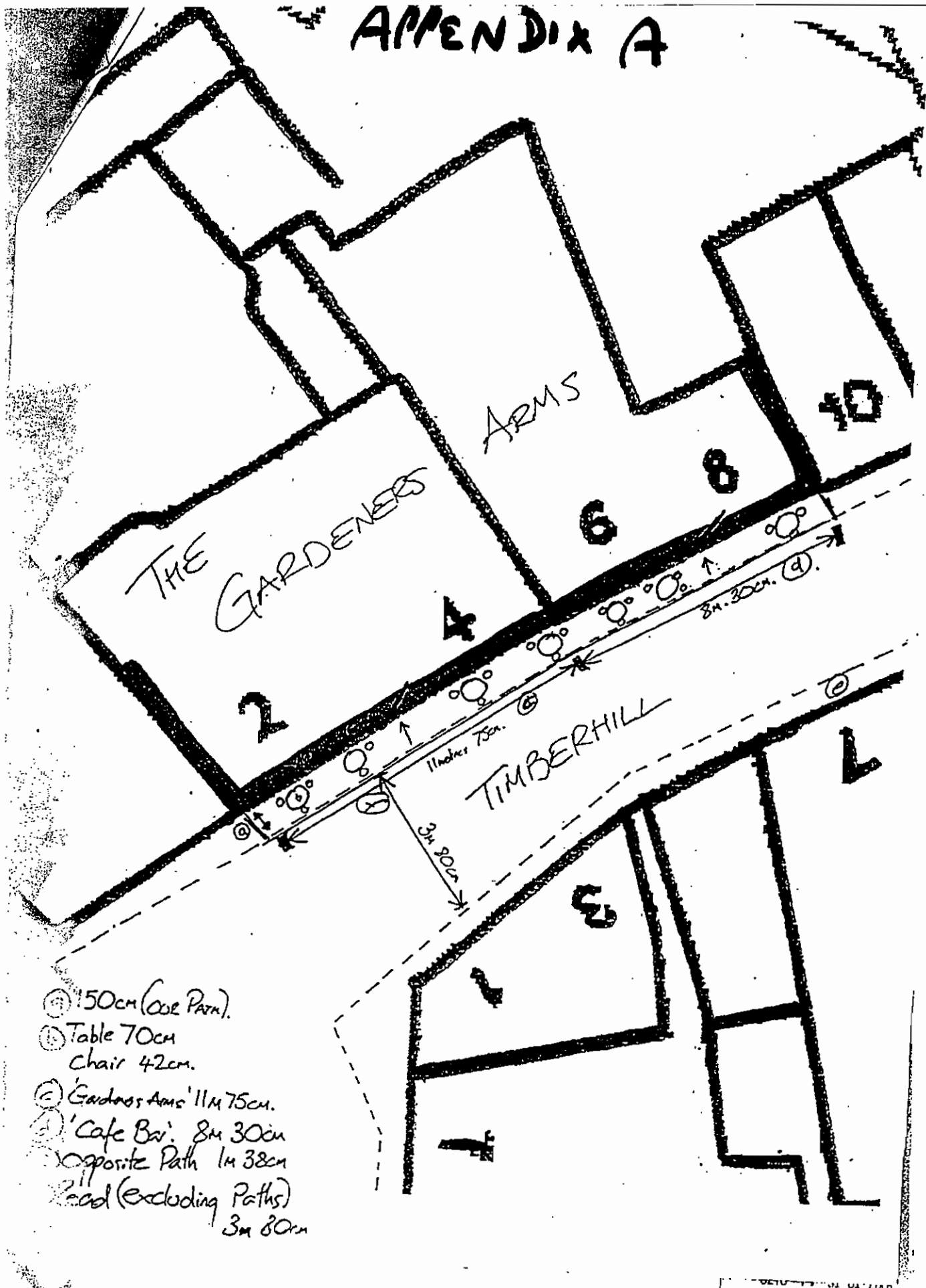
### **Introduction**

2. An application to place tables and chairs on the highway has been received from Phillip Cutter of The Gardeners Arms to place tables and chairs on the highway in the area to the front of the premises in Timberhill, Norwich.
3. The plan which accompanied the application would allow for the siting of 7 tables and 21 chairs on the highway in the area to the front of the premises, and a copy of that plan is attached as Appendix A.
4. The seating area will be roped off and all tables and chairs will be removed when not in use.
5. The applicant has not requested music to be played as part of the licence.
6. The requested hours of use are 08:00am - 11:30pm Monday-Sunday
7. This application has been submitted to replace the licence already granted to Ivan Brown, and would extend the usage to all year round (the current licence is for April to October only).

### **The Statutory Procedures**

8. In accordance with the relevant legislation, occupiers of nearby premises have been consulted and the appropriate notices have been placed on the street and in Chatterbox. The City Centre Residents' Forum and Access Group have also been notified of the application.
9. Comments have also been requested from Norfolk Police, Norfolk Fire Service, Norfolk County Council - Planning and Transport Dept., Norwich City Council - Environmental Health/Highways/Planning Departments.
10. There is 1 objection to the granting of this licence, a copy of which is attached at Appendix B.
11. Environmental Health Services have no comments "...assuming nothing else is changing and there will still be no music outside", a copy is attached at Appendix C.
12. A letter of support has been received from The Central Norwich Citizens' Forum, welcoming the application, a copy is attached at Appendix D.
13. Mr Cutter has been in consultation with the Conservation Department of the Council and has agreed the type of street furniture and barriers in keeping with the recommendations of the Streetscape Design Manual.

# APPENDIX A



28 FEB 2007

Post Room

RECEIVED

14 MAR 2007

LICENSING OFFICE

MS.

APPENDIX B

Mrs Angela Carver  
c/o 5 Timber Hill  
Norwich  
NR1 3JZ

*Re: Tables and chairs outside The Gardeners Arms Public House.*

*I am writing to object to the tables and chairs being outside the Gardeners Arms again this summer. I work three days a week in the needlework shop opposite the pub. I love my job, but during the summer my working environment is at times made unbearable by the customers of the pub being allowed to sit outside drinking.*

*The tables are not cleared as frequently as the pub says, and often there are more customers outside the pub than chairs, this means the customers are standing in the street, breaking the terms of the pub's licence and causing problems for the delivery drivers. After July when the smoking ban comes in I believe the problem of people drinking in the street will get worse.*

*Timber Hill is not wide enough for the traffic that needs to come down the hill, it is dangerous to walk on the 'pavement' area of the street all year round, but while the chairs are outside the pub the traffic is forced nearer to the front door of my workplace. Our customers with pushchairs cannot get in or out of the shop while deliveries are being made because the vans are parked so close to the building on our side of the hill.*

*Several times during the warm days of last summer I had to shut the shop door to try and stop the foul language used by the minority of the pub customers being heard inside the shop. A lot of customers in the shop are older ladies and I feel embarrassed when I have to apologise to them for the noise.*

*To allow the tables and chairs out on the pavement while the scaffolding is still up outside Timber Hill Tips would be irresponsible. It would make the hill impassable to larger delivery trucks, (including the brewery deliveries) and I doubt a fire engine would be able to negotiate Timber Hill in an emergency.*

*I dread the summer because of the tables and chairs, and look forward to October 1<sup>st</sup> when they are put away. If the plans are approved I will be praying for a very wet summer, because that is the only time it is quiet on Timber Hill.*

Angela Carver.

23<sup>rd</sup> Feb 2007.

Geraldine

APPENDIX C

Shearman, Anthony  
02 February 2007 16:29  
Smith, Geraldine  
Subject: Tables and chairs - Gardeners Arms

Gerry,

I have received your memo regarding The Gardeners Arms application to extend their Tables and Chairs Licence to all year round.

I have liased with Sue Thomas and Health and Safety have no comments, the same goes for Pollution Control assuming that nothing else is changing and there will still be no music outside.

Regards ..... Tony.

Enforcement Officer  
Norwich City Council

Smith, Geraldine

APPENDIX D

From: JULIAN FOSTER [

Sent: 17 February 2007 11:27

To: Licensing

Subject: The Gardener's Arms, 2-4 Timberhill, Norwich - Application for tables and chairs licence



My Forum's Licensing Committee has considered the above application to extend the current licence for all year round usage and can see no reason to object to it. Indeed, when the smoking ban is introduced in July it would appear a very sensible way to enable smokers to drink off-premises without infringing the prohibition.

Signer. Julian F Foster

CHAIRMAN

CENTRAL NORWICH CITIZENS' FORUM  
LICENSING COMMITTEE



**6. ROAD SAFETY ACT 2006**

The Senior Licensing Officer presented the report and answered a number of questions about the circumstances in which the new powers to immediately suspend or revoke a driver's licence might be used.

**RESOLVED** to note the changes to the Local Government (Miscellaneous Provisions) Act 1976 by virtue of Sections 52 and 53 of the Road Safety Act 2006.

**7. APPLICATION FOR LICENCE TO PLACE TABLES AND CHAIRS ON THE HIGHWAY - THE GARDENERS ARMS, 2 - 8 TIMBERHILL**

(Councillor Blower, having previously declared an interest in this item, left the room while it was discussed).

(Councillor Ramsay took the Chair for this item).

The Senior Licensing Officer presented the report and said that if the application were granted the applicant would be required to install the new barriers to delineate the licensed area.

The applicant explained why he was seeking to extend the usage of the outside area to the whole year. This would help to keep smokers from his premises within a defined area. He answered questions about the action taken to try and prevent any disturbance from his customers using the on-street seating area. The Senior Licensing Officer pointed out that one of the conditions of the applicant's premises licence required the clearing of the outside tables every fifteen minutes.

(The applicant and the Licensing Officer withdrew from the meeting at this point).

Following discussion it was -

**RESOLVED** to:-

- (1) grant a licence to the Gardeners Arms to place tables and chairs on the highway subject to the normal conditions including those relating to public liability insurance, cleaning of the highway, removal of the tables and chairs when not in use and the use of barriers to delineate the area;
- (2) ask the Senior Licensing Officer to write to the applicant to remind him of the need to clear the outside tables every fifteen minutes in accordance with the terms of his premises licence and encouraging him to join Business Pride and
- (3) ask the Senior Licensing Officer to report to the June meeting on the implications of the no smoking legislation for tables and chairs licences including the need to amend the standard conditions to provide for some of the outside area to be designated a no smoking area.

(The applicant and the Licensing Officer were re-admitted to the meeting and informed of the decision to grant the licence).



APPENDIX D

Kemp, Ruth

---

From: Page, Colin  
Sent: 25 March 2008 09:51  
To: Licensing  
Subject: The Gardeners Arms

FAO Ian Streeter

Please be informed that the police do not have any objections to the application for tables and chairs.

Colin Page

Colin Page,  
Traffic Management Officer,  
Norfolk Police Central Area,  
Bethel Street,  
Norwich, NR2 1NN.



It takes 24 trees to produce 1 ton of office paper!  
Think... is it really necessary to print this email?

This e-mail carries a disclaimer

Go here to view [Norfolk Constabulary Disclaimer](#)

25/03/2008

**Fuller, Maxine**

**From:** Buck, Michelle  
**Sent:** 18 April 2008 11:14  
**To:** Kemp, Ruth; Licensing  
**Subject:** Gardeners Arms - statement  
**Attachments:** Gardeners Arms.doc

Hello

Please see a copy of the Norfolk Police comments in relation to the renewal of Gardeners Arms Tables and chairs licence.

Thanks and have a nice weekend

Regards

This e-mail carries a disclaimer

[Click here to view Norfolk Constabulary Disclaimer](#)

18/04/2008

**Gardeners Arms, Timberhill – Application to renew**

Norfolk Police have no objections to the renewal of the tables and chairs licence for the Gardeners Arms, Timberhill.

The Police believe that the premises is well run and that management usually are very co-operative and helpful. If a problem was to occur in the future, we feel we would be able to approach the premises to negotiate a solution.

The Police are aware that there have been ongoing issues experienced by a neighbouring premises and the local safer neighbourhood policing are actively working with each party to ensure this is resolved.

The Police acknowledge that on Match days, this premise is where all the home football supporters gather. The football units show a high police presence in the area to keep the away and home supporters separate and to prevent incidents occurring. I have checked with the Police football unit and they have informed me that they have no issues with the renewal of the tables and chairs licence.

## Kemp, Ruth

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From: Deverick, Joanne  
Sent: 28 March 2008 16:11  
To: Kemp, Ruth  
Subject: Tables and Chairs - Gardeners Arms

Hi Ruth,

With regard to the application for the renewal of the tables and chairs licence for the Gardeners Arms, Timberhill, I can confirm that there are no transportation objections to the licence being renewed.

Regards

Joanne

Joanne Deverick  
Transportation Team Leader  
St Giles House, City Hall  
Norwich, NR2 1NH

Moss

PRIVATELY OWNED &amp; INDEPENDENT SINCE 1976

Superior Optics

&amp;

Designer Eyewear

A REPUTATION IN OPTICS GAINED THROUGH EXCELLENCE

Leahey



Attn: Ian Streeter  
Licensing Office  
Norwich City Council  
City Hall  
Norwich  
NR2 1NH

14<sup>th</sup> April 2008

Dear Sirs

Re. Renewal of Tables & Chairs Licence - The Gardeners Arms (TGA)

The writers are Mr David Foskett and Dr Nadarajah Sasitharan, the partnership trading as Moss & Leahey Opticians at 1 Timberhill Norwich. Moss & Leahey Opticians were established in 1976 and trade from four Norfolk locations.

The Applicant seeks to renew his licence for 7 tables and 21 chairs "to provide outside seating for its customers" however, **it is a matter of record** that he has continually abused this privilege and **removed ALL tables and chairs to maximise occupancy** of the application site **for commercial gain**. This has occasioned up to **EIGHTY standing customers and the associated nuisance** to the public and local traders alike.

It is also a matter of record that the Applicant adverts the application site as **a luxury smoking area** where his customers can stand smoking **whilst consuming alcohol in a public place**, a situation unique to The Gardeners Arms. Other businesses or Public Houses cannot apply for the facility of cordoned-off public areas for their customers to smoke and this is entirely outwith the objective of the licence.

We wish to make the strongest objection to the application and would respectfully request we be allowed to make personal representation to the Regulatory Committee in this regard.

This objection and request is made now as we feel your Licensing Office and Police gave us poor advice last year when otherwise we would have objected then and we require a thorough re-inspection of this licence to be made in the public domain. We have considered the option of seeking further conditions to the licence rather than asking for it to be rejected altogether but regretfully conclude that the very existence and operation of a street café outside this premise with its customer profile and operated by this licensee is impractical and unpoliceable. We briefly outline our objection under the following headings;

#### 1/ Obstruction of the Highway

Why has the Council granted a licence blocking the whole of a public footpath requiring pedestrians to step into the vehicular traffic flow? A recent application elsewhere was rejected when a 3.0 metre wide footpath was maintained around the site and yet at Timberhill we have a carriageway width of 3.5 metre which has to accommodate both roadway and footpath and this is inconsistent and unacceptable. There have been several near misses and it is negligent of the Council to create this added public risk.

Overspilling from the bounded area is an uncontrollable problem at a point anyway where the carriageway is at its narrowest pinchpoint. As a consequence of the licence we have vehicles skimming the fascias of traders

Partners Dr. N. Sasirharan & D. Foskett

M&L page 1

Head Office  
1 Timberhill  
Norwich  
NR1 3JZ

Also at 16 Norfolk Street  
Kings Lynn PE30 1AN

29 Market Place  
Dereham NR19 2AP

15 High Street  
Hunstanton PE36 5AB

premises opposite putting pedestrians on the remaining footpath at risk including customers leaving from our front doors.

## 2/ Invasion of Public Space

How narrow does a street have to be before a licence is refused because it is just too narrow? People using the licensed area and those spilling out around it are invading the limited public space between closely sited premises in this location. People complain that they are intimidated by the sheer volume of people standing in the public highway and will not walk toward Timberhill as they feel unsafe, this is damaging other traders business interest and is unacceptable. Window shoppers are similarly deterred from lingering in the area and this too is damaging other traders business interest and is another unacceptable consequence of this licence.

So physically close is the site that it feels and sounds like people there are in our premise with us and invading our personal space too. As opticians we are required to discuss medical matters of a sensitive and confidential nature and this invasion of privacy creates an uncomfortable surrounding to discuss these in. What right has the Council to impose this impediment on us when it is only as a consequence of their granting this licence?

It may be the Councils objective to encourage a café culture to enhance the character and vitality of an area but when that area is too small and when the consumer is drinking alcohol and not coffee for several hours that objective looks silly. Single-handedly those difficult customers of TGA have made Timberhill a no-go area in the click of fingers, this is unacceptable and damaging other traders business interest.

## 3/ Regulation and Complaints

How can the Council grant this licence when there are little and no guidelines to follow or written regulation to adhere too? *There really aren't any guidelines* we are told and *decisions are made on Local Rules*. What are Local Rules?

We have battled for months with the Licensee over persistent nuisance behaviour and when we have complained to Licensing, Enforcement and the Police these bodies have little or nothing to rely on and seem unsure whether they are empowered to act anyway.

Please consider some of our enquiries;

- Q. How wide does the road need to be to get a licence - *the ruling will be made locally*
- Q. Who decides on the density of Tables and Chairs surely there must be some national guidelines - *the judgement will be made locally*
- Q. The Licensee keeps taking the tables and chairs (T&Cs) away to cram in lots more people when we thought twenty-one was the maximum he was allowed - *sorry, the only stipulation is a maximum number of T&Cs there is no minimum so he cannot be told to put them back*
- Q. The Licensee is actively encouraging his customers to **STAND** outside smoking and drinking by taking T&Cs away when we thought the idea was to create a café culture with people sitting down and eating calmly to minimise nuisance to us - *sorry, there is NOTHING saying that ANY of them must sit down or eat*
- Q. We had a terrible day with SIXTY people stood in and around the application site chanting foul and abusive language and our customers too frightened at times to leave the practice, surely this cannot be right - *sorry, the only purpose of the licence is to grant permission to cordon-off an area of the public highway and does not stipulate how it should be used or by whom, that is up to the Licensee and I cannot tell him*
- Q. So the Councillors granting this Tables and Chairs Licence thinking like us that they were providing a nice outdoor café for the public to use can have no say on what happens with it now - *NO, not under the terms of the current licence, this is merely a licence to put objects or structures on the public highway and they too cannot control how the area is used*
- Q. We are at our wits end with this constant noise nuisance which is making it impossible for us to go about our own business so who do we complain to - *there are no restrictions in the licence relating to noise levels, try the Police if you believe there has been a public order offence*

Q. So the Licensee can remove T&Cs as he likes, have as many standing customers as he likes, making as much nuisance and noise as they like and we cannot complain about this to anyone at the Council - *I think you've got it now*

Could any Council member realistically defend a licensing policy like this when a license can be granted with absolutely NO PROTECTION or safeguards for other local traders and NO COMPLAINTS PROCEDURE for them to exercise when nuisanced.

The Council has 'granted a driving licence when there is no highway code' and the licence format is clearly inappropriate for an undertaking involving the consumption of alcohol in a public area where **otherwise this is strictly banned precisely to avoid nuisance.**

#### 4/ Nuisance and Control

Why would the Council 'impose' this nuisance in our area when within 100 metres of the application site the public can visit FIVE other licensed premises complete with purpose built outdoor eating and smoking facilities within their own curtilages, Henrys Traffik The Woolpack Le Rouen & The Bell?

Was granting the original licence influenced out of sympathy for the Applicants competitive disadvantage when otherwise this would have been rejected given the confines of the site which is patently not a public open space? To trade in these modern times TGA may have a serious functional issue when it does not have an outside area but this is hardly reason to so severely compromise other local traders.

Nuisance from the site is regular and persistent, we have alluded to this above and assume it is accepted by the Committee that alcohol consumption leads to loud lewd exaggerated and too frequently aggressive behaviour. We might be expected to labour on here about awful event after awful event but our **complaint is about nuisance full stop** and we will provide verbal and documentary evidence at the hearing as is required.

Our brief comments on nuisance are;

|              |   |
|--------------|---|
| Site         | <p>the site is too narrow to allow customers and staff to circulate inside the barriered area so immediately customers and drinks are brought out into the public highway closer to us and other traders</p> <p>the site is too small to accommodate diner/drinkers and people who just want to pop out for a smoke or make a mobile call - consequently smokers move across the street and cause us considerable nuisance and pollution which given our clinical profession is wholly unacceptable</p>   |
| Overcrowding | <p>the Applicant has continually abused his licence and through loop-hole sought to maximise his commercial gain with a wanton disregard for the consequential nuisance caused to his nuisanced neighbours</p> <p>the Applicant has no jurisdiction to control people spilling out into the public highway around the site and in any event has refused to accept responsibility for this</p>   |
| Control      | <p>the Applicant may be an experienced PH Licensee but he cannot and does not provide experienced staff who are identified as dedicated solely to the control of the site - at the first sign of a rush of customers everybody is behind the bar pulling pints "sorry, too busy to answer your (complaint) call right now"</p> <p>the Applicant and his staff are poorly trained and inadvisedly tell customers of our complaints exacerbating problems and inciting their intimidation of us - our staff and partners have felt and been physically threatened as a result of this</p> |

the Applicant sees the behaviour of his customer as normal in the context of his PH but the site is in a public place, not confined or controlled inside his premise, and although this behaviour causes unbearable nuisance to us he will neither accept nor control it

the Applicant is given NO guidelines NO targets NO monitoring and NO public scrutiny (by public complaint) for the control of nuisance - "write another letter to the Council" has been the response of the Applicant in the comfortable knowledge that they cannot act either

Hours            the Applicant has applied for a 24/7 licence that amounts to a 15 and a half hour day or 108 hour week - with his PH to run and 'indoor' customers to serve is it any wonder he cannot provide adequate control of the site

In essence the Applicant sees his Tables and Chairs Licence as a business opportunity to bring his Saloon Bar out into the public highway to protect his own interests given a time of difficult social change, harsh economic conditions and anti-smoking legislation impacting on him. The media scrutiny of cheap supermarket alcohol and Binge Britains public disorder problems are similarly unhelpful as some of his customers drift away from their old pattern of drinking. So to mitigate for this he removes tables and chairs from the site to encourage his customer to stand outside, resting their pint on the window ledge (the substitute bar), where if they choose they can then smoke all day unhampered by the recent smoking legislation. New drinkers and smokers think 'how good is this' and his premise thus encourages more drinking and smoking in the public domain. Now we have a party happening and as the alcohol goes down the noise goes up etc etc.

To reiterate we would contend that it was always impractical and unpoliceable to bring outside drinking to Timberhill without making a considerable nuisance for other traders but the Applicant has anyway demonstrated he has absolutely no interest in meeting the Councils objective of creating a café culture to encourage visitors to the City. His customers are drinkers and drinking is why they go there, NOT TO DINE. They cannot be criticised for that, it is a SKY SPORTS PUB and NOT A RESTAURANT.

The conflict between the Councils objective in offering this licence and the reality of the outcome in granting it is what must be addressed by the Regulatory Committee.

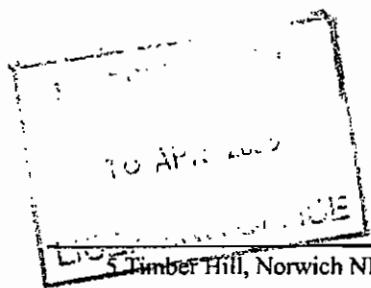
For all the reasons stated herein and for the purpose of consistency with other recent decisions we once again respectfully ask that the application be rejected in its entirety.

Yours Sincerely

David Foscett - Managing Partner

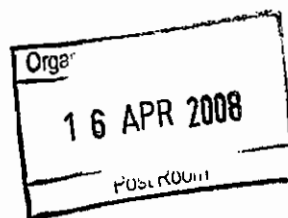
Nadarajah Sasitharan MBBS MRCOphth - Partner





# THE WORK BOX

NEEDLECRAFT & HOBBIES



5 Timber Hill, Norwich NR1 3JZ

15.04.08

Dear Sir

I strongly object to the application for seating and tables on the pavement outside The Gardener's Arms in Timber Hill.

1. Timber Hill is an historical part of Norwich and on the whole retailers try to encourage visitors to the city to visit Timber Hill with its many and varied independent and exclusive outlets. I personally spend a lot of money advertising in national magazines to encourage people to visit my shop thereby raising the profile of Norwich. The scene with which they are sometimes met as they walk up Timber Hill has to embarrass the people of Norwich.

The exclusive and upmarket ambience that we know is possible to achieve has been and will continue to be shattered by the presence of the tables and chairs (and therefore customers) outside The Gardener's Arms. There have in fact been many, many times that the tables have all been put up one end of the cordoned off area so that more people can cram themselves into and therefore spill out of this 'area'. This is uncomfortable, intimidating and just plain wrong. I have a right to run my business without interference.

For years customers and staff alike (certainly at the Work Box) have been subjected to persistent and continuous foul language coming from some of the people sitting outside The Gardener's Arms. Obviously only a minority of their customers behave in this way but left unchecked as they are, just encourages them to become even louder. Café culture this is not!

2. People walking up and down Timber Hill are often subjected to verbal abuse from seated and standing customers outside The Gardener's Arms. Accompanying children are also treated to this. The amount of noise that becomes 'trapped' between the two sides of the street has at times become ridiculous and is detrimental to my business as people are put off both by the noise and the language. My shop door has had to be closed many times due to the noise and unsavoury language that we are subjected to. We do at times feel as though the customers of The Gardeners Arms are in the shop with us.
3. Timber Hill is a narrow street, which is not a pedestrianised area. Having chairs and tables on the pavement therefore seems a little silly as pedestrians, wheelchair, pushchair and motorised pavement scooter users often have difficulty navigating a safe passage around the necessary delivery and work

Proprietors S.J. & H.E. Orrick

Vat Reg No 700 2639 77 Orrick UK Ltd

vehicles. To continue to place tables and chairs on what is supposed to be a path way will not improve safety.

4. On occasion tables and chairs outside The Gardener's Arms have been used as missiles – being thrown up and down the hill. Their customers often come and lean on my windowsill, drink in one hand and cigarette in the other. I don't object to people smoking and drinking but there is a time and a place. The time is not all day every day and the place is not Timber Hill.

To conclude: If we want to raise the profile of Norwich as a tourist/shopping centre/area of excellence then people need a clean, safe, peaceful friendly city to visit.

One experience of the behaviour of some of the customers using chairs and tables outside The Gardener's Arms will put visitors off - and they will never visit again.

Yours Faithfully

Helen Orrick

**Kemp, Ruth**

---

**From:** Ethika  
**Sent:** 25 March 2008 11:35  
**To:** Licensing  
**Subject:** Renewal of Licence | The Gardener's Arms Timberhill

Dear Mr Streeter,

I would like to express my enthusiasm for the renewal of The Gardener's Arms licence to place tables and chairs on part of the highway to the front of the premises at 2-4 Timberhill. The enjoyment of refreshments on the 'sidewalk' in Timberhill helps to create an open and festive atmosphere in a stylish and cosy street of independent traders. It serves to reinforce the sense of a European cafe society which is very much in keeping with the street's ambience. It is also important to stress that this outdoor hospitality area of The Gardener's Arms is exceedingly well run and is always maintained immaculately.

Yours truly,

Roberta Pumer  
Director/Owner Ethika emporium Ltd

**Ethika**

Roberta Pumer  
Ethika  
25 Timberhill  
Norwich NR1 3JZ

[www.ethika.co.uk](http://www.ethika.co.uk)

Registered Office, 23 Star Hill, Rochester, Kent ME1 1XF. Company Registration: 6099991

**The Observer**

**Ethical Awards 2008**

**ECO**  
A Greening Business  
Award 2008

**Ethical Awards**

25/03/2008

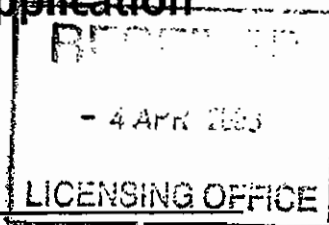


**NORWICH**  
City Council

|                            |
|----------------------------|
| Organisational Development |
| 04 APR 2008                |
| Post Room                  |

Norwich City Council Licensing Authority – Licensing Act 2003

## Statement of support or objection to an application for a premises licence



Your name/organisation name/name of body you represent (see note 1):

ROBERTA PUMAC / ETHIKA EMPORIUM

Postal address: 25 TIMBERHILL NORWICH NR1 3JZ

Email address: \_\_\_\_\_

Contact telephone number: \_\_\_\_\_

Name of the premises you wish to support or object to:

THE GARDENES ARMS TIMBERHILL

Address of the premises you wish to support or object to:

2-4 TIMBERHILL NORWICH

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing objective           | Please set out your support or objections below.<br>Please use separate sheets if necessary. |
|-------------------------------|--|
| To prevent crime and disorder |  |
| Public safety                 |  |
| To prevent public nuisance    |  |
| To protect children from harm |  |

Please suggest any conditions  
which would alleviate your  
concerns.

PHILIP CUTLER IS AN EXCELLENT  
NEIGHBOUR + LANDLORD. HE NOT ONLY MAINTAINS  
A PACEFUL BUSY PUB BUT IS ALSO A PROACTIVE

MEMBER OF TIMBERHILL'S COMMUNITY OF INDEPENDENT  
TRADERS WHO WELCOME HIS CONTINUED ROLE AS LICENCEE

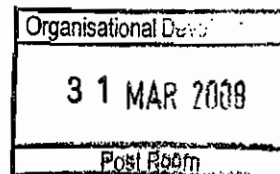
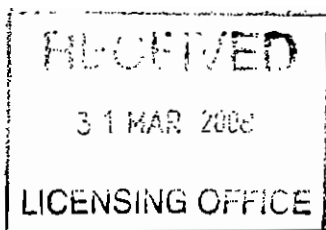
Signed: \_\_\_\_\_

Date: 28/03/08

Please see notes on reverse



NORWICH  
City Council



Norwich City Council Licensing Authority – Licensing Act 2003

## Statement of support or ~~objection~~ to an application for a premises licence

Your name/organisation name/name of body you represent (see note 1):

ORVIS.

Postal address: 6 ORFOLD HILL, NORWICH, ~~NR1 3GD~~ NR1 3GD.

Email address: \_\_\_\_\_

Contact telephone number: \_\_\_\_\_

Name of the premises you wish to support or ~~object~~ to:

THE MURDERERS PUBIC HOUSE.

Address of the premises you wish to support or ~~object~~ to:

TIMBERHILL, NORWICH

Your support or ~~objection~~ must relate to one of the four Licensing Objectives (see note 2)

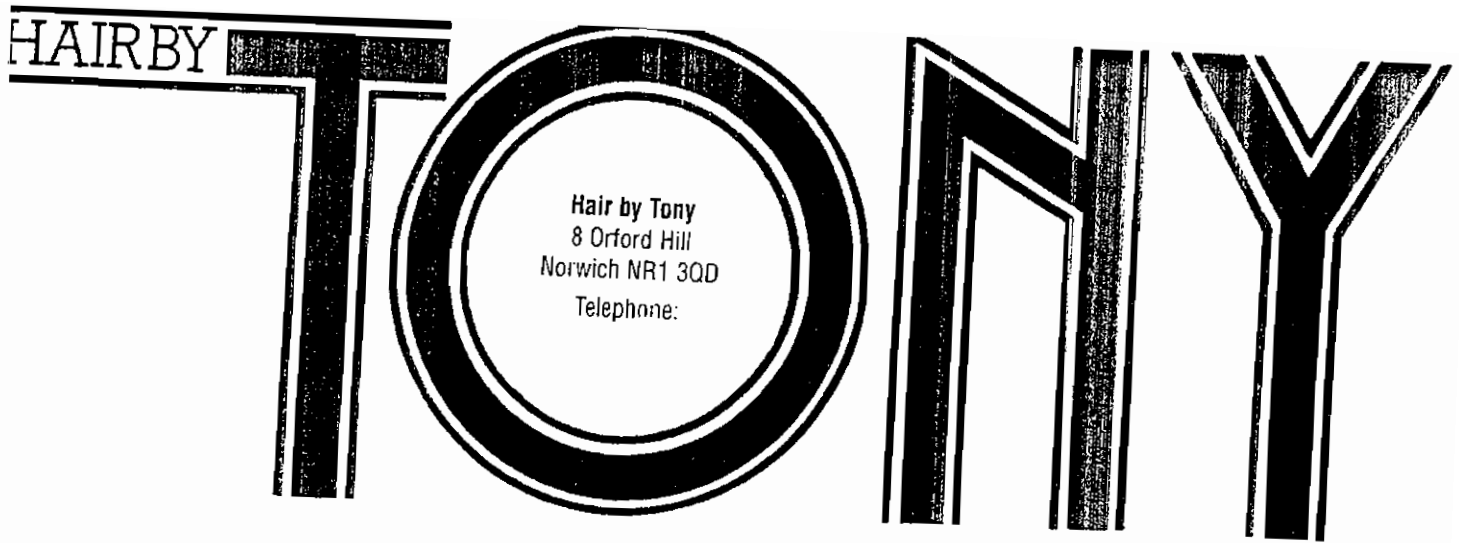
| Licensing objective           | Please set out your support or objections below.<br>Please use separate sheets if necessary. |
|-------------------------------|--|
| To prevent crime and disorder | .  |
| Public safety                 | THE TABLES AND CHAIRS CREATE A CONTAINED AREA<br>FOR SMOKERS AND THOSE DRINKING OUTSIDE.     |
| To prevent public nuisance    |  |
| To protect children from harm |  |

Please suggest any conditions  
which would alleviate your  
concerns.

NO CONCERNS

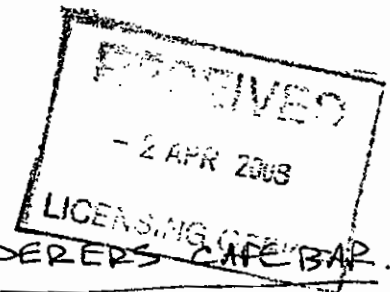
Signed: \_\_\_\_\_ Date: 28/03/08.

Please see notes on reverse



Norwich City Council,  
Licensing,  
City Hall,  
St. Peter's Street,  
Norwich  
NR2 1NH

31<sup>st</sup> March 2008



GARDENERS ARMS / THE MURDERERS CAFE BAR.

I would like to make it know that I fully support the use of tables and chairs, barriers, outside the Gardeners Arms / Murderers Cafe Bar.

This allows for a controlled area for their customers to consume food and drink outside. It allows those who wish to smoke to do so in safety.

I have worked in Timberhill / Orford Hill for 40 years

and in my opinion the management and staff monitor their area responsibly - should the seating barriers ever be removed the safe zone created for customers who wish to smoke / drink, then it would be difficult to police and could be in danger of any traffic using Timberhill they have CCTV and use security staff during busy periods -

I believe it is a very well run establishment and an asset to the area.

Yours sincerely

T.D.C. Velland



**NORWICH**  
City Council

Norwich City Council Licensing Authority – Licensing Act 2003

## Statement of support or objection to an application for a premises licence

Your ~~name~~/organisation name/name of body you represent (see note 1):

HAIR BY TONY

Postal address: 8 ORFORD HILL

NORWICH NR1 3QD

Email address: \_\_\_\_\_

Contact telephone number: \_\_\_\_\_

Name of the premises you wish to support or object to:

GARDENERS ARMS

AND.

Address of the premises you wish to support or object to:

THE MURDERERS CAFE BAR

2 and 8 TIMBERHILL NORWICH

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing objective  | Please set out your support or objections below.<br>Please use separate sheets if necessary.  |
|--|---|
| To prevent crime and disorder                                      | The use of external CCTV show that can watch the exit side and manage the extension of these premises.  |
| Public safety  | If the tables and chairs are removed - people would be forced to stand out side when they smoke - with the barriers it's easy to manage           |
| To prevent public nuisance   | The management can control the area within the barriers and police by security and staff. Making it easier to prevent public nuisance.            |
| To protect children from harm                                      | The licensing laws are strictly upheld the the highest possible standards and fully supported   |
| Please suggest any conditions which would alleviate your concerns. | I feel the Gardeners/murders work with the police and the highest possible standards are kept - and I fully support the above name is established |

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

28<sup>th</sup> MARCH 2008

Please see notes on reverse



NORWICH  
City Council

Norwich City Council Licensing Authority – Licensing Act 2003

## Statement of support or objection to an application for a premises licence

Your name/organisation name/name of body you represent (see note 1):

NALBVA

Postal address: 8 ORFORD HILL NORWICH

NR1 3DD

Email address: \_\_\_\_\_

Contact telephone number: \_\_\_\_\_

Name of the premises you wish to support or object to:

THE GOVERNMENT ARMS/ UNARMED

Address of the premises you wish to support or object to:

TRUBERT HILL NORWICH

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing objective           | Please set out your support or objections below.<br>Please use separate sheets if necessary. |
|-------------------------------|--|
| To prevent crime and disorder | <u>NO OBJECTIONS</u>   |
| Public safety                 | <u>  </u>  |
| To prevent public nuisance    | <u>  </u>  |
| To protect children from harm | <u>  </u>  |

|  |             |
|--|-------------|
| Please suggest any conditions which would alleviate your concerns. | <u>NONE</u> |
|--|-------------|

Signed: \_\_\_\_\_ Date: 27/3/08

Please see notes on reverse



12 Timber Hill, Norwich NR1 3LB.

# London Camera Exchange Group

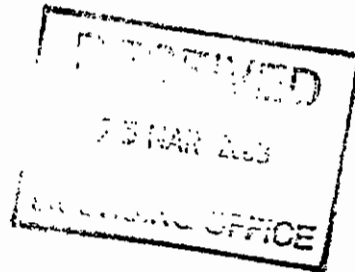
LONDON CAMERA EXCHANGE LTD.



20-03-08

Licensing  
Legal and Democratic Services  
Norwich City Council  
City Hall  
St Peters Street  
Norwich NR2 1NH

Re: Application for the renewal of a licence to place tables and chairs on the highway, Gardeners Arms 2-4 Timberhill.



Dear Sir,

I would like to support the above mentioned application by the Gardeners Arms as I believe that this practice has encouraged the increased footfall in Timberhill and would not like to see it disappear as I feel it adds to the life of the street.

I also believe that if this application is rejected this would have a considered negative impact on the number of people visiting Timberhill with a subsequent impact on the surrounding local business.

Yours Faithfully

David Westoby

Manager, London Camera Exchange Norwich.

LONDON CAMERA EXCHANGE LTD.

Registered Office: Hoydon House, 14 Hoydon Place,  
Guildford, Surrey GU1 4LL

Reg. No. 2697309 V.A.T. Reg. No. 188 8269 95

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NORWICH  
City Council

Appendix F  
memorandum

To: Licensing  
From: Tony Shearman  
Date: 16<sup>th</sup> April 2008

Your ref:  
Our ref:  
cc:

---

**Subject:** Gardeners Arms – Tables and Chairs Licence Renewal Application

Dear Licensing,

During the period of the current Tables and Chairs Licence at the above premises I have received one complaint relating to their use. The complaint was regarding the number of the tables and chairs that were being placed in the licensed area, and the matter was resolved with advice to the licensee.

During the period of the licence I have received correspondence from the owners of 2 of the local businesses in Timberhill, neither prompted by this application. Both were fully supportive of the of the premises and it's management.

I have no objections to the renewal of the licence.

Yours sincerely

Tony Shearman  
Enforcement Officer

Mr D Foskett  
Moss & Leahey Opticians  
1 Timberhill  
Norwich  
NR1 3JZ

Licensing  
Legal and Democratic Services  
Norwich City Council  
City Hall  
St Peters Street  
Norwich NR2 1NH

14 September 2007

Your reference

Our reference

Dear Sir

**Re: The Gardeners Arms Timberhill Norwich**

Thank you for letter of the 4 September concerning the above premises.

The Gardeners Arms currently hold a Premises Licence issued under the Licensing Act 2003 and have a separate permission to place tables and chairs on the highway under the Highways Act 1980.

In order to clarify the situation, the advice given in the letter to Mrs Orrick from which you have quoted ("outside of the premises without restriction") relates to the Premises Licence. As has been stated, the consumption of alcohol is not a licensable activity under the Licensing Act 2003 and there are no conditions on the current Premises Licence in respect of The Gardeners Arms that restrict outside drinking by virtue of that enactment. However, as detailed in the letter to Mrs Orrick, the Norwich City Council (Control of Alcohol in Public Places) Order 2003 makes it an offence to drink alcohol in the Timberhill area having been warned not to do so by a police officer. The exception to this is where an area is covered by a permission to place table and chairs on the highway.

As you state in your letter, the permission granted to place tables and chairs on the highway stipulates the maximum number of tables and chairs allowed within the licensed area. The permission is also subject to a number of conditions, one of which relates to the licensed area being barriered off. If the permitted area is clearly being used other than for which it was granted (e.g. no tables and chairs being put out) then the Council may re-consider the permission granted. However, if the number of tables and chairs used fell short of the maximum number by a small amount (e.g. one or two) then it is unlikely that the Council would re-consider the permission. I have contacted the holder of the tables and chairs licence and informed them that if the permission is clearly being used other than in accordance with the terms under which it was granted, then the Council may re-consider the permission granted.

I have enclosed a copy of The Gardeners Arms current tables and chairs licence and conditions, as requested.

Yours faithfully

Ian Streeter  
Senior Licensing Officer  
Tel:  
E-mail:

Annex 2 – Conditions consistent with the Operating Schedule

1 **General - all four licensing objectives**

2 1. Existing procedures will be applied to the premises to the premises in relation to the additional hours requested.

3 **The Prevention of Crime and Disorder**

4 1. The Licensee will operate in strict compliance of the law in respect of the operation of the premises and maintain good standards of behavior by his customers.

2. If required to do so by Police he will operate a Text/Radio Pager with local Police.

3. Door supervisors, who must be SIA registered, will be utilised when required.

4. The Portman proof of age scheme will be in operation on the premises.

5. Regular glass collections will take place.

6. The licensee will advertise, sell and promote the sale of alcohol responsibly, and in such a way that it will not intentionally, or is likely to, encourage the excessive consumption of alcohol.

5 **Public Safety**

6 1. The Licensee will undertake ongoing risk assessments in order to comply with Health and safety and Fire Prevention legislation.

7 **The Prevention of Public Nuisance**

8 1. The Licensee will undertake a risk assessment to ensure that proper measures are taken to avoid any public nuisance.

2. The Licensee will ensure that notices will be displayed at all exits requesting the Public to leave the premises and area quietly and to place litter in the receptacles provided..

9 **The Protection of Children From Harm**

10 1) Children are allowed in the cafe bar area of the premises for the purpose of eating, and must be accompanied by an adult.

2) All children are expected to be off the premises by 18:00. Relevant signage will be affixed in relation to admittance of children.

3) Any 16/17 years employed at the premises will be risk assessed to assess their suitability for the role.



## REGULATORY COMMITTEE

11.30 a.m. – 4.15 p.m.

13 May 2008

Present: Councillors Sands (Chair), Banham, Dylan, Jago, and Ramsay

Apologies: Councillor Cannell

### 1. MINUTES

**RESOLVED** to agree the accuracy of the minutes of the meeting held on 15 April 2008.

### 2. APPLICATION FOR RENEWAL OF LICENCE TO PLACE TABLES AND CHAIRS ON THE HIGHWAY – THE GARDENERS ARMS PUBLIC HOUSE, 2-4 TIMBERHILL, NORWICH

(Mr Cutter the applicant, his legal representative Mr Hardy, Mr Foskett and Angela Carver attended the meeting for this item).

The Senior Licensing Officer presented the report. He explained this application was to renew an existing licence to place tables and chairs on the highway following a complaint regarding the number of tables and chairs being placed within the licensed area.

Mr Hardy on behalf of the applicant said this was a busy, well run establishment, with no objections to the application by the Police Authority, the Enforcement Officer and the Highways Authority; there was support from local businesses. He acknowledged on match days supporters gather at the premises, this was a football pub, on those days two door supervisors were employed.

Mr Foskett, Moss and Leakey, said he considered Timberhill to be an of an inadequate width to allow tables and chairs to be placed on the highway. Customers drift across the road and cause a nuisance to his customers and his staff had been physically threatened. Mr Foskett produced video and photographic evidence, which was played and circulated to the committee.

Following considerable discussion it was -

**RESOLVED** to adjourn at this point to allow member to attend a site visit.

Following the site visit discussion ensued.

(The applicant, his legal representative, Mr Foskett, the Senior Licensing Officer and all members of the public left the meeting at this point.)

It was moved and seconded that members vote to grant a two month licence.

**RESOLVED**, with 2 members voting against (Councillors Banham and Sands), 1 member voting in favour (Councillor Ramsay) and 2 members abstaining (Councillors Dylan and Jago) to refuse to grant a two month licence.

It was then –

**RESOLVED**, with 2 members voting in favour (Councils Banham and Sands), 1 member voting against (Councillor Ramsay) and 2 members (Councillors Dylan and Jago) to grant a six month licence to the Gardeners Arms Public House to place tables and chairs on the highway, subject to all the conditions on the previous licence and the following additional condition:-

'The licensee shall take all reasonable and necessary steps to ensure that customers of The Gardeners Arms using the licensed area do not cause a nuisance and annoyance to neighbouring occupiers and that as far as possible those customers are enjoined not to use parts of the highway other than the licensed area'.

The licence was granted for a period of six months from the 13th May 2008 until the 12th November 2008.

Reasons for member decision:-

Members considered carefully the evidence from the applicant and the written and oral representations from the objectors and supporters. Members also viewed the video evidence brought to the Committee by Mr Foskitt.

Members noted that there was no objection to the renewal from the Norfolk Constabulary and from Norwich City Council Traffic and Transportation.

Members also noted carefully the position of the proposed licensed area at their visit to the site during the meeting.

Members accepted that there was a noise and activity in Timberhill and that on occasions the business at Moss and Leahey and other occupiers were affected.

On balance, therefore, members considered it appropriate to grant the licence subject to the conditions note above for a period of six months in order for the situation to be monitored.

(The applicant, Senior Licensing Officer and members of the public were re-admitted to the meeting and informed of the decision to grant the licence).

## NORWICH CITY COUNCIL

### Report for Resolution

5

**Report To** Regulatory Committee

17 February 2009

**Report of** Head of Legal & Democratic Services  
**Subject** Application for renewal of licence to place tables  
and chairs on the highway – The Gardeners  
Arms PH 2-4 Timberhill Norwich

---

#### **Purpose**

To ask Members to determine an application to place tables and chairs on the highway.

#### **Recommendations**

That Members determine the renewal application to place tables and chairs on the highway submitted in respect of The Gardeners Arms PH 2-4 Timberhill Norwich.

#### **Financial Consequences**

The financial consequences of this report are nil.

#### **Corporate Objective/Service Plan Priority**

The provision of outdoor refreshment facilities can enhance the character and vitality of an area and contribute to Norwich as a vibrant city of culture.

#### **Contact Officers**

Ian Streeter

Phone No  
212439

#### **Background Documents**



## **Background**

1. Section 115E of the Highways Act 1980 (The Act) provides for a council to grant a person permission to use objects or structures on certain categories of highway for a purpose which will result in the production of income.
2. The Act also provides for a council to attach such conditions as they think fit to a permission granted under Section 115E. A copy of the conditions attached to the last licence issued to The Gardeners Arms under The Act is attached as Appendix A to the report.
3. The Act gives councils a wide discretion to determine such applications and to impose conditions. Each case must be considered on its own merits with due weight being given to relevant considerations only. Existing policies or guidelines should not be applied so rigidly that an exercise of discretion in each individual case is precluded. Accordingly, the adopted standard conditions could be added to or amended depending on the circumstances of each individual application.

## **The Application**

4. An application to renew an existing licence to place tables and chairs on the highway has been received from Philip Cutter in respect of an area outside The Gardeners Arms 2-4 Timber Hill Norwich, a copy of which is attached as Appendix B to the report.
5. A licence granting permission to place tables and chairs outside the Gardeners Arms was first granted in September 1996. The most recent licence issued was approved by the Regulatory Committee at their meeting on 13 May 2008 and a copy of the report and subsequent minute is attached as Appendix C to the report.

## **Consultation**

6. Details of the application have been forwarded to the Norfolk Constabulary, Norfolk Fire Service and the City Council's Planning, Transportation and Pollution Control sections for comment. Their responses are attached as Appendix D. The comments of the council's Principal Transportation Officer specifically address issues raised by the legal representatives of an objector to the application, the details of which are contained in Appendix E.
7. In addition, occupiers of nearby premises have also been consulted. This has resulted in two letters of objection and eleven letters of support. The responses objecting to the application are attached as Appendix E and those in support are attached at Appendix F.

## **Licensing Act 2003**

8. The Gardeners Arms hold a premises licence under the Licensing Act 2003 that permits the retail sale of alcohol every day between the hours of 07:00 – 01:30. The licence also permits the supply of alcohol for consumption both off and on the premises. The conditions consistent with the Operating Schedule in respect of The Gardeners Arms premises licence are attached at Appendix G.
9. The Licensing Act 2003 provides for a person living or working in the vicinity of a licensed premises to apply for a review of a premises licence, if the grounds for the review relates to one of the licensing objectives, that is:-
  - a. Prevention of Crime and Disorder
  - b. Promotion of Public Safety
  - c. Prevention of Public Nuisance
  - d. Protection of Children From Harm



NORWICH  
City Council

# APPENDIX A

## NORWICH CITY COUNCIL

### Highways Act 1980, Part VIIA – Provision of Amenities on Pedestrian Ways

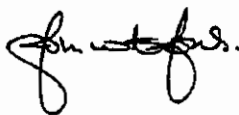
THE CITY COUNCIL OF NORWICH (hereinafter called "the Council") in exercise of the provisions of Section 115E of the Highways Act, 1980, hereby grant **Mr Philip Cutter** ("the Licensee") permission, subject to the following conditions, to place tables and chairs ("the objects or structures") to accommodate a maximum of **7 tables and 21 chairs** on the area of the public highway known as **2-4 Timberhill Norwich** shown coloured red on the attached plan ("the application site") for the purposes of providing refreshment in connection with the premises known as **The Gardeners Arms** ("the premises") from **13th May 2008 to 12th November 2008**.

The conditions of this Licence are:

- 1 The Council's reasonable expenses in connection with the granting of this permission shall have been paid and the annual fee starting with the date of this permission shall have been paid before the permission is first exercised.
- 2 The Licensee shall indemnify the Council against any claim whatsoever, in respect of injury, damage or loss arising out of the grant of this permission other than injury, damage or loss which is attributable to the negligence of the Council.
- 3 The objects or structures shall be placed only on the licensed area and on no other part of the public highway.
- 4 The objects or structures shall be used only for the purposes stated above and only in connection with the premises.
- 5 The objects or structures shall be removed from the public highway forthwith upon the direction of a Police Constable in uniform or a Traffic Warden.
- 6 The objects or structures shall be removed from the public highway forthwith to enable the passage of any emergency service vehicles or any vehicle engaged on the repair or maintenance of the public highway or apparatus within the public highway or any other vehicle authorised by the Council to proceed on the public highway.
- 7 Permission for the tables and chairs is granted from **08:00 to 23:30, Everyday** (subject to earlier termination under clause 13).
- 8 No amplified music or live music shall take place on the licensed area.
- 9 The tables and chairs, the subject of this Licence, shall be removed from the licensed area each day outside of the licence period.

- 10 The Licensee shall ensure that the licensed area is mainly enclosed by a barrier that is in keeping with the visual appearance of the area, not less than 800mm high and with no more than 150mm between the base rail and the ground, or other design as previously agreed in writing by the Council. Neither the barrier nor other furniture should carry strident advertising that goes beyond the purpose of discreetly identifying that the pavement cafe is associated with a particular business.
- 11 The Licensee undertakes to ensure that the licensed area is closely monitored and kept clean and tidy at all times.
- 12 No alteration to the highway surface shall be permitted to be carried out by the Licensee in implementing this Licence.
- 13 The Council may, by service of a notice in writing on the Licensee or owner of the premises, withdraw the Licence forthwith:-
  - (a) in an emergency or in the event that the Council considers the exercise of the Licence causes a substantial and unreasonable obstruction of the right of the public to pass or re-pass on the public highway,
  - (b) if any condition of this permission is broken,
  - (c) if the Council considers it to be necessary in connection with the exercise of any of its functions or the functions of any statutory undertaker or public utility,
  - (d) for any other reasonable cause.
- 14 The Licensee shall inform the Council's Head of Legal and Democratic Services in writing of any change in the owner or occupier of the premises within one month of that change.
- 15 This permission is for tables and chairs and barriers only. No other items, for example space heaters, are permitted by this licence.
- 16 The licensee shall take all reasonable and necessary steps to ensure that customers of The Gardeners Arms using the licensed area do not cause a nuisance and annoyance to neighbouring occupiers and that as far as possible those customers are enjoined not to use parts of the highway other than the licensed area.

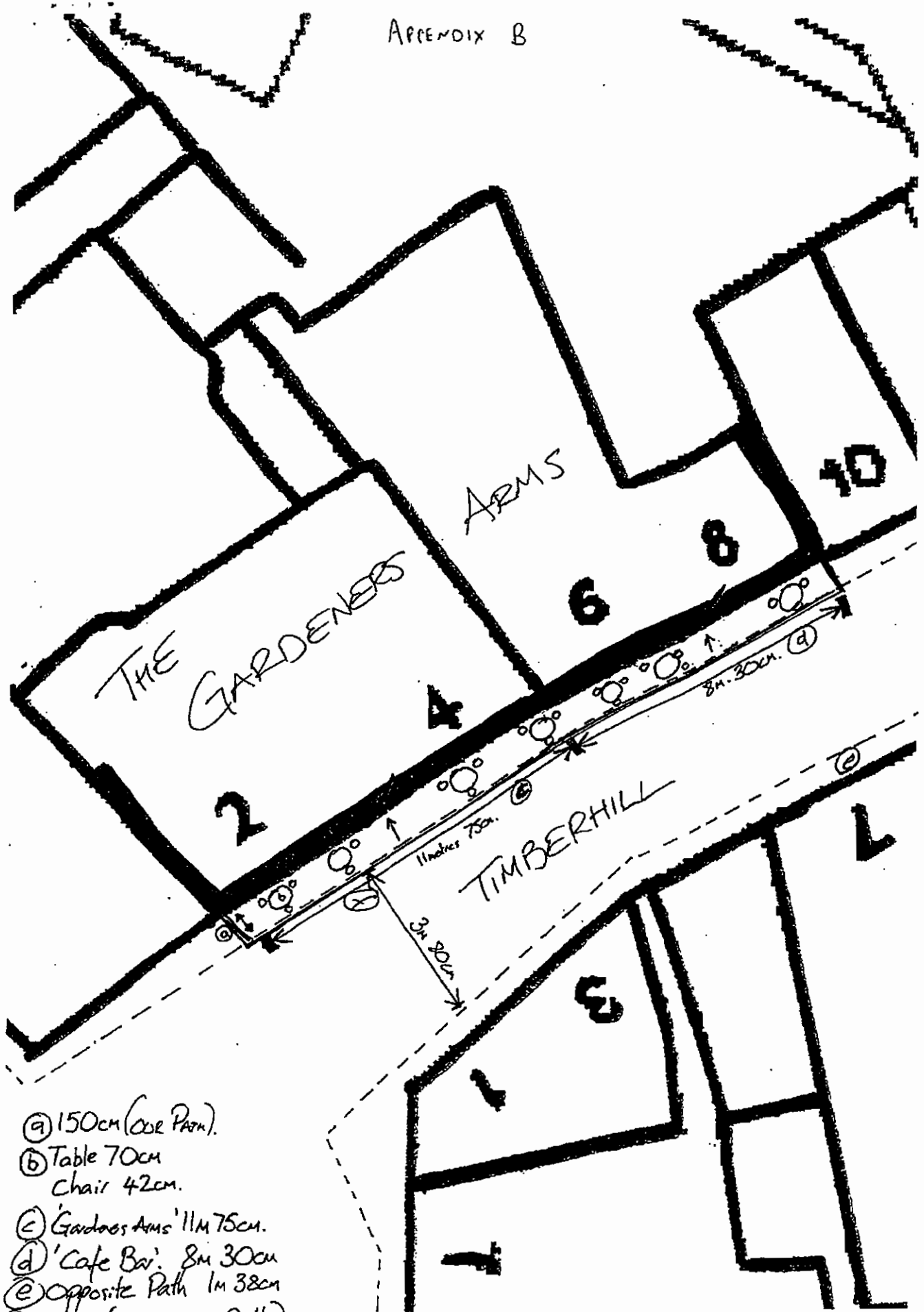
**DATED 16th May 2008**



**John Jones**  
**Head of Legal & Democratic Services**

|   |
|---|
| <p><b>IT IS THE SOLE RESPONSIBILITY of the licence holder to ensure that any application to renew this licence must be received by the Licensing Section of Norwich City Council on or before the renewal date shown above.</b></p> |
|---|

# APPENDIX B



- Ⓐ 150cm (over Path).
- Ⓑ Table 70cm  
Chair 42cm.
- Ⓒ 'Gardeners Arms' 11m 75cm.
- Ⓓ 'Cafe Bar' 8m 30cm
- Ⓔ Opposite Path 1m 38cm
- Ⓕ Road (excluding Paths)  
2. 20cm

# APPENDIX B

**The Gardeners Arms Free House,  
& Murderers Café Bar.**



**The Gardeners Arms Public House.  
2-8, Timber Hill.  
Norwich.  
Norfolk.  
NR1 3LB.**

**Telephone 01603-621447**

**Fax 01603-812475**

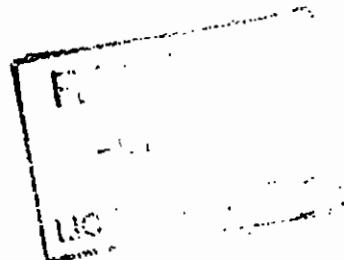
**Web Site. [www.themurderers.co.uk](http://www.themurderers.co.uk)**

**Proprietors. Mr I.D. Brown, Mrs J.A. Brown  
& Mr P.A. Cutter**

**Date:-**

**4th November 2008**

**Application 08/01930/TABCHA  
Renewal application for Gardeners Arms  
Timberhill**



**The Gardeners Arms Free House,  
& Murderers Café Bar.**



**The Gardeners Arms Public House.  
2-8, Timber Hill.  
Norwich.  
Norfolk.  
NR1 3LB.**

**Telephone 01603-621447**

**Fax 01603-812475**

**Web Site. [www.themurderers.co.uk](http://www.themurderers.co.uk)**

**Proprietors. Mr I.D. Brown, Mrs J.A. Brown  
& Mr P.A. Cutter**

**Date:-**

**4th November 2008**

The Gardeners Arms Pub stood on site since at least 1841, with the premises that the pub stands on dating back to 1596.

It has stood happily opposite various operations since I have been employed there for almost 23 years. For sometime during the construction of the Castle Mall, we were one of just 3 units operating on TimberHill. We hold a unique status of possibly the only known 'tourist attraction' on a street, which pre-dates Elm Hill in respect of age. I have worked tirelessly, and closely with all our local neighbours, and business partners. Continually trying to emphasise the virtues, beauty, and varied history of people and events of TimberHill, to the wider community during this period of economic slowdown. My attempts are to benefit ALL traders. I am on the steering committee for NORWICHRISTMAS, which is organised by the Forum Trust. I am currently working with HEART, the Heritage and Regeneration Trust, to write a history of TimberHill, to be used for a new tourist trail around the original contour of the Castle Bailey. I also helped to secure funding of £120,000 towards the regeneration of Orford Hill. I rallied support, and got a great deal of publicity for the street to publicise Breast Cancer Awareness on October 31<sup>st</sup> of which ALL premises participated, except, very disappointingly, Moss & Leakey. I spearhead 'STAY CENTRAL' which attempts to join together all members of the night time economy in the immediate city centre, and advertise the area as a competitor to Prince of Wales Road, and Riverside. From this, I hope to soon, be part of the CCMP, (City Centre Management Partnership), on behalf of TimberHill, and the night time economy. I regularly attend the 'SNAP' meetings and Licensing Forums, as well as fulfilling my responsibilities of around 40 hours per week bar work, plus the administration, rota's, paperwork and the increasing legislation we require to comply with as responsible operators. As you can see, I spend my time, constructively trying to improve the profile of our beautiful and historic street, for everybody's benefit. **THIS INCLUDES MR FOSKETT.** It is a testament that believe I have the support of many of the streets business'. However, it seems that Mr Foscett remains intent on making my premises, customers and tables and chairs, his scapegoat, during what has been, and continues to be, a very difficult trading period. I have responsibilities to not only my family, business partner, staff and customers, but also to the residents, business' and the wider general public. We have between 3,000 & 5,000 visitors through our doors weekly. In context that is, (on average) a minimum of 150,000 people through our doors annually! That is 1½ full Wembley Stadiums, and 6 full Carrow Roads! 0.1% of this figure is 150. How many arrests on Timberhill,? Sgt. Eric Bradley said at the Regulatory Committee meeting that in his 7 years as desk Sergeant in custody at Bethel Street, he had known of NO arrests directly attributed to TimberHill. Yet I am made out to be a selfish and irresponsible operator, and the furniture to the front of my premises has led to ongoing anarchy on a street that I feel very passionately about.

Despite recent events, Norwich is a very safe city. The EDP reported on October 23<sup>rd</sup> 2008, that violent crime in Norfolk had reduced by 11.7% from last year. With myself and many other city centre licensee's, we work closely, and regularly with the Police and local authority, in the Norwich City Centre Licensee's Forum. The recent unfortunate murders on the Guildhall, in the McDonald's restaurant on the Haymarket, and the murder, at HMV of security guard, Paul Cavanagh, show the requirements for Security when necessary. Windsor Bishops, the jewellers, on London Street, have permanent security outside their premises, however, last Christmas in an attempted raid, their windows were smashed. Security is not necessarily enough deterrent. Mr Foscett raised the unfortunate incident in August 2005 at the last regulatory meeting in April, when a group of 20 convicted, and banned Coventry City supporters, caused a disturbance on TimberHill. This highlights the potential of problems anywhere in Norwich, at any time. Refusal of entry by my two security staff, led to a the group, intent on causing disorder, had they entered my premises. (This particular incident led to NO correspondence from Moss and Leakey premises) The safety of my staff and customers inside my premises were not compromised. Ugly?.... Yes..... And regrettable. However, the due legal process found both my door staff innocent in their actions outside the pub. Some of the group from Coventry, were convicted for assault. (With the assistance of a witness statement provided by Mr. Foscett) This is just one incident, over a ten year period. In fact, I genuinely believe that with ourselves, and the those connected with the night time economy, we actually make business' safer once closed. Incidents of burglaries, or criminal damage are, thankfully, very rare on TimberHill. It is an operating reality that windows are broken, and alarms activated, but with patrons continually outside, 'monitoring', such events are few and far between. In fact in the 5 years Mr. Foscett has been operating, regrettably, 2 of his windows have been smashed. On the first occasion my description of the perpetrator, led to him being caught and subsequently paying for the damage caused. The second was reported to the Constabulary, within moments of its break, and the name of a possible offender for this was surrendered to the Police. When Moss and Leakey's 'A' board base was left outside, weeks before the last regulatory committee meeting, it was the staff at the Gardeners Arms, who brought it into our premises for safe keeping, and returned to them first thing the following Monday morning. I would suggest that Mr Foscett does not see this as a benefit.

Before Mr. Foscett, and the Moss & Leakey practice was opened, myself, and my senior staff had introduced ourselves to them, working closely with Mr. Foscett. Moss and Leakey who seem to be a 'high end' ophthalmic practice dealing solely with prescription glasses and sunglasses, with designer frames, and 'leading edge lens technology'. (Moss & Leakey website) A lot of time and effort was spent with Mr. Foscett, as we soon highlighted him as being particularly difficult to please, it took a further 4 years of his consistent and unreasonable demands from Mr. Foscett, for us to find ourselves in this current position of impasse.

Our table and chairs licence was first held in September 1996, with tables outside for a further 2 years prior to this, without a licence. This licence has met every council, and county council criteria, and during our recent refurbishment, (January 2007) we even worked closely with the conservation department of the council, to ensure that both our furniture, and barriers were in keeping with the beauty of what is a conservation area. Prior to our application to extend our tables and chairs licence in April 2007, I consulted with Mr Foscett frequently, and at great length, explaining why we intended to extend our licence from April-October, to all year, (the smoking ban), and the consequences of having nowhere for these customers to be confined to a set, designated area, during the winter months, and the impact it would have potentially on the neighbouring business. LACoRS guidelines suggest that our responsibilities rest beyond our front door, however, 'The widely held view is that the definition of 'premises' does not cover noise made in the street'- Therefore would only be expected to reasonably control our customers inside our own premises, without the benefit of our current licence. This situation, as I discussed with Mr Foscett, would be impossible to manage, control and operate.

Over the past 3 years, both my premises licence, as well as my tables and chairs licence was open for consultation on no less than 3 previous occasions, prior to the regulatory committee meeting in May 2008. My licence was open for scrutiny and dissection by any interested party. It is very significant that Mr. Foscett chose not to object to on any of the previous 3 occasions. He stated in his last correspondence to the committee, (14/4/2008) that 'Your Licensing Office and police gave us poor advice last year when otherwise we would have objected then' I believe that Mr Foscett, made no approach to the constabulary in regards to our tables and chairs licence, prior to April 2007. The council licensing department were contacted about my premises in January 2007, regarding dust being generated during a re-fit, and in September 2007, regarding confirmation of our tables and chairs licence, where advice was given. However, no advice



was given to Mr. Foskett from the Licensing department. In this regard, prior to our tables and chairs application in April 2007. So what changed? The uncertain economic climate, over the past 12 months, coincides with the beginning of both letters of complaint, and his fervent attempts to have our tables and chairs licence retracted.

During the first few 3 years of trading, Mr. Foskett informed me that he 25% up year on year, during this time that the economy was buoyant. Dr Sasitharan stated at the last regulatory Committee that the practice had seen a fall in sales as a direct result of the Gardeners arms. Such statements, need to be put into a wider picture. During the past 18 months, the economy has slowed dramatically, affecting most business in the country, the ophthalmic industry has not been immune to this slowdown.

**The Optician**, (The Trade magazine for Opticians), has said for sunglasses sales (Edition 18/07/2008) *'Practitioners have attributed the slump to poor weather, the credit crunch, internet sales and the popularity of photo chromic, (reactive to sun light) lenses. Optician findings mirror those of research group GfK's retail sales data revealing that sunglasses sales through premium opticians were down by 16% in volume in May 2008, compared to May 2007'*

The following issue continued by reporting that, *'Sunglasses sales appear to be growing at the bottom end of the market (products retailing under £55) - which may result in a general devaluation.'*

**The same edition runs an article 'Credit crunch begins to bite'** describing how figures are down from last years.

- 'Eye examinations are still showing an average annual decline in the order of -2%'
- 'Volumes of dispensing continues to fall, -8% overall'
- 'The volumes of all types of lenses have seen a downturn'

**The 29 September 2008, of The Optician runs an article entitled 'Upmarket frame sales hit by recession Fear', reporting that 'Sales have been significantly affected by the credit crunch'**

Moss and Leakey advertises it's own, and only, special offer, by means of a faded A3 sized poster in it's window. This offer includes, frames, (value item) £59. Lenses, (value item) £89. Buy one pair, get the second pair half price. (Bargain!) This brings the total of the 2 pairs to £217.50 (Eye test £25). Whilst I appreciate the market is varied, there are currently in the NR1, and NR2 postcode districts, no more than 14, (fourteen) different opticians in the city centre. I would not for a moment suggest how Mr Foskett should run, or could improve his sales, during this lean period, however, East Anglia's largest Specsavers store is around 100 metres walk from the Moss and Leakey premises. Specsavers advertise single lens spectacles, complete, starting from just £25 per pair, plus 30% off for over 60's. Vision Express, also advertise, 2 pairs of designer frames, with vari-focal lenses, for £99, Boots offer the same deal, but for £75. Optical Express also advertise corrective eye surgery from only £395 per eye, performed in Norwich. All of these are supported by massive TV advertising campaigns. (Correct at 1/11/2008) Yet his argument remains that it is because of my business, that directly affect his sales. This is both unfair and in-consistent. Whilst Mr Fosketts current, (31/10/2008) window display has glasses frames ranging from £155 to £450, (excluding prescription lenses) This is not a criticism of the Moss and Leakey business, or the way they operate, but to prove the point that trading conditions are hard. In the NR1 and NR2 postcodes there are just 72 traditional pubs, (Listed on Yell.com) In the immediate city centre, The Gardeners Arms are now just one of 11 traditional city centre pubs. The licensed trade has also seen beer sales slump to an all time low. 1.8 million fewer pints are being sold per day in pubs across the country, (British Beer and Pub association) compared to last year, a fall of 7.2%.

The real issue here is nuisance, and in particular, Mr. Fosketts perception of nuisance. He said in his submission to the Committee, "Our complaint is about nuisance full stop". The fact tables and chairs are outside the front of my premises, is a nuisance. That people are using them, is a nuisance. The fact that nothing ever happens is also a nuisance, and therefore any small, or insignificant occurrence, is embellished, and exaggerated to extortionate proportions. Mr. Fosketts recall of events were shown at the last Regulatory Committee meeting to be both exaggerated, and substantially fictionalised, in order to create negativity around my premises. (The events leading to a incident outside the local nail bar) I am sure Mr Foskett, see's nuisance in the bagpiper playing outside Primark, or the road train passing within feet of his practice 4 times a day, the group of teenagers singing a medley of 'High School

Musical' songs outside his shop, small children crying, Big Issue sellers, skateboarders, morris dancers, taxi's dropping off / picking up, Securicor vehicles reversing, emergency vehicles passing with sirens sounding, the list is infinite, but none attributed to my business. Ultimately, the nuisance is that Mr Foscett & Dr Sasitharan practice is in the heart of a city centre. Being opposite a pub enables an excuse for poor sales. (I am sure that the 'Puppet Man' on Gentleman's Walk is not highlighted as a nuisance by local opticians!) Our major deliveries, are undertaken prior to 9am on a Monday morning, to reduce disruption, with smaller deliveries being made throughout the week. With or without my furniture, this would temporarily halt traffic movements on Timberhill, but these generally last for just a few minutes. It may be that our 'enclosure is positioned 3½ metres from the practice frontage' (Optician 30<sup>th</sup> May 2008), but this was the case before the practice was conceived, purchased and then operated on Timberhill. Nothing has changed! The fact that Mr. Foscett measured the entire frontage of my premises/Timberhill on Tuesday 28<sup>th</sup> October, for an hour, with 2 of his staff, further proves how obsessed he is with this situation!! I believe this criteria has been more than satisfactorily met since 1996 with the traffic/police.

Issue was made of the 'intimidation' of my patrons suggesting that Moss and Leakey's customers, 'Should have gone to Specsavers' This is not intimidation, this is occasional 'banter'! It is another sufficient 'catch all' to blame my patrons outside to 'intimidate' clients entering any business beyond ours-It is another excuse. It never was an issue in the previous years from Mr. Foscett, prior to April 2008. Again if this was a contributing factor to his practice, why was there no submissions to the Licensing sub Committee of July 24<sup>th</sup> 2006, the re-submission of our tables and chairs licence 18<sup>th</sup> July 2006, or the re-newal of this licence April 17<sup>th</sup> 2007? There is also no suggestion that any other local business' or even the general public, have felt intimidated on Timberhill surrounding my premises. I am sure that if this was the case there would be regular reports to the Constabulary, and Local Authority. In a letter published to *The Optician*, (dated 30<sup>th</sup> May 2008), Mr. Foscett described that my patrons, 'rarely confine themselves to this area' and in his submission to the last Regulatory Committee that the 'Nuisance from this site is regular and persistent'. I am sure that the majority of the traders of Timberhill know this to be untrue, and following the Committee's visit to the site, can see that this is not the case. We are not perfect, and on occasion, "the odd fish slips from the net", however, we react as quickly as possible.

There is a significant difference between actual nuisance, and perceived nuisance. For example, when we actively worked with Mr Foscett, he called me across to tell me that he objected to one of my customers laughing to loudly, and this was a nuisance to his practice! He called the pub to complain about 2 members of the public were having a heated argument about who was to pay for the car park. (Nothing to do with the pub) Complained about a vagrant, who we'd refused service to, and sat outside his practice - (We suggested he contact the constabulary). We were called regularly to move 'our patrons' on, who were smoking or using mobile phones outside his practice. We seem to be, called and held responsible for every transient member of the public stopping outside his practice. It became an impossible, and farcical situation on busy days, regularly going outside to try and move people back towards our premises, who were nothing to do with us. This ultimately led to a situation of 'the boy who called Wolf', and to us forced to say 'Sorry, too busy to answer your call right now' (Mr. Foscett, submission to the Regulatory Committee April 2008) He also said in his submission that, "the Applicant, (Me) see's the behaviour of his customers as normal" and that he "might be expected to labour on here about awful event after awful event".. However, for example, when our establishment 'single handedly turned Timberhill into a 'no-go' area', (Mr. Foscett 28<sup>th</sup> February 2008) even with a massive police presence- **NOBODY** else saw it! No public complaints, no police complaints, and no complaints from ANY other local business. This comment alone, from Mr Foscett, undermined the Police report on that day, who did not deem there normal Police presence on a match day, to be mentioned within it. It seems that everybody else see's the behaviour of my customers as normal, except him!! Despite this, he indicates that our furniture "severely compromise other local traders"- Again, Seven of whom supported this application in April 2008.

Directly after the last regulatory committee meeting, a managers meeting was immediately convened with all my senior staff and management, where strategies were suggested and then implemented. It was agreed that reasonable measures were already in place to stop patrons, leaving the confines of our barriers, however, a permanent, and dedicated 'A' board was placed directly outside our front door, stating that 'Patrons are requested to remain behind the barriers at all times', and that during potentially, busy periods, a designated member of staff would stay outside to enforce this, and that an 'Incident Book' be introduced to log any events. In addition, I wrote to the Workbox Needlecraft shop, to given an invitation to open dialogue, and ally any fears or concerns that they have, to which I received no reply, or approach. This is both unfortunate, and regrettable. I am committed to neighbours, both business

and residents, to maintain the highest standards from my staff and patrons. My tables and chairs, along with the patrons using them, are my 'shop window'. There are few, (if any) publicans in Norwich City Centre, that have successfully been involved in the same premises, in the same way that Mr. Brown and myself have been over the past 23 years. We are not, as it may seem to be suggested, 'Cowboy Operators'. Between 3 of my senior staff have almost 80 years licensed trade experience. We know that it is certainly not, or ever has been, in my own best interests to allow nuisance or disorder outside or around my premises. This has been of greater importance over the last 6 months, being under increased scrutiny, to avoid any additional issues arising from Mr. Foscett. I believe that it is simply the case that this matter will not be allowed to be put to rest until Mr. Foscett moves his premises, or until he has successfully convinced the committee to revoke this licence. It is now public record that I myself was recently reported to the constabulary, by Mr. Foscett, for inciting my patrons to abuse him! This is simply a vexatious ploy to undermine the credibility of me, and the hard work I have, and continue to do for my business, business neighbours and the wider City centre. This complaint coincides with a discussion I had with Mr Foscett's business partner, Dr Sasitharan about the erection of his new CCTV camera's and it's use which was infringing both CCTV code of conduct, and local planning regulations, on a Grade II\* listed building. I informed the local planning office, and residents, (who's privacy is being infringed upon, by the camera) complained to the constabulary. Both planning enforcement, and the constabulary contacted Mr. Foscett, and coincidentally, soon followed the letter of complaint to police, about me! This is a drain on my time and resources, and detrimental to my family life, business and patrons, for the time I spend defending Mr. Foscett's preposterous claims. I am sure that the suggested reason for erection of this CCTV camera, will be for crime prevention and public safety, however, this camera collects more information from my premises than his own. (A breach of the CCTV Code of Conduct) Police figures prove that crime was negligible, for the whole of TimberHill over the past 12 months. It is easy to fear the *thought* of violence.

Mr. Foscett wrote, 'The Licensee ~~is~~ is actively encouraging his customers to stand outside smoking.' - I neither encourage or discourage people to be outside, the problem with the Smokefree legislation is that all smokers are prohibited from smoking inside, they have no other option, but to smoke outside. I also do not have to powers to force them to sit down! During busy periods, I have positioned myself outside to 'control' patrons. This occasionally has the effect that I am outside, playing 'the host', which may encourage patrons to remain outside - If I return inside, this leaves no-one to 'crowd control' - It is a vicious catch 22 situation.

Mr. Foscett's new fascination, seems to be of photographing cigarette butts!! I am sure that the implication is that each and every cigarette butt outside or around his premises, is as the direct result of the Gardeners Arms. I am honoured to be associated with the Business pride scheme. I take pride in not only my premises, but also the surrounding area, but expect that my neighbours take pride and responsibility for their own vicinity. Cigarette litter is a scourge of the entire country. At the City Centre 'SNAP' meeting in April 2008, litter was highlighted as a priority. I and my four year old son, took part in a litter collection of the city centre on my birthday. On a daily basis, myself, and my staff collect cigarette butts from the 'road' surrounding our premises. (This is not to admit liability for all the litter on TimberHill, this is about taking Pride in our surroundings). There are however parameters, we can only leave each of our business neighbours responsible for their own litter collections, if they are concerned. Mr Foscett however decides to sweep the butts into the centre of the road, as opposed to collecting and disposing of this litter. We are surrounded by 5 other licensed premises, within 100 metres of ourselves. There is continuous footfall during the hours after our local retailers have closed. It seems that not satisfying the committee with complaints he made in April 2008, he has been positioned to find further accusations for me to defend against.

If Mr. Foscett took time to speak to the majority of his business neighbours, as I do regularly, they would tell him that times are particularly hard for independent traders. Pulling together works: a permanent 'tug-of-war' pulling in opposite directions benefits nobody. I have a commitment to ALL of my business partners on TimberHill, and the surrounding area INCLUDING Moss and Leakey.

Prior to our Regulatory Committee meeting in April 2008, Mr. Hardie, on our behalf, invited Mr Foscett to meet at a neutral venue, to discuss his concerns. Both the local authority, Licensing Department, and the Police were invited, however, Mr. Foscett refused to attend. It seems that despite our very best intentions, there is neither a will, or desire to resolve this issue, with a negotiated, but REASONABLE compromise. A meeting was held shortly before this with Mr. Foscett, the Police and a licensing Officer attending, to which I was neither invited, or attended. I am led to believe, Mr. Foscett was told at this meeting that there were no concerns about the current situation, or my premises. It is

however, a sad indictment, of this entire situation that, when, during the summer, I turned away 30 middle aged, good humoured men, on a stag party, in fancy dress and with water guns, merely because of what might happen- Potentially it was neither nuisance or disorder, but....just high spirits. It now seems apparent that my business is also being effected by this unjustified and continually increasing harassment, from an obsessed individual, intent on his own personal vendetta, of removing the tables and chairs licence from the front of my premises. Indeed it can be suggested that Mr. Foscett has attempted to inflame the situation further, by way of photographing families dining at the front of my premises,(who took offence, and to which I reported to the constabulary) photographing customers generally, (who took offence, and to which I reported to the Constabulary) installing a CCTV camera (which is motion sensitive & films my patrons), vexatious claims to the police regarding my behaviour, spending an hour, with two of his staff measuring the front of my premises, tables, chairs, barriers and street. Stopping traffic flow in the process, and upsetting other local traders! He has also demanded that I withdraw my barriers whilst we had a delivery.(Traffic was clear within minutes), and in January and February 8, exaggerated and extensively fictionalised letters in 12 days! His vendetta even branched out to include Mr Hardie, of Howes Percival, who represents us on this matter. Mr Foscett threatened to take Mr Hardie to the 'Law Society' with the claim that he gave the last committee 'False, or misleading evidence!' We have shown remarkable restraint, with his continued, unacceptable behaviour, with the stance adopted by Mr. Foscett being both unnecessary and unhelpful. We have dealt with the situation with humour from me, my staff and customers. It is a fact, however, that this is harassment and nuisance to us at all the Gardeners Arms, management, staff, patrons, and basically anyone connected with the business, by Mr. Foscett - In this instance however, it is us who have to live it!!

I appreciate that it is right that interested parties have the right to complain about nuisance. However, the licensed trade has become one of the most regulated industries over the past few years, and feel now that we are being made the scapegoat for a business in decline during an economic slowdown, which has now reached recession - I am sure not even Mr. Foscett can blame that onto us!

Yours Faithfully



Mr. Philip Cutter MBII

*Also enclosed, a selection of photographs, to show the public's practices of mobile phone use, as well as smokers.*

**Streeter, Ian**

---

**From:** Philip Cutter  
**Sent:** 10 December 2008 01:26  
**To:** Streeter, Ian  
**Subject:** Moss and Leakey

I have just re-read the letter submitted by Mr Fosskett for his letter of objection to our tables and chairs license.

I would like it brought to the attention of the Committee that, despite as quoted in his letter that I neither said, wrote or implied that I 'Removed tables and chairs on football match days to avoid them being used as missiles in any disturbance'

This is a further fabricated piece of evidence produced by Mr. Fosskett. I am sure that you, as you were present at the last regulatory Committee meeting, will confirm, at no stage was this 'evidence' said by myself. What I did say on the matter of tables being removed on some match days, was to allow for greater area to be provided by the increased numbers, potentially, visiting outside during half time in the live matches shown within our premises.

Regards

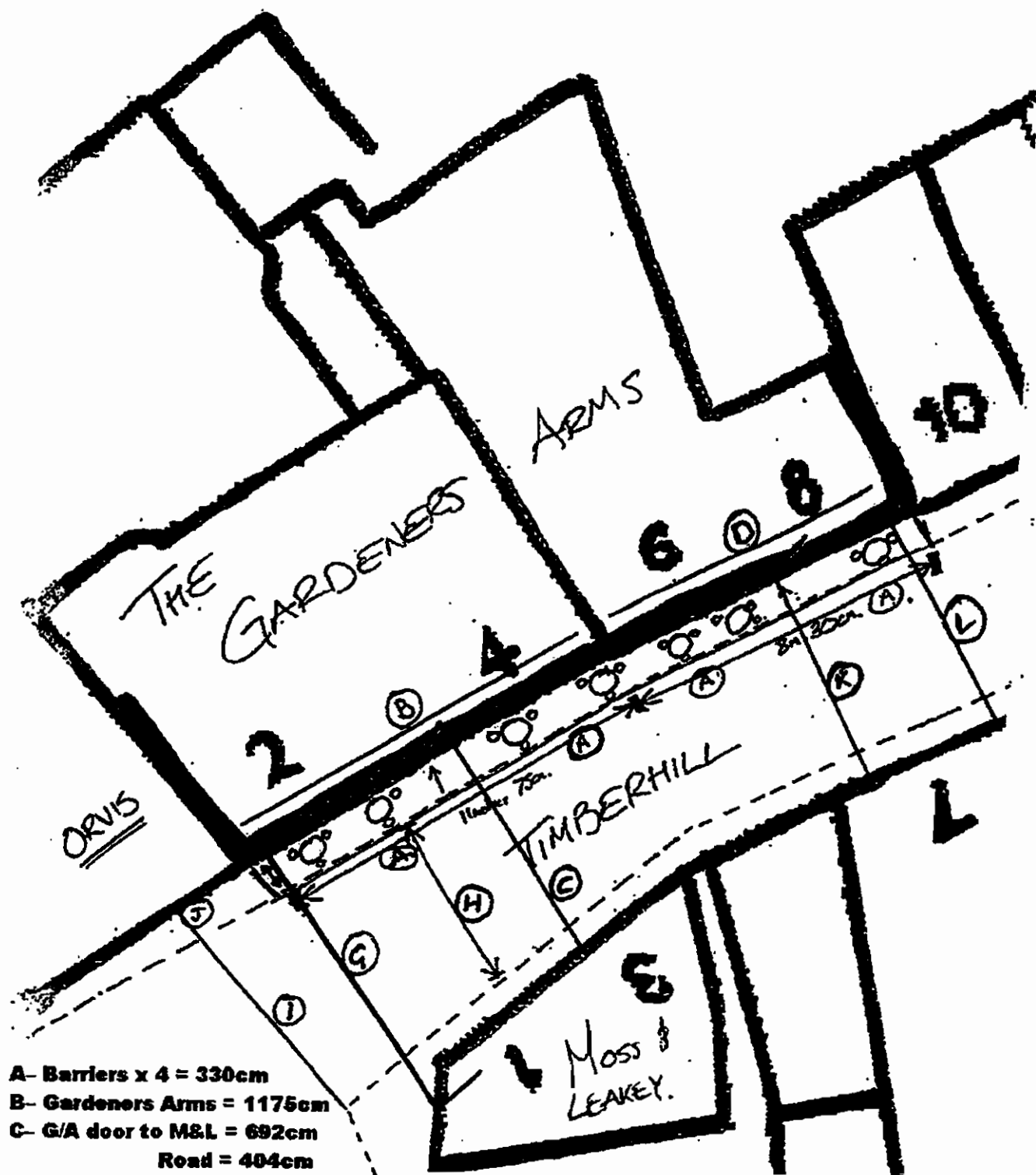
Philip Cutter

No virus found in this outgoing message.

Checked by AVG.

Version: 7.5.549 / Virus Database: 270.9.15/1839 - Release Date: 09/12/2008 09:59

15/12/2008



- A- Barriers x 4 = 330cm
- B- Gardeners Arms = 1175cm
- C- G/A door to M&L = 692cm  
Road = 404cm  
Our Path = 153cm  
Opp. Path = 135cm
- D- Murderers Cafe Bar = 830cm
- E- Tables x 7 = 70cm
- F- Chairs x 21 = 46cm
- G- Moss & Leakey door to  
Gardeners Arms Wall = 726cm
- H- Road Average from corner  
(Before road widens) = 690cm  
Road = 423cm  
Our Path = 131cm  
Opp. Path = 136cm

- I- Road at widest part of path Near M&L  
Road = 438cm
- J- ORVIS Path = 133cm  
Opp. Path = 135cm
- K- Road Across From cafe Bar Door = 632cm  
Road = 363cm  
Our Path = 136cm  
Opp. Path = 133cm
- L- Cafe Bar Across to Nail bar = 611cm  
Road = 372cm  
Our Path = 120cm  
Opp. Path = 119cm

**APPENDIX**  
**D**

Fuller, Maxine

**From:** Bartram, Michelle [bartramm@norfolk.pnn.police.uk]  
**Sent:** 17 November 2008 15:07  
**To:** Licensing  
**Subject:** Gardeners Arms

Gardeners Arms – Comments for application for Tables and Chairs Licence

Norfolk Police can confirm that there are no objections to the renewal of the Tables and chairs licence for the Gardeners Arms. There is no evidence to suggest that the tables and chairs outside the premises are causing an increase in crime and disorder within the vicinity.

The Police believe that the premises is well run and have found the management to always be co-operative and helpful.

The Police acknowledge that on Match days, this premise is where home football supporters gather. The football units show a high police presence in the area to keep the away and home supporters separate and to prevent incidents occurring. The football unit have confirmed that the season so far has been quiet in terms of large gatherings of football supporters on match days outside the premises. They have also highlighted that there have been no issues at all this season and have no grounds to oppose this application.

Regards

---

**Michelle Bartram**  
Licensing Officer

Licensing

Partnerships Department  
Norfolk Constabulary  
Bethel Street Police Station  
Norwich, Norfolk, NR2 1NN

Bartramm@norfolk.pnn.police.uk

Tel: 01603-276020 Fax: 01603-276025



It takes 24 trees to produce 1 ton of office paper!

This e-mail carries a disclaimer

Go here to view [Norfolk Constabulary Disclaimer](#)

19/11/2008

**NORFOLK FIRE & RESCUE SERVICE**  
Area Manager Central  
Bethel Street  
NORWICH  
NR2 1NW  
Tel: (01603) 621461  
Fax: (01603) 229034  
Minicom: (01603) 223833  
Website: [www.norfolkfireservice.gov.uk](http://www.norfolkfireservice.gov.uk)

Mr I Streeter  
Licensing  
Legal & Democratic Services  
Norwich City Council  
City Hall  
St Peters Street  
Norwich, NR2 1NH

Please ask for:  
Direct Dial:  
Email:  
My Ref:  
Your Ref:

Mr Allison  
01603 229036  
[tim.allison@fire.norfolk.gov.uk](mailto:tim.allison@fire.norfolk.gov.uk)  
NC3605 / 00012178

21 November 2008

Dear Sir,

**Licensing Act 2003**  
**Receipt of Application to renew Tables & Chairs Licence**  
**Premises: Gardeners Arms & Murderers Cafe 2-8 Timberhill, Norwich NR1 3LB**

I acknowledge receipt of the application made in respect of the above premises.

This authority has no objection to this application.

Yours faithfully



Mr Allison  
Fire Safety Officer



## **Note for Ian Streeter**

### **Gardeners Arms PH – Timberhill**

I have been sent a copy of an objection to the renewal of the License at The gardeners Arms, Timberhill, received from David Foskett and Nadarajah Sasitharan. This note has been prepared as a response to the points made in that correspondence where they relate to issues within the Public Highway

### **Guidance**

The objection specifically cites two Government publications, namely Manual for Streets (MfS) and Inclusive mobility (IM). Firstly, these are both guidance, and do not contain 'standards'. This is important, because the whole point of guidance is that it is employed with consideration. Previous advice on Highways design such as that contained in the forerunner to MfS focussed on a standard approach, largely giving priority to vehicular based movement. MfS in particular sought to reverse that approach. It is particularly important to note that much of the advice that is contained in MfS had been practiced here in Norwich for many years prior to its publication. The main changes in approach the MfS recommends (over this previous standards based approach, which as I have said was not used in Norwich anyway, are detailed in paragraph 1.6.1. I've highlighted (*in italics*) those areas that I believe to be most relevant here:

- *applying a user hierarchy to the design process with pedestrians at the top;*
- *emphasising a collaborative approach to the delivery of streets;*
- *recognising the importance of the community function of streets as spaces for social interaction;*
- *promoting an inclusive environment that recognises the needs of people of all ages and abilities;*
- reflecting and supporting pedestrian desire lines in networks and detailed designs;
- developing master plans and preparing design codes that implement them for larger-scale developments, and using design and access statements for all scales of development;
- creating networks of streets that provide permeability and connectivity to main destinations and a choice of routes;
- moving away from hierarchies of standard road types based on traffic flows and/or the number of buildings served;
- *developing street character types on a location-specific basis with reference to both the place and movement functions for each street;*
- encouraging innovation with a flexible approach to street layouts and the use of locally distinctive, durable and maintainable materials and street furniture;
- using quality audit systems that demonstrate how designs will meet key objectives for the local environment;
- designing to keep vehicle speeds at or below 20 mph on residential streets unless there are overriding reasons for accepting higher speeds; and

- using the minimum of highway design features necessary to make the streets work properly

IM is also guidance, and recognises that ideal footway widths might not be possible within the available width, but suggests that ideally, outside shops 4.5m width would be desirable.

I fully agree with the objectors concerning the application of local design guidance, embracing the principles of MfS, and this is indeed what our own street design standards do. However, Norwich is an historic City, and to blandly apply width standards in existing historic streets (where it is often impossible to achieve any of the suggested widths, even those in MfS) would clearly be inappropriate. We thus suggest that any pavement cafes should 'leave sufficient footway space for the volumes of pedestrians using the street'.

The important point here is the MfS tells us that we should apply local guidance embracing MfS. Therefore applying guidance that has been prepared for Wolverhampton or indeed Hammersmith and Fulham is not necessarily appropriate for Norwich.

### **Context**

Timberhill is a pedestrian area. The entire width of the street is pedestrian pavement, but has been constructed to take the weight of necessary vehicles. It has been designed to achieve the effect of a street with a vehicular carriageway, but does not have a traditional carriageway and kerb edge. As with many historic streets, the width varies, but along much of its length it is too narrow for two large service vehicles to pass each other without striking buildings to either side. Access to the street is permitted for access and servicing only, and the street is one-way for vehicles from Golden Ball Street to Red Lion Street. Parking is not permitted. There have been no injury accidents on Timberhill during the last 15 years.

### **Comments on objections**

*'Existing footway is as low as 1.2m'*

The entire width of the street is footway, as it is a pedestrianised area. There is therefore around 6 metres available for pedestrians (4.7m with the tables and chairs in place that well exceeds the recommended width).

*'Existing vehicular carriageway width is 3.6m'*

The entire width of the street is capable of supporting vehicles and the differentiation is for streetscape purposes within a pedestrian area, and the total running width available is therefore around 6m, and around 4.7m with the chairs and tables in place. In any event, MfS continues to say that 'to simply reach a fire the access could be reduced to 2.75m', and the Fire Brigade are always consulted as part of street redesign, and again as part of any application for licences on the Highway.

In the unlikely event that a fire was to break out in an adjacent building, I think it reasonably likely that the Fire Brigade would move any tables and chairs that were causing an obstruction, and indeed any vehicle loading in the vicinity.

*A notional 5.1 m shared pedestrian and emergency vehicle pathway leaves only 0.6m available between opposite frontages*

This dimension is provided from guidance produced by other local authorities for their own use, and as I have already said is therefore not necessarily applicable in Norwich. However, even if it were, it is still guidance, and I have spoken to both Hammersmith & Fulham and Wolverhampton who have advised me that they do not apply this dimension rigidly (as indeed in the spirit of MfS they should not), and the dimension is suited to two-way operation, whilst Timberhill is of course, only one-way. Additionally, there are many pedestrianised streets across the country which are used as emergency accesses to a wide area. In the case of Timberhill, the only requirement for access other than servicing would be in the event of an emergency in Timberhill itself, which hopefully is a very rare event indeed.

*'The guidelines require authorities to 'take into account parking (problems) and the level of parking enforcement' MfS 7.2.2*

Yes they do, but what MfS actually says is 'Carriageway widths should be appropriate for the particular context and uses of the street. Key factors to take into account include: 'whether parking is to take place in the carriageway and, if so, its distribution, arrangement, the frequency of occupation, and the likely level of parking enforcement (if any);'

Parking is not permitted on Timberhill, and as the street is within the City Centre levels of parking enforcement are high. Most of the vehicles on the street are legitimately there servicing local businesses. This is not a 'massive parking problem'.

*'The application obstructs proper use of the highway in its existing format, and more so in a format meeting DDA regulation, and does not embrace MfS guidelines as directed.'*

Firstly the advice referred to are guidelines, not regulations or directions, and need to be interpreted to individual circumstances and the locality. In any case the main thrust of MfS is to encourage the use of streets as real places for people to engage with each other, and to give vehicle movement much less prominence in design. Timberhill is a pedestrian area, and the width of street available for vehicle manoeuvring is more than adequate for the circumstances

### **Photographs**

These appear to demonstrate admirably that pedestrian are well aware that the full width of the street is available for their use. Those photographs showing the movement of large vehicles seem to show that, despite the narrowness of the street the arrangements work quite well. It is inevitably the case that when a large vehicle enters a street such as Timberhill, it will dominate the area. At least one of the

photographs relates to a period when the street was being reconstructed. There would inevitably be more congestion at that time.

Bruce Bentley BSc BTP  
Principal Transportation Planner  
Tuesday, 03 February 2009



# APPENDIX E



Attn: Ian Streeter  
Licensing Office  
Norwich City Council  
City Hall  
Norwich  
NR2 1NH

17<sup>th</sup> November 2008

Dear Sirs

Re. Renewal of Tables & Chairs License - The Gardeners Arms (TGA)

The writers are Mr David Foskett and Dr Nadarajah Sasitharan, the partnership trading as Moss & Leakey Opticians at 1 Timberhill Norwich.

We continue to object to this license on all points detailed in our letter of objection dated 14<sup>th</sup> April and advanced in person at the May hearing. The Committee applied an additional condition which **has not relieved the nuisance** that continues to damage our business interest and we respectfully demand effective action at the next 'review' hearing.

At the May hearing we objected that the license was inappropriate given the narrowness of the street and that it failed to meet with DDA laws. These arguments were rebutted by NCCs legal team who refused to release any guideline information for us or Committee members to consider or contest. In the interim a Freedom of Information request to access NCC guidelines has been raised and it must be a matter of grave concern to Committee members that so little information is forthcoming.

We have taken expert advice from the Transport Research Laboratories and been directed toward two government documents applying;

- a/ Communities and Local Government Department of Transport Manual For Streets and,
- b/ Department of Transport Inclusive Mobility

These documents are codes of practice for the design of highways and barrier free environments. They describe good practice in the provision of accessibility for pedestrians, parents with children and people with disabilities.

We contacted two LGAs, Wolverhampton City Council and Hammersmith & Fulham Council, who advert their T&Cs guidelines in the public domain. They confirm using the above documents in working up their guidelines through a multidisciplinary consultation process (*confirmation & extracts of guidelines are attached*).

In the absence of any NCC guideline documentation we will refer to all these documents in making our objection.

Published in 2007, Manual for Streets (MfS) supersedes earlier guideline documents and states, *"Many local highway authorities have developed their own standards and guidance. ... It is strongly recommended that local authorities review their standards and guidance to embrace the principles of MfS. ... adhering to the overall guidance given in MfS."* MfS 1.4.5

Inclusive Mobility (IM) guidelines are to be used in conjunction with Manual for Streets to ensure accessibility for all the community and states, *"Highway and Planning authorities must comply with the Disability Equality Duty under the Disability Discrimination Act 2005. ... Not only is there an expectation of positive action, but the duty is retrospective and local authorities will be expected to take reasonable action to rectify occurrences of non-compliance in existing areas."* IM 2.7.1-2

With this information at hand we would supplement our earlier objection as follows;

### **1/ Timberhill is too narrow to accommodate the application site**

*please refer DRWG 1, 2 & 3*

Standards at Timberhill are already dramatically compromised given the physical restraints of the street.

a/ Existing footway width as low as 1.20m - guidelines propose *"... minimum widths of 3.50 to 4.50m by shops. (i.e. 7.00 to 9.00m where shops both sides of street)"* MfS 3.1

b/ Existing vehicular carriageway width is just 3.60m - guidelines state *"The Association of Fire Officers (requires) a 3.7m carriageway kerb to kerb ... for operating space ... (and as) the running carriageway"* MfS 6.7.3

c/ A notional 5.10m wide shared pedestrian and emergency vehicle pathway leaves only 0.60m (two foot imperial) to opposite frontages - WCC and H&FC guidelines require, *"there should be at least 5.10m clear between tables and chairs/enclosures on either side of the street"* - if 'swept path' turning circle calculations are applied the pathway would increase to a minimum width of 5.40m virtually filling Timberhill

The street is curving and on a gradient, has high flows of vehicles and pedestrians and clearly these minimum standards are already inadequate in this location. Also, guidelines require authorities to, *"take into account parking (problems) and levels of parking enforcement"* MfS 7.2.2, and it is a matter of record that this is an area with a massive historical parking problem.

The application site obstructs proper use of the public highway in its existing format, and more so in a format meeting DDA regulation, and does not embrace updated MfS guidelines as directed.

Attached is photographic evidence, *please refer IMAGES 1 to 4*

### **2/ Application site layout encourages overspilling, nuisance and is outside DDA regulation**

*please refer DRWG 4 & 5*

a/ The narrowness of the application site does not allow movement of customers within the site, i.e. between seating and barriers. Neither are the barriers interlocking nor continuous around the whole

of the site and consequently customers are forced to use the public highway to move between their seats and the service area (the bar inside the premises) causing nuisance and obstruction in the public highway.

b/ Customers can easily reach their drinks on tables by simply leaning over the barriers and are thus encouraged to congregate outside the site causing nuisance and obstruction in the public highway.

c/ The application site has no walkways to meet DDA regulation - guidelines require *"Gangways between tables should be a minimum of 1.30m wide to allow for the passage of wheelchair users and people with assistance dogs"* IM 9.4

Fundamentally, the lack of any joined up policy or guidance from Norwich City Council has resulted in a disorderly and unworkable site which exacerbates obstruction of the public highway, damages the business interests of local traders, causes serious nuisance to its near neighbours and denies disabled people their basic rights - guidelines state *"There is a specific obligation for those who design, manage and maintain buildings and public spaces to ensure that disabled people play a full part in benefitting from, and shaping, an inclusive environment"* MfS 6.1.1

Finally, although raised in our earlier letter of objection we feel inclined to expand on the following;

### **3/ T&Cs licences should not be granted for smoking or drinking areas**

We challenge the right of the Committee to grant a T&Cs licence for use by the Licensees customers solely for the purpose of smoking or drinking when tables and chairs are removed from the application site leaving standing only areas. The Licensee openly adverted to Committee that he removed tables and chairs to create a smoking area (generally amounting to 50% of the site) arguing his customers would otherwise congregate in the public highway to smoke and this went unchallenged.

The Committee is charged only with the duty of promoting the Councils policy of creating a vibrant café culture and is NOT given powers to set aside areas of the public highway for standing, smoking, drinking or any other purpose. The argument offered by NCCs legal team at the hearing that the Committee cannot tell the Licensee how to use the area once the license is granted shows the hollowness of the Councils policies and guidelines.

The Licensee also stated that he removed tables and chairs on football match days to avoid them being used as missiles in any disturbance but again by definition the area ceases to be a street café in that event. If a licensed area ceases to operate as intended it should be completely cleared and returned to public highway not converted into some alternative use by virtue of a convenient excuse and to avoid confusion the Committee might have ordered total removal on match days.

In conclusion

We have focused here on 'new points of objection' but ask the Committee to recall ALL our previous objections relating to nuisance from this site.

We wrote on 14<sup>th</sup> April, "It may be the Councils objective to encourage a café culture to enhance the character and vitality of an area but when that area is too small and when the consumer is drinking alcohol and not coffee for several hours that objective looks silly ... People complain that they are



intimidated by the sheer volume of people standing in the public highway and will not walk toward Timberhill as they feel unsafe".

The Manual for Streets and Inclusive Mobility refer to studies describing how pedestrian visitors are deterred from entering an area when they feel threatened by or in conflict with vehicular traffic and particularly on shared surfaces where footway/carriageway definition is uncertain.

To allow this application is to narrow the street and remove in entirety a defined footway intensifying confusion and increasing the density of pedestrians and vehicles in the residual highway. The heightened feeling of threat makes Timberhill unwelcoming to shoppers whatever the uninformed personal opinions of other local traders.

Whether the application site was compliant in 1996 is immaterial, guidelines and regulation have changed and it clearly is no longer meeting modern standards and illegally discriminates against a section of the community.

Fundamentally, the granting of this licence is damaging our businesses commercial interests and we will not stand for this. For the reasons herein, and those given in our earlier objection, we respectfully ask that the application be rejected.

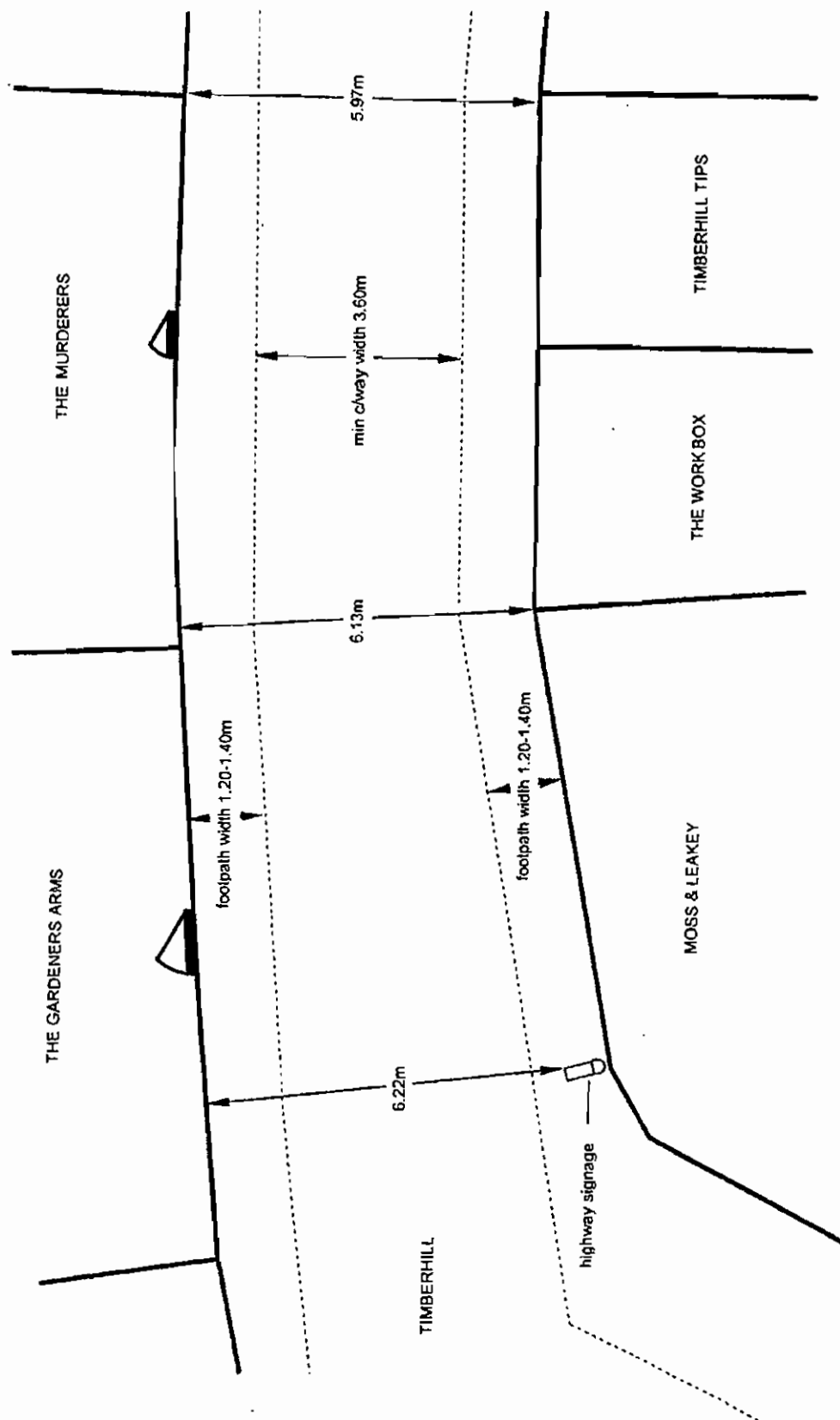
Finally, at the May hearing serious points of objection were glossed over and avoided using unfathomable legalese and we have therefore contacted our Solicitors Kenneth Bush who have been in touch with the Council concerning this matter. If at the coming hearing we are not satisfied with the decision or the way it is determined, we are prepared to have the decision judicially reviewed and/or referred to the Ombudsman and will instruct Kenneth Bush to proceed accordingly.

Yours Sincerely

David Foskett - Managing Partner

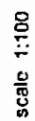
Nadarajah Sasitharan MBBS MRCOpht - Partner

attachments:- Moss & Leakey street layout drawings DRWG 1 to 5  
Moss & Leakey photographic evidence IMAGES 1 to 4  
Department for Transport Manual for Streets extract pages 68 & 74  
Wolverhampton City Council e-mail confirming use of Dept. for Transport manuals  
Wolverhampton City Council T&Cs guidelines extract page 5 (& full copy for info)  
Hammersmith & Fulham Council T&Cs guidelines extract page 5 (& full copy for info)

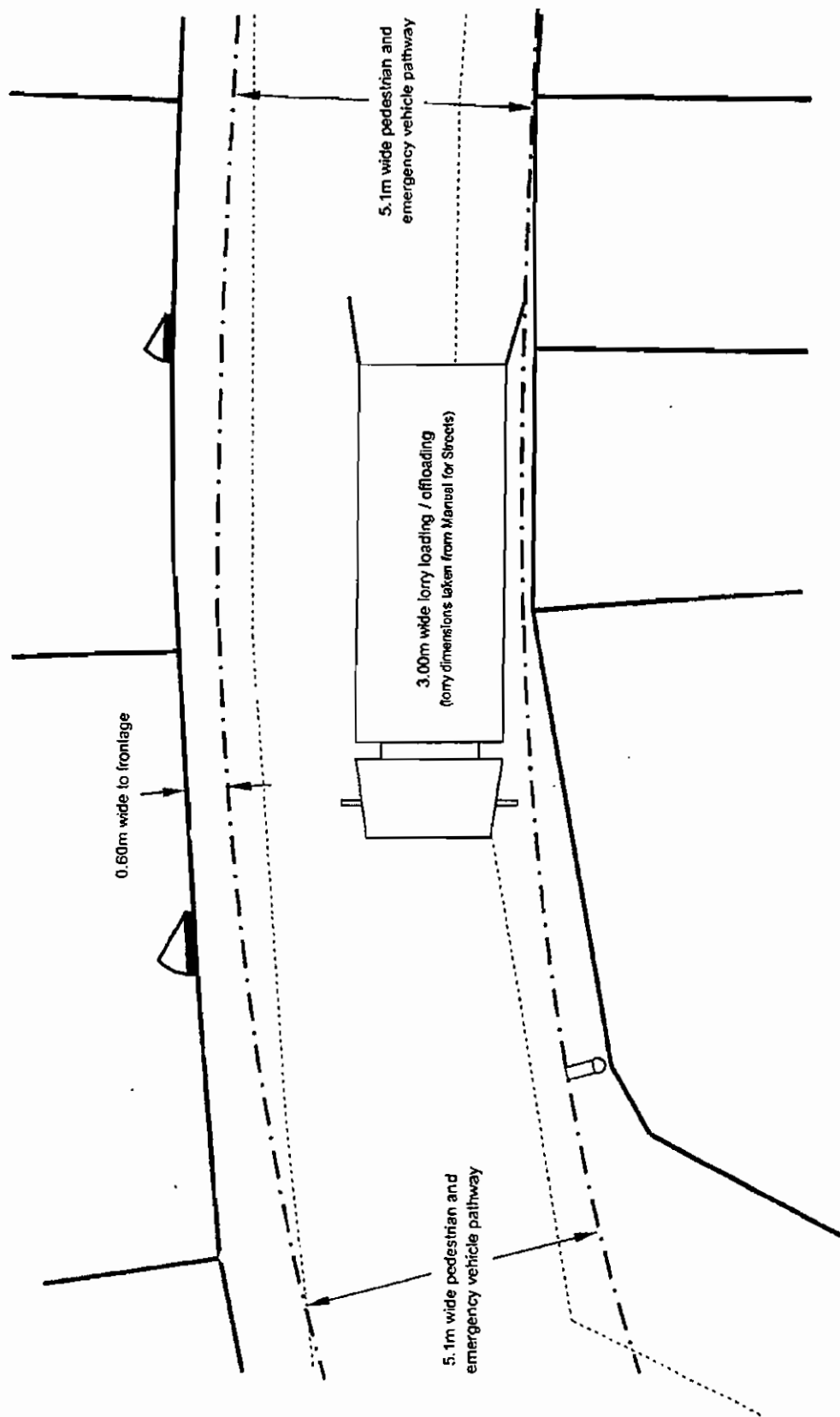


Scale 1:100

DRWG 1  
STREET LAYOUT & DIMS

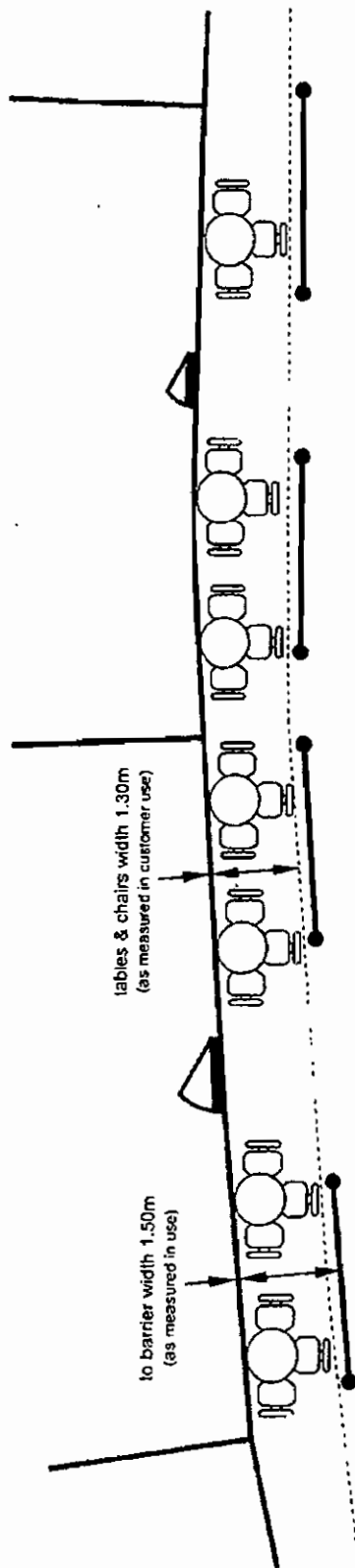


**DRWG 2**  
**STREET & VEHICULAR USE**

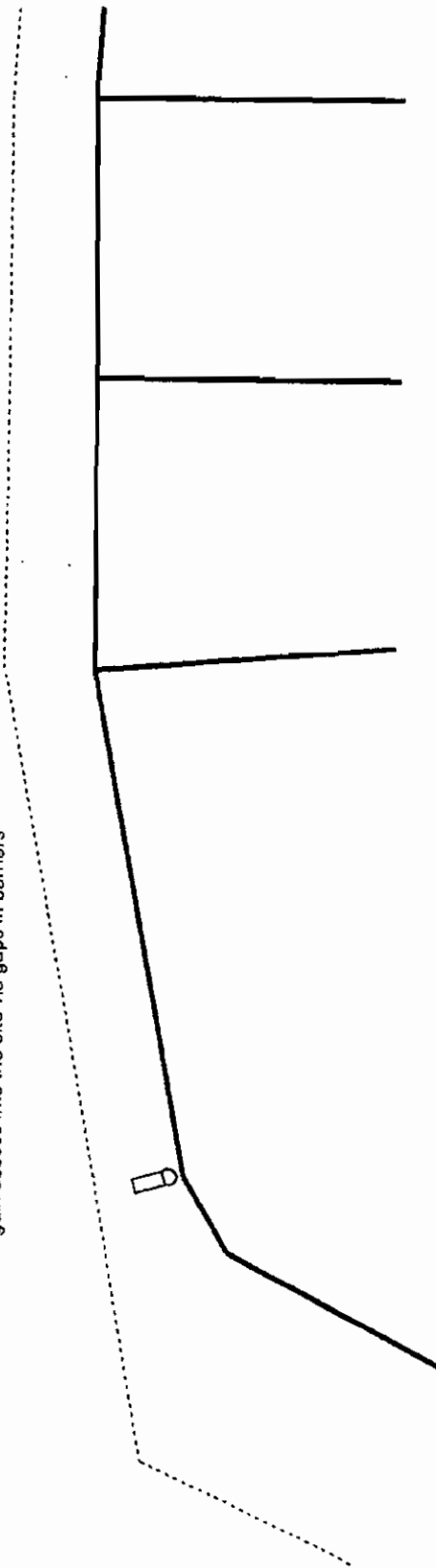


DRWG 3  
PROPOSED SITE AND CONFLICT  
WITH EMERGENCY VEHICLE  
REQTS

scale 1:100

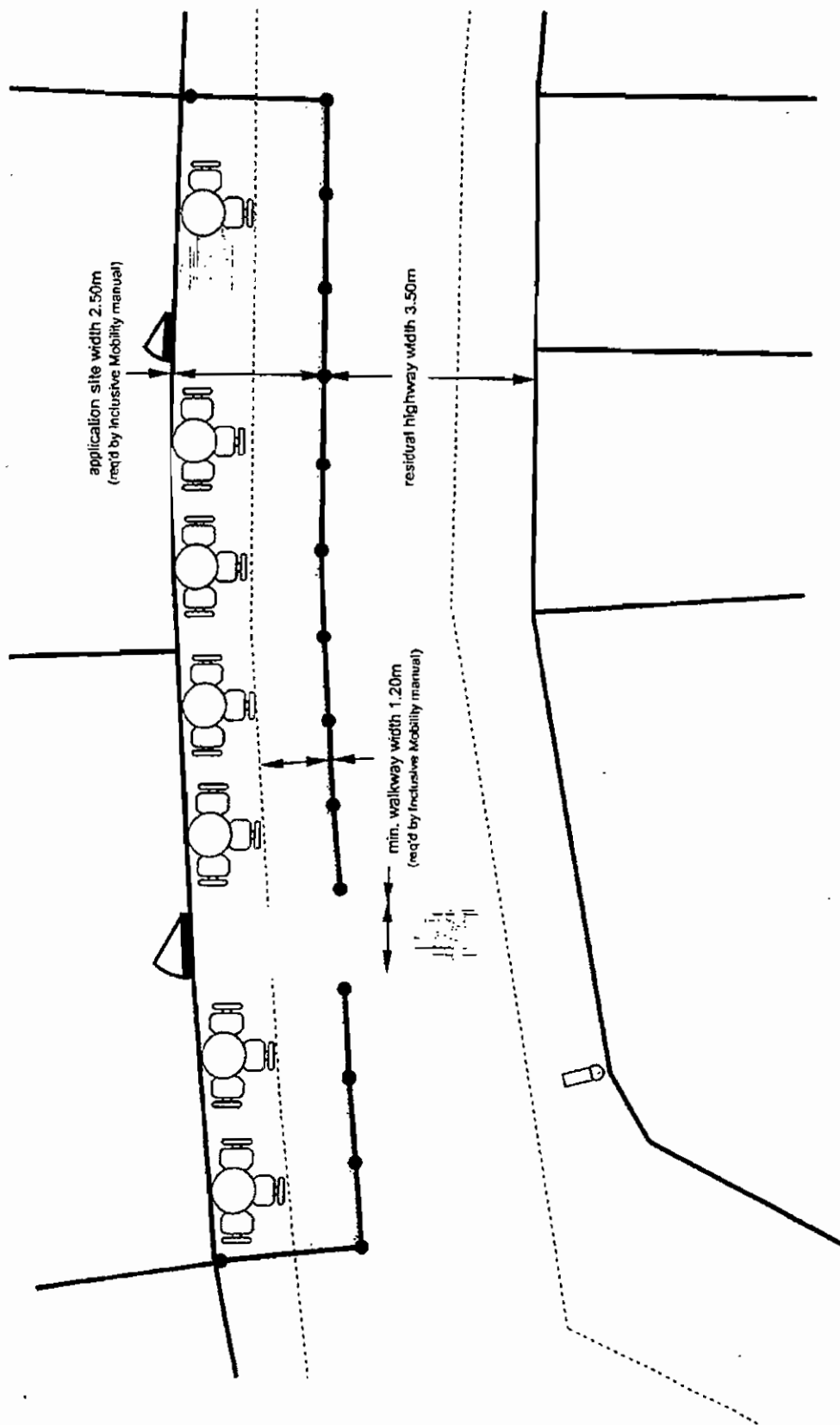


lack of any internal walkway leads to constant trafficking  
of customers carrying alcohol into the public highway  
to gain access into the site via gaps in barriers



DRWG 4  
APPLICATION SITE CURRENT

scale 1:100



DRWG 5  
PROPOSED APPLICATION SITE TO  
MEET GOVERNMENT STANDARDS

scale 1:100



IMAGE 1



IMAGE 2



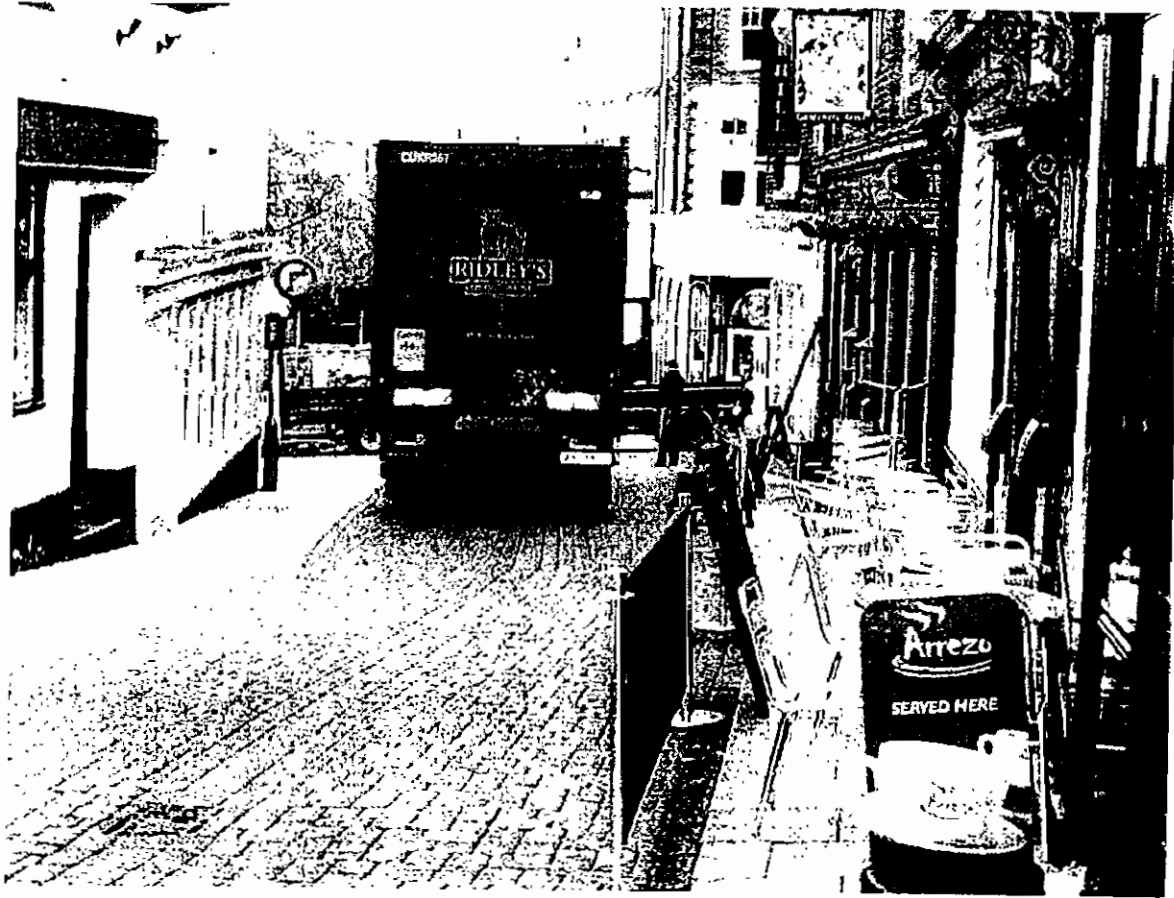


IMAGE 3

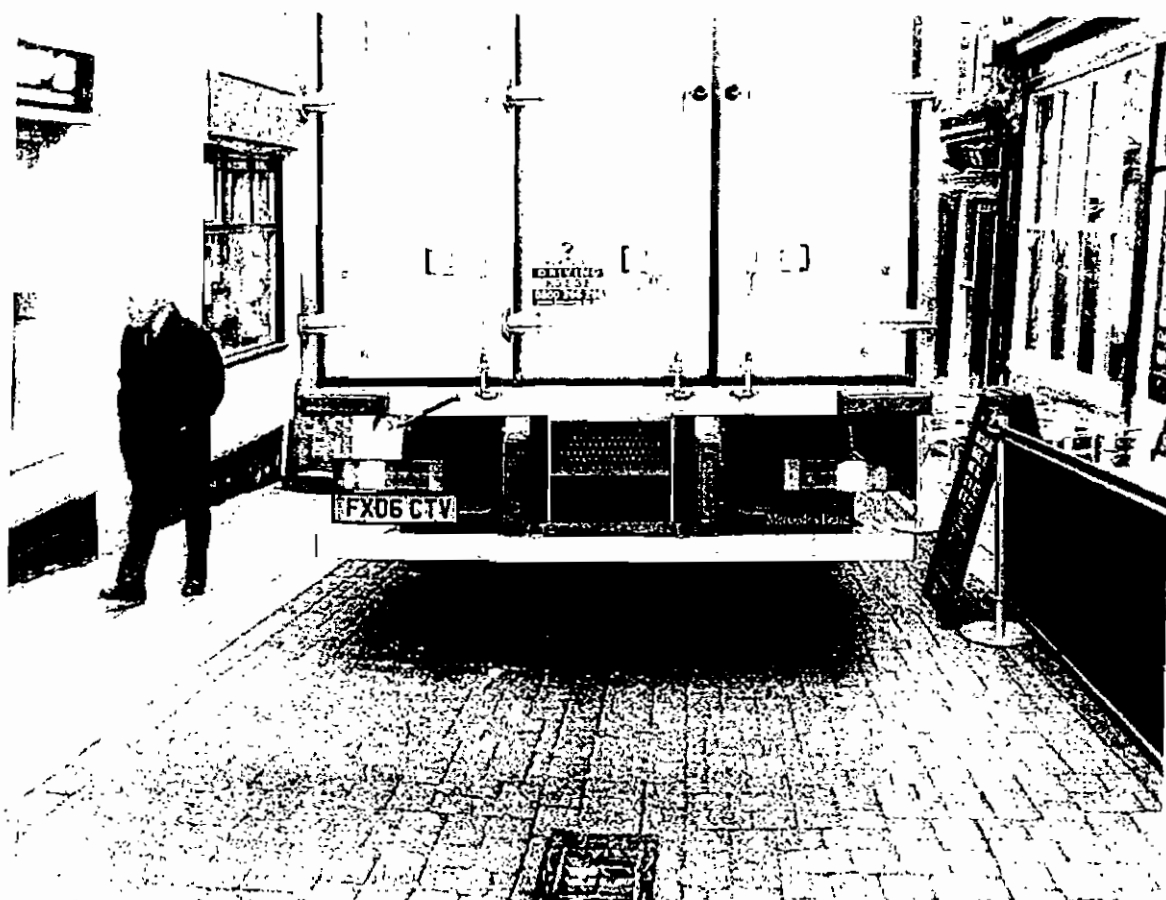


IMAGE 4

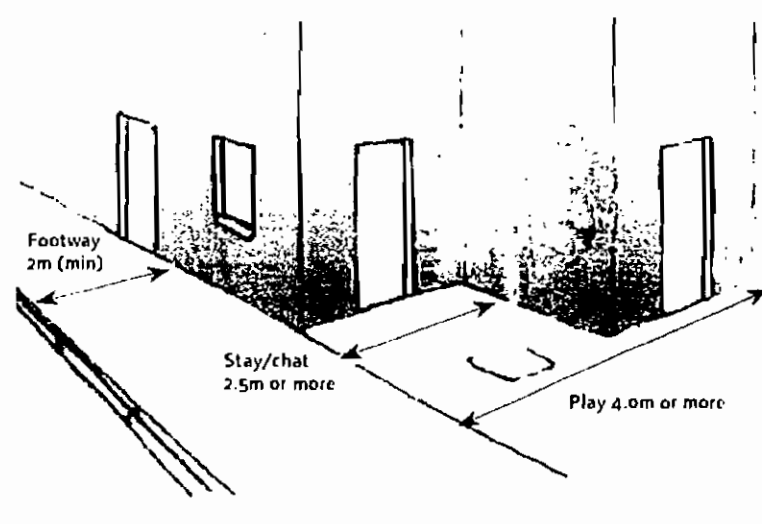
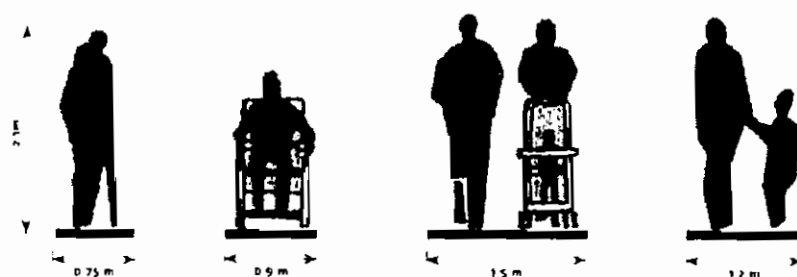


Figure 6.8 The footway and pedestrian areas provide for a range of functions which can include browsing, pausing, socialising and play.

6.3.20 *Inclusive Mobility* gives guidance on design measures for use where there are steep slopes or drops at the rear of footways

6.3.21 Places for pedestrians may need to serve a variety of purposes, including movement in groups, children's play and other activities (Fig. 6.8)

6.3.22 There is no maximum width for footways. In lightly used streets (such as those with a purely residential function), the minimum unobstructed width for pedestrians should generally be 2 m. Additional width should be considered between the footway and a heavily used carriageway, or adjacent to gathering places, such as schools and shops. Further guidance on minimum footway widths is given in *Inclusive Mobility*.

6.3.23 Footway widths can be varied between different streets to take account of pedestrian volumes and composition. Streets where people walk in groups or near schools or shops, for example, need wider footways. In areas of high pedestrian flow, the quality of the walking experience can deteriorate unless sufficient width is provided. The quality of service goes down as pedestrian flow density increases. Pedestrian congestion through insufficient capacity should be avoided. It is inconvenient and may encourage people to step into the carriageway (Fig. 6.9).

6.3.24 Porch roofs, awnings, garage doors, bay windows, balconies or other building elements should not oversail footways at a height of less than 2.6 m.

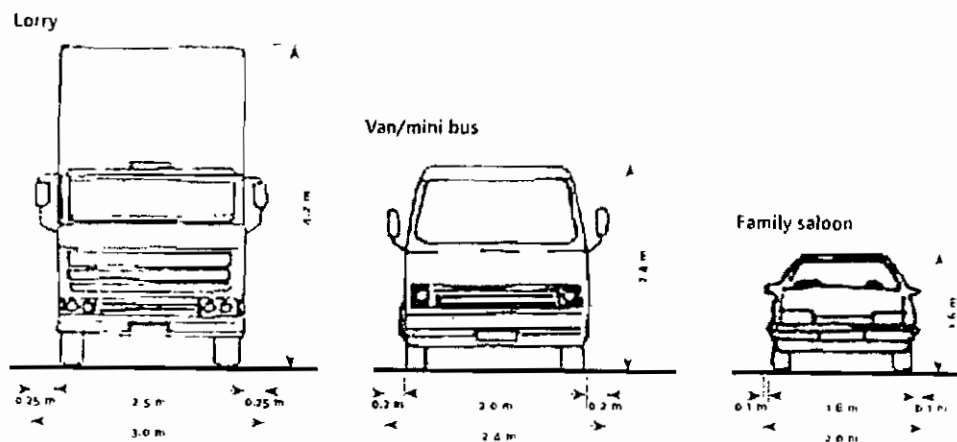


Figure 6.18 Private and commercial motor-vehicles – typical dimensions.

## 6.6 Private and commercial motor vehicles

6.6.1 Streets need to be designed to accommodate a range of vehicles from private cars, with frequent access requirements, to larger vehicles such as delivery vans and lorries, needing less frequent access (Fig 6.18). Geometric design which satisfies the access needs of emergency service and waste collection vehicles will also cover the needs of private cars. However, meeting the needs of drivers in residential streets should not be to the detriment of pedestrians, cyclists and public transport users. The aim should be to achieve a harmonious mix of user types.

6.6.2 In a residential environment, flow is unlikely to be high enough to determine street widths, and the extent of parking provision (see Chapter 8) will depend on what is appropriate for the site.

6.6.3 In some locations, a development may be based on car-free principles. For example, there are options for creating developments relatively free of cars by providing remotely sited parking (e.g. Greenwich Millennium Village, see Fig 6.19) or by creating a wholly car-free development. Such approaches can have a significant effect on the design of residential streets and the way in which they are subsequently used.



Figure 6.19 Greenwich Millennium Village. Cars can be parked on the street for a short time, after which they must be moved to a multi-storey car park.

**Neil @ Moss & Leakey**

---

**From:** "Gwyn James" <Gwyn.James@wolverhampton.gov.uk>  
**To:** "Neil @ Moss & Leakey" <neilmossandleakey@gmail.com>  
**Sent:** 14 November 2008 16:20  
**Subject:** RE: Confirmation of reference material

Neil

I can confirm that when Wolverhampton City Council's Tables & Chairs Licence application form was being developed last year the two DfT documents mentioned below were taken into consideration, along with other relevant guidance and statutes (such as the Highways Act 1980 and the Disability Discrimination Act 1995).  
Regards,

**Gwyn James**  
Section Leader, Transportation Network Management  
Wolverhampton City Council  
Tel: 01902 555755  
E-mail: gwyn.james@wolverhampton.gov.uk

..... to the Council for the Environment before printing this e-mail

**From:** Neil @ Moss & Leakey [mailto:neilmossandleakey@gmail.com]  
**Sent:** 14 November 2008 15:34  
**To:** Gwyn James  
**Subject:** Confirmation of reference material

Gwyn

Thank you for your time on the phone today, could you please confirm that in coming up with Wolverhampton's Tables & chairs Licence and it's parameters you used the following reference manuals.

- 1/ Department of Transport - Inclusive Mobility
- 2/ Department of Transport - Manual For Streets ( or it's predecessor as I have a 2007 publication)

The confirmation is intended to be used to help the laypeople on the licence committee understand where our objections has come from and why we have used the manuals

Many Thanks

Neil

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14/11/2008

extract:-

*Wolverhampton City Council - A Guide to Applying for a Tables & Chairs Licence*

**Fully Pedestrianised Street**

- I. A minimum clear path, which should be level, even and measure at least 2.3 metres in width must be maintained for pedestrians.
- II. If access is required for emergency vehicles, the clear width between the enclosure(s) on either side of the street should be increased to 5.1 metres to allow pedestrians to stand clear of the emergency vehicles.

**Partially Pedestrianised Street**

- I. Licensed tables and chairs may be placed on the footways at times when the street is closed to traffic.
- II. Where the highway has a single surface, the licensed enclosure shall not extend beyond the line of bollards or surface treatment marking the carriage way from the footway.
- III. If the carriageway is less than 5.1 metres wide, there should be at least 5.1 metres clear between enclosures on either side of the street.

**Streets with Carriageways and Footways**

- I. If the footway measures more than 3.6 metres wide, the area for the enclosure should leave a minimum of 2.3 metres available footway width.

The layout of furniture will only be approved if adequate provision has been made for disabled customers in terms of seating and circulation.

An example of an acceptable layout plan to be submitted with any application is enclosed as part of this document.

**Means of Enclosure**

When in use the area licensed for tables and chairs will need to be enclosed to delineate the licensed area. This will make the area distinguishable to other street/pavement users, and will particularly assist visually impaired pedestrians. Supports for the enclosure must not create a hazard for users or pedestrians. All walkways within the enclosure, and in particular that from the point of access to the enclosure to the door of the premises must be no less than 1.2 metres wide. (see example layout attached page 11).

The material used in the enclosure should be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.

extract:-

4.7 Access for wheelchairs must be provided.

4.8 Emergency access must not to be obstructed.

4.9 The public footway must not be obstructed by customers standing between tables, chairs and the kerb.

4.10 The conditions ensuring that tables and chairs do not obstruct footways or carriageways in various types of location are listed below.

Fully pedestrianised streets

- A minimum clear path measuring 2.3 metres wide must be maintained for pedestrians.
- Where the street is wider than 5.4 metres, the depth provided for tables and chairs should not exceed one third of the width of the street on each side.
- If access is required for emergency vehicles, the clear width between tables and chairs on either side should be increased to 5.1 metres to allow pedestrians to stand clear of the emergency vehicles.

Partially pedestrianised streets

- Licensed tables and chairs may be placed on the footways at times when the street is closed to traffic.
- Where the highway has a single surface, tables and chairs should not extend beyond the line of bollards marking the carriageway from the footway.
- If the notional carriageway is less than 5.1 metres wide, there should be at least 5.1 metres clear between tables and chairs on either side of the street.

Streets with a carriageway and footways

- Footways are provided primarily for the convenience and safety of pedestrians. If the footway measures more than 3.6 metres wide, the area for the placement of tables and chairs should not be more than half the available footway width.

Environmental improvement schemes

- The issuing of a tables and chairs licence may be considered in relation to an environmental improvement scheme in a specific area, subject to the same considerations listed above.

# **WOLVERHAMPTON CITY COUNCIL**



## **A Guide to Applying for a Tables & Chairs Licence**

**Department of Regeneration & Environment,  
Environmental Services,  
Licensing Section**



## **Introduction**

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**The purpose of this guide is two fold:**

- To detail the criteria applicants are expected to meet for the provision of tables and chairs outside premises; and
- To assist those considering making an application for a tables and chairs licence to:
  - determine if their premises will be favourably considered for such a licence; and
  - understand the application process.

Where a Tables and Chairs Licence is issued this will be under Section 115E of The Highways Act 1980. Applications will be considered for premises which are classified as A3, A4 or A5 in the Town and Country Planning Use Classes Order.

The licence application process involves both legal and non-legal procedures, hence the need to follow the guidance in this document and on the application forms which need to be completed by all applicants.

Each application is considered on its own merit and no definitive timescale for consideration of applications can be given. However, due to the consultation process involved, consideration of an application will take a minimum of 6 weeks.

### **Who to Contact:**

For general advice and information please contact the Licensing Section on 01902 551155 or [licensing@wolverhampton.gov.uk](mailto:licensing@wolverhampton.gov.uk)

## **Overview**

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Wolverhampton City Council will consider applications from any appropriate premises in relation to the licensing of table and chairs.

Applicants attention is drawn to Wolverhampton City Centre being an "Alcohol Exclusion Zone."

Footways are provided primarily for the convenience and safety of pedestrians. Where a licence under this procedure is issued it will be essential to ensure that tables and chairs provided do not cause a problem for other users of the street, enhances the area and benefits the business.

The criteria to be considered, details of which follow, are:

- Size, layout and level access
- Means of enclosure
- Furniture type
- Disability Discrimination Act 1995, Amended 2005 - having regard for the requirements of Section 21
- Environmental and other requirements including Health & Safety
- Applying for a licence.

All licences are valid from 1 April to 31 March. Licences irrespective of date of issue will have to be renewed from 1 April each year.

Public liability insurance in the sum of £5 million will be required to cover the area licensed for the provision of tables and chairs.

The licence may be temporarily suspended by the Council to facilitate events and works as required. Where possible, notice will be given in writing to the licence holder.

The fee for a Tables and Chairs Licence is £250 and is non refundable, irrespective of date of application.

## **General Considerations**

---

The guidelines in this document apply to a highway and falls within the scope of Part VIIA of the Highways Act 1980.

The criteria for consideration of applications and the policies approved by the Council for issuing a Tables and Chairs Licence have been incorporated into conditions that are automatically attached to licences.

These conditions are detailed at the back of this guidance document. The criteria for consideration of applications are now explored in more detail.

### **Size and Layout**

The following factors should be considered prior to the submission of any application:

- Available space for siting of tables and chairs;
- Access for disabled people;
- Type of premises licence will apply to;
- Street and/or pavement width where premises are;
- Character of street;
- Use of other premises in the street;
- Pedestrian flow;
- Vehicular flow (if applicable);
- Existing street furniture and street trading consents;
- Proximity to residential properties; and
- Not to obstruct emergency exits or fire hydrants.

If an area is pedestrianised or part pedestrianised, there is potentially more scope to site tables and chairs compared with a proposed location adjacent to a vehicle carriageway.

Where seating areas are proposed they should be adjacent to the premises front, unless permission is granted by adjacent properties.

The following detailed measurements are provided in order to ensure pedestrians, wheelchairs, mobility vehicles, push chairs and emergency vehicles are not obstructed by any licensed tables and chairs:

### Fully Pedestrianised Street

- I. A minimum clear path, which should be level, even and measure at least 2.3 metres in width must be maintained for pedestrians.
- II. If access is required for emergency vehicles, the clear width between the enclosure(s) on either side of the street should be increased to 5.1 metres to allow pedestrians to stand clear of the emergency vehicles.

### Partially Pedestrianised Street

- I. Licensed tables and chairs may be placed on the footways at times when the street is closed to traffic.
- II. Where the highway has a single surface, the licensed enclosure shall not extend beyond the line of bollards or surface treatment marking the carriage way from the footway.
- III. If the carriageway is less than 5.1 metres wide, there should be at least 5.1 metres clear between enclosures on either side of the street.

### Streets with Carriageways and Footways

- I. If the footway measures more than 3.6 metres wide, the area for the enclosure should leave a minimum of 2.3 metres available footway width.

The layout of furniture will only be approved if adequate provision has been made for disabled customers in terms of seating and circulation.

An example of an acceptable layout plan to be submitted with any application is enclosed as part of this document.

### Means of Enclosure

When in use the area licensed for tables and chairs will need to be enclosed to delineate the licensed area. This will make the area distinguishable to other street/pavement users, and will particularly assist visually impaired pedestrians. Supports for the enclosure must not create a hazard for users or pedestrians. All walkways within the enclosure, and in particular that from the point of access to the enclosure to the door of the premises must be no less than 1.2 metres wide. (see example layout attached page 11).

The material used in the enclosure should be lightweight in construction and portable but stable enough to prevent collapse if accidentally walked/stumbled into.

The enclosure should be of a solid nature and have a minimum height of 1000mm up to a maximum of 1200mm above ground level. Rope barriers are not permitted. The material used should offer good colour contrast from the floor. Light paving should have a dark coloured enclosure and tarmac / dark paving should have a light coloured enclosure. No livery/advertising is permitted on the enclosure.

No roof to the enclosure is permitted and the enclosure shall be removed when the licence is not in force.

### **Furniture Type**

The furniture should be of high quality, of a uniform style and free standing. Tables should be round or have rounded corners. There should be a reasonable provision for disabled people ie. seat heights of 450-475mm from floor. Plastic chairs and/or picnic tables will not normally be approved.

Where umbrellas are used these must be non-reflective and must not display livery/advertising. Umbrellas are to be positioned so as to avoid overhanging outside the licensed area and impairing vehicle sight lines or causing injury to pedestrians.

Ancillary items such as menu boards (other than A Boards), signs and portable heaters are also included in the approval process and must be contained within the enclosure. If you propose to use portable heaters you must submit a risk assessment with your application.

It is the responsibility of the licence holder to ensure:

- I. that all chairs and tables are in good repair and are stable; and
- II. that any parasols and umbrellas are fully secured to the ground and weighted to prevent them being dislodged by the wind.

### **Disability Discrimination Act 1995, Amended 2005**

Applicants are reminded that they have a duty, under Section 21 of the Disability Discrimination Act 1995, Amended 2005 to improve access to goods and services for disabled customers. Two guidance booklets which can help are "Bringing the DDA to life for small shops – A café case study" and "Bringing the DDA to life for publicans" These are available, free of charge, from The Disability Rights Commission;- Tel: 08457 622633 or download from the DRC website at: [www.drc-gb.org.uk](http://www.drc-gb.org.uk)

### **Environmental and Other Requirements**

In certain areas of the city the quality of air from traffic fumes makes it inappropriate to site tables and chairs externally. Please consider proximity to bus stops and taxi ranks from customers point of view and avoid making an application near to known traffic congestion hotspots.

It will be the responsibility of the licence holder to keep the licensed area clean and free of litter during licensed hours and to ensure any litter generated from the licensed area is immediately cleared if it is blown or thrown outside the area.

All food premises are registered with Wolverhampton City Council, Environmental Services, Food and Environmental Safety and must comply with relevant food safety requirements.

## **Applying for a Licence**

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In the first instance contact the Licensing Section, Civic Centre, St Peters Square, Wolverhampton, WV1 1DA. The telephone number is 01902 551155.

The guidelines and considerations within this document need to have been carefully considered.

The application form for the Tables and Chairs Licence needs to be completed, signed, and submitted with the appropriate fee (which is non refundable should the application be refused), before the process of assessing the application can begin. The application should be accompanied by an acceptable table and chair layout and if umbrellas or parasols are to be used, where they are to be positioned

Once the application has been received, the Council will post notice of your application in the area subject to the application.

The Council will issue a copy of the notice to neighbouring premises likely to be materially affected by the application, for a consecutive period of 28 days. The notice will contain the Councils contact details for any person wishing to object to your application.

The following will be consulted on your application:

- Wolverhampton City Council Transportation Network Management
- West Midlands Police
- Environmental Health
- Planning
- The owners and occupiers of any premises appearing to the Council to be likely to be materially affected.

The Group Manager with responsibility for Licensing Services will determine your application. If your application is unsuccessful an appeal against the decision can be made to the Chief Environmental Services Officer.

## WOLVERHAMPTON CITY COUNCIL

### TABLES AND CHAIRS LICENCE - TERMS AND CONDITIONS

The Council has the power to grant a person consent to provide and operate facilities for refreshment on a highway under **Section 115E of the Highways Act 1980**. Subject to the following conditions a person to whom consent has been granted must be aware of, and comply with, the requirements of the Section.

| Condition Number | Condition   |
|------------------|---|
| 1.               | The conditions attached to the Tables and Chairs licence may be varied and added to by the Council at any time.   |
| 2.               | The licence holder must always have a valid insurance policy for public liability for at least £5,000,000 covering the area subject to application.   |
| 3.               | The licence holder shall not permit the area to be used for any purpose other than that detailed in the issued licence and must maintain the layout of the area as detailed at time of application, unless expressly permitted to do so in writing by the Council.  |
| 4.               | The area where the licence applies must be supervised at all times if the licence permits the sale and consumption of alcohol. <b>It should be noted that the provision of a Tables &amp; Chairs licence does not enable the sale of alcohol to be permitted. To do so will require a licence under the Licensing Act.</b>  |
| 5.               | Tables and chairs should be sited so that they are clearly visible from inside the premises, <b>with the exception of areas permitted for the consumption and sale of alcohol where Condition 4 applies.</b>  |
| 6.               | The licensed area must be kept clean and clear of all debris during the licensed hours. The provision of suitable litter bins/ ashtrays should be made available.   |
| 7.               | The enclosure, tables, chairs and other permitted items must be removed at the end of the licensed hours.   |
| 8.               | The licence holder shall ensure that any permitted equipment is safe and presents no risk to members of the public and in particular: <ul style="list-style-type: none"><li>• that all tables and chairs are in good repair and stable;</li><li>• any parasol and umbrella are fully secured to prevent them being dislodged; and</li><li>• the area to be used is defined and protected in the manner prescribed by the Council with regards to material, colour and dimensions.</li></ul> |
| 9.               | The licensee must ensure adherence to the Councils directions on livery, advertisements and logos.  |
| 10.              | The licence holder shall indemnify the Council against any claim in respect of injury, damage or loss arising out of the grant of the licence except where any claim in respect of such injury damage or loss is attributable to the negligence of the Council.   |



| Condition Number | Condition   |
|------------------|---|
| 11.              | Any damage to Council property caused as a result of the licence holders activity will be repaired by the Council with all costs recharged to the business in question.   |
| 12.              | No music or entertainment is permitted to be provided in the area licensed for tables and chairs.   |
| 13.              | The licence shall be valid until the 31 <sup>st</sup> day of March following the issue of the licence.  |
| 14.              | The licence holder is responsible for obtaining all other consents and permissions in connection with the proposed extension of their business onto the highway including where appropriate, any amendment to their existing Licensing Act licence. |
| 15.              | The licence must be displayed in a prominent position as near as reasonably possible to the licence area.   |
| 16.              | The licence holder agrees that the licence may be suspended if the Council is required to make the licensed area available for any event, works, or issues of public safety or any other reason it requires the area for.                           |
| 17.              | Any electric lighting must be installed by a competent person and conform to IP65 for outdoor use.  |
| 18.              | The hours of trading shall be as determined on the licence.   |
| 19.              | The licence holder shall remove all or part of the tables and chairs for an identified period at the request of an authorised officer of the Council or a police constable.   |

It must be emphasised that the Council in issuing a licence cannot, and does not, seek to absolve anyone from any statutory risk which they may incur in placing or depositing any object on the highway.

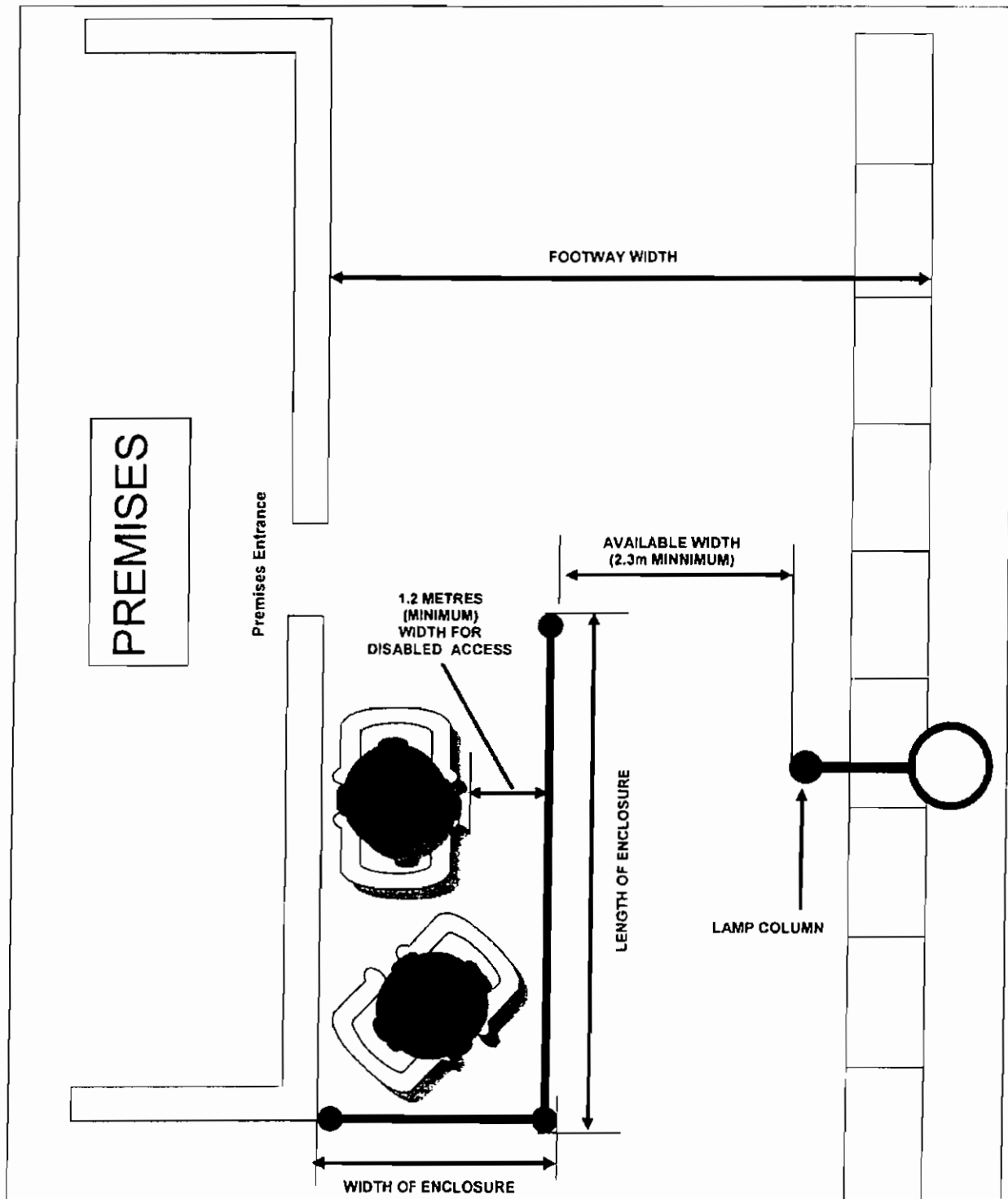
The following is taken from the Highways Act 1980 in respect of failure to comply with the terms of the permission to place tables and chairs on the highway:

*(1) If it appears to a council that a person to whom they have granted a permission under section 115E above has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.*

*(2) If a person on whom a notice is served under subsection (1) above fails to comply with the notice, the council may take the steps themselves.*

*(3) Where a council have incurred expenses in the exercise of the power conferred on them by subsection (2) above, those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a notice of demand for the expenses, may be recovered by the council from the person on whom the notice under subsection (1) above was served.*

### EXAMPLE OF TABLE AND CHAIR LAYOUT PLAN FOR SUBMISSION



**NOTE: DEPOSIT PLAN TO BE DRAWN TO SCALE 1:100 OR 1:50**

**Application for a Tables and Chairs Licence under  
The Highways Act 1980 – Section 115**



**Important:** Please complete this form in full using block capitals – failure to complete all sections may result in unnecessary delays or refusal.

|   |
|---|
| Name of business application applies to:    |
| Address of business application applies to: |
| Business telephone number:                  |

|                                |
|--------------------------------|
| Name of applicant:             |
| Address of applicant (home):   |
| Telephone number of applicant: |

|  |
|--|
| Name of occupier of the premises (if different from above):    |
| Address of occupier of the premises (if different from above): |
| Telephone number of occupier:                                  |

|   |
|---|
| Name of owner of the premises (if different from above):    |
| Address of owner of the premises (if different from above): |
| Telephone number of owner:                                  |

**Application for a Tables and Chairs Licence under  
The Highways Act 1980 – Section 115**

**Wolverhampton**  
City Council



|  |                          |                  |              |
|--|--------------------------|------------------|--------------|
| Type of business (e.g. public house, café etc.):   |                          |                  |              |
| Length of frontage of the premises: _____ metres   |                          |                  |              |
| Length of frontage to be taken up by enclosure: _____ metres   |                          |                  |              |
| Width of public highway/footway: _____ metres  |                          |                  |              |
| Width of public highway/footway to be taken up by enclosure: _____ metres  |                          |                  |              |
| Do you propose to use parasols: Yes/No   |                          | If yes how many? |              |
| Do you propose to use portable heaters: Yes/No   |                          | If yes how many? |              |
| Please enclose a risk assessment   |                          |                  |              |
| Please state the proposed days/hours required for your tables and chairs licence: (please use 24hour clock)              |                          |                  |              |
| Monday   | <input type="checkbox"/> | Start Time:      | Finish Time: |
| Tuesday  | <input type="checkbox"/> | Start Time:      | Finish Time: |
| Wednesday  | <input type="checkbox"/> | Start Time:      | Finish Time: |
| Thursday   | <input type="checkbox"/> | Start Time:      | Finish Time: |
| Friday   | <input type="checkbox"/> | Start Time:      | Finish Time: |
| Saturday   | <input type="checkbox"/> | Start Time:      | Finish Time: |
| Sunday   | <input type="checkbox"/> | Start Time:      | Finish Time: |
| List all items to be offered for consumption or sale in the licensed area (hot drinks, alcohol, hot and cold food etc.): |                          |                  |              |

**Public liability insurance details:**

Name of insurer: \_\_\_\_\_

Policy Number: \_\_\_\_\_ Expiry Date: \_\_\_\_\_

Cover ( £5M minimum): \_\_\_\_\_

**Declaration**

I declare that I am over 18 years of age and I certify that, to the best of my knowledge and belief, the information I have provided in this application form and on the submitted plans is both accurate and correct.

I declare that all conditions attached to any issued licence will be complied with.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print name: \_\_\_\_\_

Position within company/business: \_\_\_\_\_

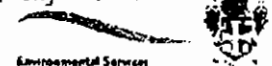
The application form should be returned with the appropriate fee (which is non refundable) and all supporting documentation to:

**Licensing Section, Environmental Services, Civic Centre, Wolverhampton,  
WV1 1DA.**

The information given may be held in manual or electronic form and will be subject to the provisions of the Data Protection Act 1998.

# Application for a Tables and Chairs Licence under The Highways Act 1980 – Section 115

Wolverhampton  
City Council



## Checklist of Required Supporting Documents

Please tick the checklist boxes to ensure that with this application form you provide the supporting plans, drawings and any other required documents. These should be up-to-date and accurate and show fully and clearly what you are applying for.

| Required   | √ |
|--|---|
| Two copies of a 1:1250 scale location plan on which your premises and the proposed area to be licensed are clearly outlined.   |   |
| Two copies of a 1:100 or 1:50 scale site plan showing the building line of the application premises and adjacent buildings, the location of the kerb line, the distance between the building line and the kerb line, the precise boundary of the proposed licensed area giving exact metric measurements of the width and depth of the area, the location of all accesses on your frontage including fire exits, the location of existing obstructions within or near to the licensed area e.g. lamp posts, bollards, trees, etc., the size and location of the proposed tables, chairs and other furniture and the size and location of enclosure barriers. |   |
| Photographs, brochures or scaled drawings showing design, dimensions, colour and materials of the tables and chairs you propose to use.  |   |
| Photographs, brochures or scaled drawings showing design, dimensions, colour and materials of the proposed means of enclosure.   |   |
| Copy of third party public liability insurance certification.  |   |
| A cheque for £250 made payable to Wolverhampton City Council, must accompany the application form and is non refundable.   |   |
| If appropriate, photographs, brochures or scaled drawings showing design, dimensions, colour and materials of the parasols you propose to use. Their proposed locations must also be shown to scale on the site plans.   |   |
| If appropriate, photographs, brochures or scaled drawings showing design, dimensions, colour and materials of the space heaters you propose to use. Their proposed locations must also be shown to scale on the site plans.  |   |
| If you propose to use portable heaters you must also provide a risk assessment.  |   |
| If appropriate, letters from your neighbour(s) confirming their agreement to the use of the area in front of their premises for your equipment.  |   |

**Tables and chairs: licence conditions and planning guidance**

This supplementary planning guidance on the placement of tables and chairs on the public highway outside pubs, bars, restaurants and cafés, was formally adopted by the council on 30 April 2002.

The guidance will be supplementary to Unitary Development Plan policies, particularly SH1 1 (Food and Drink Establishments) and EN21 (Environmental Nuisance), it will be taken into account in the determination of planning applications. Also, it will be used in the consideration of temporary Highways Act licences to place tables and chairs on the public highway.

**Contents**

- 1.0 Introduction to placing tables and chairs on the public highway
- 2.0 Planning permission policy statement
- 3.0 Duration of licence
- 4.0 Licence conditions: pedestrian movement and space standards
- 5.0 Licence conditions: safety and design of tables and chairs
- 6.0 Licence conditions: safety and design of other equipment
- 7.0 Licence conditions: hours of operation and removal of tables and chairs
- 8.0 Licence conditions: marking out of licensed areas
- 9.0 Licence conditions: barriers (if applicable)
- 10.0 Licence conditions: other conditions

## **1.0 INTRODUCTION TO PLACING TABLES AND CHAIRS ON THE PUBLIC HIGHWAY**

1.1 There is a demand for cafés, restaurants and pubs to place tables and chairs outside their premises on the footway. Accommodating this demand in Hammersmith and Fulham can pose problems because of the relatively narrow footways and the number of people using the streets.

1.2 This document lists the conditions of a 'tables and chairs' licence (sections 3.0 – 10.0). As placing tables and chairs on the public highway sometimes requires an application for planning permission, this document also includes guidance for this process (section 2.0).

1.3 Applications for planning permission to place tables and chairs outside an eating or drinking premises fall into two categories of uses A3 or A1 (d), which are described below.

- A3 uses: premises selling food and drink for consumption on the premises or selling hot food for consumption off the premises (i.e. restaurants, cafes, public houses, hot food takeaways).
- A1 (d) uses: premises selling sandwiches or other cold food for consumption off the premises.

1.4 Licences will only be issued if the location meets the criteria listed below so as not to harm residential amenities and to be consistent with the council's licensing policies.

1.4.1 The placing of tables and chairs at the location should not significantly harm residential amenity and:

- if evening use is proposed, the location should be in a town centre close to other premises open in the evening and where there is significant pedestrian activity
- if daytime use is proposed, the location should be in a town centre, local shopping centre or other area of predominantly commercial activity where there is significant pedestrian activity.

1.4.2 The tables and chairs should ideally be placed where there is a set back in the frontage of premises and therefore not on obvious pedestrian routes.

1.4.3 If tables and chairs are placed on the footway, enough space should be left on the footway for pedestrian access, street furniture and other obstructions such as trees.



## **2.0 PLANNING PERMISSION POLICY STATEMENT**

2.1 The placing of tables and chairs outside premises on the public highway sometimes requires planning permission because it involves a change in the use of the land. However, if tables and chairs are placed on a private forecourt that is part of the premises, planning permission is not normally required.

2.2 The council will only grant planning permission if the placement of tables and chairs on the footway (including any means of enclosure that may be required) will not:

- cause obstruction to pedestrians, prams and wheelchairs
- put the safety of pedestrians at risk
- have a negative effect on the character and appearance of the area
- reduce the amenity of properties in the area.

2.3 The council requires all applications to be accompanied by a plan clearly showing where the tables and chairs will be placed.

2.4 Planning permission is not required to place tables and chairs if the premises are classified as A1 in the Town and Country Planning Use Classes Order. This includes:

- retail shops
- sandwich bars selling mainly cold food for consumption off the premises
- shops selling other cold food to take away
- coffee shops selling hot drinks mainly for consumption off the premises.

Such premises can also have a small proportion of their sales for consumption on the premises without the need for planning permission. However, the introduction of additional seating outside can sometimes change the nature of the premises into a restaurant or café (classified as A3 in the Use Classes Order) and may require planning permission for the change of use of the premises as a whole.

2.5 The effects on people in the surrounding area (e.g. residents, businesses or visitors) are very important when considering a planning application for the placing of tables and chairs on the public highway. These effects include:

- congestion on the footway
- increased parking congestion in the area
- noise and disturbance generated by the tables and chairs.

2.6 The effect of the proposed tables and chairs on the appearance of the premises and adjacent buildings as well as on the character of the area in general will be taken in account. This is particularly important in the case of applications affecting listed buildings, Conservation Areas and 'Buildings on the Local List'. In these cases, the design, materials and colour of the furniture and other items placed on the highway may be governed by planning conditions.

2.7 As the placing of tables and chairs on the highway can cause obstruction, nuisance and adversely affect the character and appearance of the area, the council needs to assess the effects regularly. A one-year temporary consent will be replaced with full planning consent if the activity is acceptable.

### **3.0 DURATION OF LICENCE**

3.1 The licence for the placement of tables and chairs on the public highway lasts for a year.

3.2 Following the expiry of consent, an application for renewal of consent must be made. The application for renewal should be made at least one month before the licence is due to expire.

### **4.0 LICENCE CONDITIONS: PEDESTRIAN MOVEMENT AND SPACE STANDARDS**

4.1 The council will require sufficient space for pedestrian movement. This will take into account:

- the high flow of pedestrians (on the borough's busier streets)
- the needs of people with limited mobility including those who use walking aids or wheelchairs
- people with children in buggies or prams.

- ✶ 4.2 It is essential in all cases that **a minimum width of 2.3 metres of unobstructed highway to the line of the front face of the kerb or the line of any fixed structure** (such as a street light or litter bin) is free for safe and convenient pedestrian movement. In locations where there is a high flow of pedestrians (even if only during short periods in the day) **a minimum width of 3.5 metres of unobstructed highway to the front face of the kerb or the line of any fixed structure** is required.

4.3 The footways on major shopping streets need to be kept unobstructed and as such may be unsuitable for the placement of tables and chairs.

4.4 The provision of service to the tables and chairs, including customers serving themselves, must take place within the licensed area. The need for such service should be taken into account when considering the proposed number and layout of tables and chairs.

4.5 Tables and chairs will normally only be permitted directly next to premises.

4.6 There must be a direct route measuring at least 1 metre wide from the pavement to the entrance of the premises. This width must be maintained at all times.

4.7 Access for wheelchairs must be provided.

4.8 Emergency access must not be obstructed.

4.9 The public footway must not be obstructed by customers standing between tables, chairs and the kerb.

4.10 The conditions ensuring that tables and chairs do not obstruct footways or carriageways in various types of location are listed below.

#### Fully pedestrianised streets

- A minimum clear path measuring 2.3 metres wide must be maintained for pedestrians.
- Where the street is wider than 5.4 metres, the depth provided for tables and chairs should not exceed one third of the width of the street on each side.
- If access is required for emergency vehicles, the clear width between tables and chairs on either side should be increased to 5.1 metres to allow pedestrians to stand clear of the emergency vehicles.

#### Partially pedestrianised streets

- Licensed tables and chairs may be placed on the footways at times when the street is closed to traffic.
- Where the highway has a single surface, tables and chairs should not extend beyond the line of bollards marking the carriageway from the footway.
- If the notional carriageway is less than 5.1 metres wide, there should be at least 5.1 metres clear between tables and chairs on either side of the street.

#### Streets with a carriageway and footways

- Footways are provided primarily for the convenience and safety of pedestrians. If the footway measures more than 3.6 metres wide, the area for the placement of tables and chairs should not be more than half the available footway width.

#### Environmental improvement schemes

- The issuing of a tables and chairs licence may be considered in relation to an environmental improvement scheme in a specific area, subject to the same considerations listed above.

## **5.0 LICENCE CONDITIONS: SAFETY AND DESIGN OF TABLES AND CHAIRS**

5.1 Tables and chairs must be designed to be suitable for intense outdoor use. The use of plastic patio furniture, for example, is unlikely to be approved.

5.2 Tables and chairs must be separable, rather than being an integral unit, and should be able to be removed easily (see section 8.1).

5.3 Tables and chairs must be stable and adequately designed so they cannot be blown over by the wind.

5.4 Tables and chairs must be maintained in a safe condition so they do not present a risk to the public.

5.5 Other design features to be considered in the choice of tables and chairs are:

- rubber feet to reduce the noise when the furniture is moved
- shelves below the tabletop and 'Chelsea Clip' bag hooks to prevent the theft of customers' bags and coats (the layout of the furniture should also minimise the opportunity for theft)
- round-back chairs should be used in preference to square-back chairs to reduce the ability to hang bags and coats on the back where they are particularly vulnerable to theft.

5.6 The design of the proposed furniture must be submitted with the planning and licence applications, with details of its dimensions, materials and the manufacturer's specification. Manufacturers' brochures and photographs will usually be sufficient. In some cases, an example of the furniture may need to be made available for inspection.

## **6.0 LICENCE CONDITIONS: SAFETY AND DESIGN OF OTHER EQUIPMENT**

6.1 The placement of advertising boards and other material will not be approved.

6.2 Tables and chairs must be kept free of loose-sheet advertising (such as menus) and napkins, which are likely to be blown away by the wind and generate litter.

6.3 The placement of menu stands is allowed if they are stable and do not present a safety hazard. The position of menu stands must be shown on the proposed layout plan submitted with the application.

6.4 If umbrellas are used they must be of a minimum height of 2 metres.

6.5 The installation of barbecues, rotisseries, ice cream machines, drinks machines and other equipment for the sale of food and drink for consumption off the premises will not normally be approved.

6.6 Applicants wishing to use space heaters will need to submit a formal risk assessment as required by the Management of Health and Safety at Work Regulations 1992 in support of their application. This should be carried out by a competent person who has knowledge of the law, British Standards, and Health and Safety Executive Codes of Practice and Guidance. The council will consider the safety of the equipment, its location, the storage of liquid petroleum gas cylinders, and maintenance and training arrangements.

#### **7.0 LICENCE CONDITIONS: HOURS OF OPERATION AND REMOVAL OF TABLES AND CHAIRS**

7.1 Tables and chairs must be removed from the licensed area at specified hours, which will vary according to individual circumstances.

7.2 The tables and chairs must not be left out later than 11pm (unless a day-time-only licence has been issued). The council will only approve applications for the use of tables and chairs beyond 11pm in exceptional circumstances even if the applicant has the relevant licences and permissions to operate until a later time.

7.3 Service at the tables must finish earlier than 11pm and customers should be made aware that the tables and chairs must be removed by that time.

7.4 As the tables and chairs will need to be removed, large benches and picnic tables with seating attached are unlikely to be approved.

#### **8.0 LICENCE CONDITIONS: MARKING OUT OF LICENSED AREAS**

8.1 The licensed area for tables and chairs must be marked out on the ground, unless clearly visible dividing lines already exist. The council's contractors will mark out the areas (and remark them when necessary), the cost of which is included in the licence fee.

8.2 The areas will be marked with studs in black or dark grey lines. On surfaces where these colours are not visible, the area will be marked with white lines. If applicants wish to have the areas marked out in another way this will have to be specifically approved and directly supervised by the council which may require bonds deposited against the costs of reinstatement.

## **9.0 LICENCE CONDITIONS: BARRIERS (IF APPLICABLE)**

9.1 Temporary barriers may be used to enclose the licensed area for tables and chairs but they must meet the requirements listed below.

9.2 Permanent barriers marking the licensed area are not suitable, as the area remains part of the public highway.

9.3 The barriers must define the side boundaries of an area occupied by tables and chairs and must extend from the building to the front of the licensed area. An appropriate corner barrier must define the outer corner of the licensed area.

9.4 Barriers must fill the area measuring between 100mm to 800mm from the ground. They must not measure higher than 900mm from the ground.

9.5 Barriers must be railed, either vertically or horizontally. Rails must be of bright contrasting colours, for example, black and white or blue and yellow.

9.6 If a property is a listed building or is in a Conservation Area, only black and white rails will be permitted.

9.7 In all other areas, the council will consider proposals of other colours of railings, provided that they do not adversely affect the general appearance of the building or area.

9.8 The barriers must not put the safety of pedestrians at risk. Sharp edges and corners are not acceptable.

9.9 Damaged barriers must be replaced immediately.

9.10 Fixing for barriers must not protrude above ground level when the barriers have been removed.

## **10.0 LICENCE CONDITIONS: OTHER CONDITIONS**

10.1 The applicant must not interfere with the surface of the public highway.

10.2 The applicant, if requested by the council, must provide mobile litter bins in positions and at times specified. Applicants and their employees must not dispose of any refuse in permanent litter bins provided by the council.

10.3 The trading area shall not exceed the dimensions specified on the licence and any pitch limits marked on the ground during trading hours.

10.4 The applicant shall trade only from the position indicated on the licence.

10.5 The applicant must remove the tables and chairs immediately if requested to by the council, its contractors, statutory undertakers or the police, and must not replace them until they have been authorised to do so by the council, its contractors, statutory undertakers or the police.

10.6 The council can revoke consent at any time upon giving the applicant seven days' notice in writing. This notice shall be deemed to be sufficiently served if addressed to the applicant and sent by post or left at the premises. Following the notice period, all tables and chairs must be removed, and in default, the council may remove the tables and chairs and recover its costs from the applicant.

10.7 If the council serves a notice on the applicant requiring him/her to take steps necessary to remedy any breach of the terms of consent, and the applicant fails to comply with the notice the council may itself take steps required by the notice and recover any costs incurred from the applicant.

10.8 The applicant must obtain written consent of frontages of the property adjoining the piece of public highway the applicant wants to use and that this written consent must clearly state that there is an agreement to the placing of tables and chairs.

10.9 Consent given is without prejudice to, and shall not be construed as derogating from, any of the rights, powers and duties of the council pursuant to any of its statutory functions or in any other capacity and, in particular shall not restrict the council from exercising any of its powers or duties under the Highways Act 1980 (as amended).

10.10 The applicant shall not place any item on the public highway or attempt to exercise any permission unless he/she has obtained both a valid licence to place the said objects on the public highway and has a current licence and planning permission for the land use.

10.11 The applicant shall be responsible for any rates, taxes and other charges which may be levied in connection with the licensed area.

10.12 The applicant must notify the council of any permanent change of address as soon as it occurs.

10.13 The applicant must not use, or permit to be used, on the licensed area or within the immediate vicinity any equipment to produce, generate or amplify sound. The applicant must ensure that the activities or actions of persons using the licensed area do not disturb nearby occupiers.

10.14 The applicant must indemnify the council against any claim answering from this use of the highway up to £3 million for any single event, and shall provide and display such insurance cover as required by the council.

10.15 The council will attach conditions to licences for tables and chairs on the highway as outlined above.

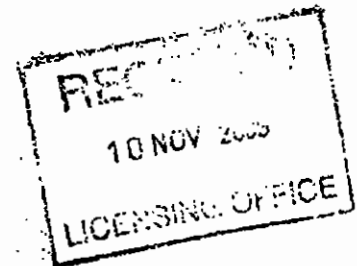
10.16 The council reserves the right to cancel any licences if a breach of the regulations occurs.



**KENNETH BUSH  
SOLICITORS**

Evershed House  
23-25 King Street  
King's Lynn  
Norfolk PE30 1DU  
Tel: 01553 692737  
DX: 57802 King's Lynn  
Fax: 01553 691729  
Website: [www.kennethbush.com](http://www.kennethbush.com)

**For the attention of Mr Chris Lambert  
Norwich City Council  
City Hall  
NORWICH  
NR2 1NH**



**Our Ref:**  
DLS8.ch.01M16072

**Your Ref:**

**Please ask for:**  
Mr D Stafford  
Direct dial: 01553 818620

7<sup>th</sup> November 2008

Dear Mr Lambert

**Re : My Clients - Moss & Leakey**  
**Premises - Timberhill, Norwich - Licence for Tables & Chairs at**  
**The Gardeners Arms Timberhill**

We have been instructed on behalf of the Partners of Moss & Leakey, in connection with the application for a renewal of Licence for the proprietor of The Gardeners Arms to stand tables and chairs in front of The Gardeners Arms at Timberhill.

Our Clients will be writing fully to express their objections in connection with the proposed renewal of the Licence. Our Client hope to submit their objection by the deadline of 17<sup>th</sup> November but given the delays in answering the FOI request they may require an extension to this.

In the meanwhile, having considered:-

- (a) The correspondence between our Client and the Council in connection with the earlier objection by our Client

(Continued/2...)

Tony Williams D.L.  
Nigel Dodds  
Dennis Stafford

Ian Hamilton  
Jonathan Eales (*Managing Partner*)  
Peter Denison

Julian Hallett  
Roman Kowalski  
Sharon Cambridge

Michael Cash  
Paul Croker

- (b) Copies of photographs showing the extent of the use of the highway by customers at the public house and how such use obstructs the highway
- (c) Details of the measurements of the highway supplied by our Client

We believe it would be inappropriate for the Council to grant a further Licence for the use of any part of the public highway for the standing of tables and chairs for the proprietor of The Gardeners Arms.

The highway appears to be too narrow to comfortably accommodate the tables and chairs without causing unnecessary obstruction to essential traffic passing down the highway. It would also appear from photographs we have seen that the Licence has been exploited by the proprietor of The Gardeners Arms and has been used as a means of extending his premises substantially into the highway, obstructing the use thereof for the purpose for which the public highway is provided.

Our Clients have obtained two Government documents called "Communities and Local Government Department of Transport Manual For Streets and Department of Transport Inclusive Mobility". Under these Manuals Authorities are required to take guidance in respect of such issues as granting of Licences. Our Clients have been advised by other Local Authorities that pursuant to the guidance given by these Manuals and after consulting jointly with highways, police and fire services it has been considered on a number of occasions that the highway needs to be at least 5.1m wide to allow for the passage of essential traffic. If the Licence is renewed in accordance with these Manuals Timberhill will be reduced in width to 3.5 metres which is unacceptable.

Can you please:-

1. Confirm that the City Council accepts the "Communities and Local Government Department of Transport Manual For Streets and Department of Transport Inclusive Mobility" as offering guidance in relation to the required width of unobstructed highways?
2. Confirm that the City Council in it's unwritten and un-adverted in-house guidelines has worked these up from the Manuals?
3. Advise which bodies have been consulted in arriving at the guidelines?

(Continued/3...)

4. Confirm that the City Council has taken into account the representations of Highways Authority, police and fire service before establishing the in-house guidelines

Could you supply us please with evidence of the consultations that have taken place by the City Council in connection with it's policy following guidance under the Manual For Streets and Inclusive Mobility documentation?

We look forward to hearing from you urgently given the imminence of the objection deadline.

Yours sincerely

D L Stafford Esq

**KENNETH BUSH**

Private email address:dstafford:kennethbush.com

cc: Ian Streeter - Licensing Manager

# THE WORK BOX

NEEDLECRAFT & HOBBIES



5 Timber Hill, Norwich NR1 3JZ Tel:01603 663336 Fax:01603 665260 email helen@theworkbox.biz

11.11.08

Dear Sir

Once again I write to object to the application for seating and tables on the pavement outside The Gardener's Arms in Timber Hill directly opposite my shop.

Timber Hill is an historical part of Norwich and on the whole retailers try to encourage visitors to the city to visit Timber Hill with its independent and exclusive outlets. I personally spend a lot of money advertising in national magazines and other publications to encourage people to visit my shop thereby raising the profile of Norwich.

The exclusive and upmarket ambience that we know is possible to achieve has been and will continue to be damaged by the presence of the some of the customers who regularly occupy the seating area outside The Gardener's Arms.

Timber Hill is a narrow street, which is not a pedestrianised area. Having chairs and tables on the pavement therefore seems a little silly as pedestrians, wheelchair, pushchair and motorised pavement scooter users often have difficulty navigating a safe passage around the necessary delivery and work vehicles. To continue to place tables and chairs on what is supposed to be a path way does not improve safety.

There have still been a number of occasions when the tables have all been put up one end of the cordoned off area so that more people could cram themselves into and therefore spill out of this 'area'. There have been a number of Saturday afternoons when there have been few customers in my shop and I later found out they felt anxious and intimidated about coming up Timber Hill because of the crowds outside the Gardener's Arms.

People walking up and down Timber Hill are often subjected to verbal abuse from seated and standing customers outside The Gardener's Arms. Accompanying children are also treated to this. The amount of noise that echoes between the two sides of the street has at times become ridiculous and is detrimental to my business as people are put off both by the noise and the language. My shop door has had to be closed many times due to the noise and unsavoury language. We do at times feel as though the customers of The Gardeners Arms are in the shop with us.

For years my customers and staff have been subjected to persistent and continual foul language from some of the people sitting outside The Gardener's Arms. Only a minority of their customers behave in this way but left unchecked they become even louder. Café culture this is not! I have a right to run my business without interference.

Proprietors S.J & R.E Orrick

Vat Reg No 700 2639 77 Orrick UK Ltd

If we wish to raise the profile of Norwich as a tourist/shopping centre/area of excellence then visitors and local residents need a clean, safe, peaceful friendly city to visit.

One experience of the behaviour of some of the customers seated outside The Gardener's Arms will deter visitors - and they will not visit again.

Yours Faithfully

Helen Orrick  
Proprietor

# APPENDIX F



Viking Optical Limited

Blith Road, Industrial Estate, Gileswich, Norfolk IP19 2YX, UK

Tel: 01953 875315 Fax: 01953 874782

E-mail: [vikings@vikingoptical.co.uk](mailto:vikings@vikingoptical.co.uk) Website: [www.vikingoptical.co.uk](http://www.vikingoptical.co.uk)

Viking Optical Centre  
9 Timberhill  
Norwich NR1 3JZ

22nd October 2008

Licensing  
Legal and Democratic Services  
Norwich City Council  
City Hall  
Norwich NR2 1NH

your reference 08/01930/TABCHA

Mr Ian Streeter

Reference the renewal application to place tables and chairs in front of The Gardeners Arms 2-4 Timberhill,

First of all may I say that we have no objections to you renewing the licence to put tables and chairs outside these premises in-fact we would welcome them.

Giving the ability for people to come onto Timberhill sit down and relax can only help to increase the footfall to the street which has got to be good for any businesses in the close proximity; I know this has helped our trade.

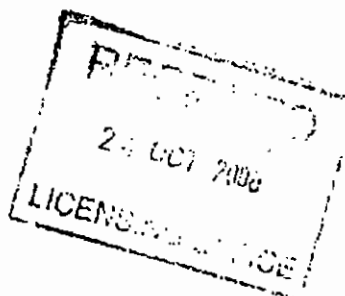
This has got to be good for the atmosphere bringing life and friendship in to the area, it also helps with the security of our premises when we are closed as having not only Philip Cutler and his staff but also those from The Gatehouse and The Devils Advocade there till late at night gives us eyes and lights to see what is going on, this could be the reason why we have never had any problems at night.

As for, is there any down side, any pub will from time to time have some trouble especially when there is a big sports advent and people get excited but this is not very often and I must complement Philip and his staff in the way that they control and handle thing.

Good luck to them and let's keep Timberhill alive.

Yours Faithfully

Martin Drake  
Manager  
Viking Optical Centre



**Fuller, Maxine**

**From:** Shearman, Anthony  
**Sent:** 22 October 2008 11:19  
**To:** Licensing  
**Subject:** FW: Gardeners Arms - 08/01930/TABCHA

Dear Licensing,

Please see below for you attention.

Ta .... Tony

*Tony Shearman*  
Enforcement Officer

Norwich City Council  
City Hall  
St. Peters Street  
Norwich  
NR2 1NH

Tel: 01603 21(2278)

**From:** The Gallery Timberhill [mailto:timberhillgallery@btinternet.com]  
**Sent:** 22 October 2008 11:07  
**To:** Shearman, Anthony  
**Subject:** Fw: Gardeners Arms - 08/01930/TABCHA

Mr Shearman,

for some reason this mail was bounced back via the Councils server could you please pass it onto the file and Mr Streeter.

Regards

Declan Keiley

--- On Wed, 22/10/08, The Gallery Timberhill <timberhillgallery@btinternet.com> wrote:

**From:** The Gallery Timberhill <timberhillgallery@btinternet.com>  
**Subject:** Gardeners Arms - 08/01930/TABCHA  
**To:** licensing@norwich.gov.uk  
**Date:** Wednesday, 22 October, 2008, 11:03 AM

Mr Streeter,

Further to your letter of 20th October 2008 regarding the licence to place tables and chairs in front of the Gardeners Arms pub Timberhill.

22/10/2008

I have no object and have had no issues with the present arrangements. I would support the use of barriers in keeping people within an area and staff needed ensure patrons remain behind the barriers.

I hope this is of help.

Regards

Declan Keiley  
10 Timberhill  
Norwich  
NR1 3LB  
01603 614848

22/10/2008

1



# **CENTRAL NORWICH CITIZENS' FORUM**

26<sup>th</sup> October 2008

Mr Ian Streeter  
Senior Licensing Officer  
Licensing  
Norwich City Council  
via e-mail

Dear Mr Streeter

**Re: REVIEW OF TABLES AND CHAIRS LICENCE  
THE MURDERERS, TIMBER HILL, NORWICH**

I write, on behalf of my Forum's Licensing Committee as a result of being informed by Mr Philip Cutter, Proprietor and DPS of the Murderers, that his tables and chairs licence is now due for review because it is our strong view that he should be allowed the grant of his licence on a permanent basis.

In view of the fact that his licence was granted subject to later review we have kept a close eye on the way it has been implemented by Mr Cutter and used by the pub's customers and, we are happy to confirm that behaviour has been reasonable and, for most of the time, exemplary. We have received no complaints of any kind of nuisance from residents living in the area and, as far as we can tell, with the exception of one neighbour who operates commercial premises opposite, there have been no complaints from other business neighbours either and, for most of them, the existence of chairs and tables outside the Murderers is an additional attraction that provides a good example of the very desirable and popular use being made of public space in one of the more attractive parts of the commercial area of the city centre. For the rest of the time in the evenings when the neighbouring commercial premises are empty though, we are concerned with our partners, the Police, the City Centre Management Partnership and the Norwich City Licensing Forum, that the area is under-utilised.

Central Norwich Citizens' Forum is a company limited by guarantee and registered in England No 285771; and a charity registered with the Charity Commission for England and Wales No 1130226.  
Company Secretary: Julian F Foster BA DipEd DPA DiETM FCIPD FJRTM, NALDM.  
Registered office: 2 Rouches Court, Norwich NR3 1JJ. Website: [www.cnf.org.uk](http://www.cnf.org.uk)  
Telefax: 01603-767066. e-mail: [julianf.foster@btopenworld.com](mailto:julianf.foster@btopenworld.com)

and are seeking ways to encourage people to make better and more use of that area of the city during the 'shoulder' period when the commercial premises tend at present to close and the night-time economy gears up and this indicates a need for closer cooperation between the retailers and the licensed traders to provide a more integrated approach to the problem and its solution.

Mr Cutter has taken a leadership role in this by co-ordinating the licensed traders to promote '*Stay Central*' as a strategy to work together with others to make the area more attractive and keep shoppers and workers in the centre for longer in the evenings. His tables and chairs facility, as with that of the other participants in the area, is a vital component part of that strategy. Therefore he has kept the area under strict surveillance and control and there has been no unruly or anti-social behaviour at any time, day or night. We are not aware of any incident to which the Police have been called and, I should add, as Chairman of the City Centre Safer Neighbourhood Action Panel (SNAP) that there has been no reason given by anybody since its inception why that area should require increased attention because of anybody's misbehaviour.

Mr Cutter is a member and staunch supporter of the Norwich City Licensing Forum and attends all meetings as he regularly does the SNAP public meetings and we know him to be a conscientious and efficient licensee and proprietor of one of the best known pubs in the city centre. We can see no good reason why his tables and chairs licence should be revoked and we strongly recommend it be renewed on a permanent basis.

Yours sincerely

**Julian F Foster**  
**CHAIRMAN**



NORWICH  
City Council

RECEIVED

27 OCT 2008

LICENSING OFFICE

Norwich City Council Licensing Authority – Licensing Act 2003

## Statement of support or objection to an application for a premises licence

Your name/organisation name/name of body you represent (see note 1):

NATALIE MARCHESI @ BAROUSKA

Postal address:

21 TIMBERHILL

NORWICH

NR1 3JZ

Email address:

Contact telephone number:

Name of the premises you wish to support or object to:

THE MURDERERS PH / GARDENERS ARMS

Address of the premises you wish to support or object to:

REF 09/01930/TABCHA

TIMBERHILL

NORWICH

NR1 3JZ

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing objective  | Please set out your support or objections below.<br>Please use separate sheets if necessary.     |
|--|--|
| To prevent crime and disorder                                      | IT IS ALWAYS RE-ASSESSING THAT THE PUB HAS DOOR STAFF AT WEEKENDS & ON MATCH DAYS.               |
| Public safety  | I THINK IT IS MUCH BETTER HAVING THE BARRIERS THERE - WITH TABLE CHAIRS FOR THE OUTSIDE SMOKERS. |
| To prevent public nuisance   | ITS MUCH SAFER.  |
| To protect children from harm                                      | THE PUB IS ALWAYS CLEAN & TIDY INSIDE & OUT.   |
| Please suggest any conditions which would alleviate your concerns. | I AM HAPPY FOR THERE TO BE TABLES CHAIRS OUTSIDE - IT ENCOURAGES BUSINESS UP THE HILL.           |

Sig.

Date:

24/10/08

Please see notes on reverse



NORWICH  
City Council

28 OCT 2008

Norwich City Council Licensing Authority - Licensing Act 2003

## Statement of support or objection to an application for a premises licence

Your name/organisation name/name of body you represent (see note 1):

Michelle Hudson, Timberhill Tanning + Beauty

Postal address:

14 TIMBERHILL

NORWICH NR1 3LB

Email address:

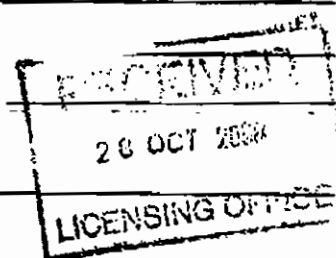
Contact telephone number:

Name of the premises you wish to support or object to:

MURDERERS GARDENERS ARMS

Address of the premises you wish to support or object to:

TIMBERHILL NORWICH NR1



Ref 001930 TABCHA

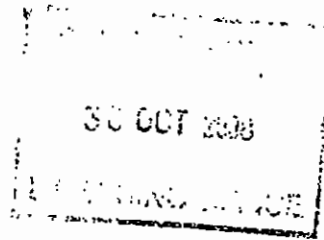
Your support or objection must relate to one of the four Licensing Objectives (see note 2)

| Licensing objective  | Please set out your support or objections below.<br>Please use separate sheets if necessary. |
|--|--|
| To prevent crime and disorder  | THE TABLES AND CHAIRS PROVIDE<br>ADDITIONAL SECURITY, KEEPING                                |
| Public safety  | SMOKERS WITHIN AN ENCLOSED<br>AREA AS OPPOSED TO WANDERING                                   |
| To prevent public nuisance   | AROUND THE STREET. WE HAVE<br>NEVER HAD ANY PROBLEMS CONCERNING                              |
| To protect children from harm  | THE SEATING.   |
| Please suggest any conditions<br>which would alleviate your<br>concerns. |  |

Signed:

Date: 23-10-08

Please see notes on reverse



**Mr Adrian Dawson, Devils Advocate, 7a Timberhill, Norwich, Norfolk, NR1 3JZ**

**Dear Mr. Streeter,**

**I am the owner of The Devils Advocate, and have traded from my present Timberhill site for almost ten years.**

**I wish to strongly support the application of Phil Cutter, and the Gardeners Arms, to renew there outside tables and chairs licence.**

**The Gardeners Arms, is an important aspect to the success of the street, and has been for a number of decades. It is a 'constant', and is important as an attraction for both tourists and the Norwich community during the day and the evening. It is the 'landmark' of the street. The Murderers is renowned as being unique, in name, style and appearance, I believe that is the last traditional, privately owned Free House pub remaining in the city centre. It is frequently photographed, and was a feature on the 'Land train' that ran throughout the summer months. The furniture outside is an invaluable tool to remind the general public that the street is open. It brings life to the street during there trading hours, both day and night.**

**Mr. Cutter has also been instrumental in forming 'Stay Central' au attempt to get support from members of the night time economy, to work together and drive footfall throughout the evening. This not only benefits the night time economy, but is also works toward city centre shops opening later, ultimately to the benefit of the entire city economy, and contradicts claims that he is a selfish operator motivated by self gain.**

**The furniture outside the pub has been a feature for more years than I care to remember! To my knowledge has never before been the amount of public debate as they have been forced to endure over the past year. It has also been mentioned that this furniture has caused much nuisance and disorder, and this is far from being true. Since the smoking ban was introduced, smokers have been required to smoke outside. I am sure that the committee will recognize that being a 'landlocked' premises, the patrons of the Murderers have nowhere else to smoke, and would be required to continue to smoke outside, with or without the barriers. However, without barriers, there is the potential for complete mayhem to ensue. With city by-laws, prohibiting the consumption of alcohol, drinks would have to remain inside.**

Smokers would then be left alone outside, to wander and roam around with no area to confine them. This would be impossible to both control and manage.

Instances of either crime or disorder are very rare on our street. I am sure that the Police are called more regularly to the larger retail outlets, than they are to any of the licensed premises on Timberhill. Unfortunately, this does reduce the risk that at sometime, now, or in the future, this situation may change. As licensee's we all accept our social responsibilities, and safety of our patrons is of paramount importance. We will not tolerate unacceptable behavior in or around our premises, by our patrons. There is no other type of trader where groups of 'alpha males' will regularly meet. Football supporters, stag parties or just mates, they are more likely to meet up 'at the pub'. This is an historic reality, men have always done this, and especially in the summer months outside. I am sure that if the neighbors' surrounding the Murderers are concerned by the nuisance noise or disorder, the police would be attending on a regular basis. However, the truth is that the Police are rarely, if ever called. The Gardeners Arms has been there for hundreds of years. It would be naive to presume that traders, new to Timberhill, were not aware that the pub operated in its current way, with furniture outside, and with a loyal football base. This is like residents of the new flats surrounding Carrow Road, complaining that there is noise and vast gatherings on an every fortnight.

We cannot accept responsibility for those who are not our patrons. Personal experience dictates that customers refused either entry or service, to our premises, are more likely to create disorder. All of our patrons are transient, and as such, we are forever mindful that, having been asked to leave one establishment, the likelihood is that they will simply move on to the next. Whist we only operate in the evenings, this risk remains constant for Phil, his management and staff. Yet, the need for Police activity remains low. Unfortunately, it is a reality that the *potential* of major disorder is as likely to occur in shops, supermarkets or schools, as it is along Timberhill. If/when this does happen us licensee's, cannot be held personally liable. Even minor disturbances, bad language and drunks are not always caused by those responsible coming from clubs, pubs and bars. Swearing, for example is endemic throughout our entire society, I personally have seen swearing on streets, in shops, banks, and from both children and adults. The pubs tables and chairs, are as important to many of the other traders, as they are for the Murderers, at these difficult trading times. It helps drive footfall onto the street, and would cause a detrimental effect to both the daytime, and night time economy should the licence be removed.

Yours,

Mr. Adrian Dawson

**Fuller, Maxine**

**From:** Lewis Grant [lewis.grant@norfolk-waste.co.uk]  
**Sent:** 02 November 2008 23:06  
**To:** Licensing  
**Subject:** Application 08/01930/TABCHA - Renewal application for Gardeners Arms Timberhill  
**Importance:** High

Dear Mr. Streeter,

I am writing in reference to the application made by the Gardeners Arms, on Timberhill - 08/01930/TABCHA, to continue to place there furniture outside the front of there premises.

I am Lewis Grant, and I live in the flat above the Orvis store, situated directly next door to The Gardeners Arms/Murderers Pub on Timberhill, Norwich. I have lived in the flat for approximately 2 years. This flat overlooks both Timberhill, Orford Hill and Orford Street. I have as good a view of The Murderers and The rear of the Bell Hotel and Traffik, (formerly Owens Bar), than anyone else in the city centre.

I can honestly say that I cannot remember any incidents of disorder that I would attribute to Mr. Cutter, or patrons of the Murderers, during either the day or night. However, this is not to say that problems do not occur in this vicinity. Most problems, in my experience, begin in Orford Hill, and migrate towards Timberhill. Excessive noise, and 'excitement' often triggers me to look out of my window to see the proceedings. It must be said that, I've regularly witness patrons leave the Bell with drinks in hand, walking around towards the Murderers, and continue up Timberhill, or try and enter the Murderers, with those drinks. I can recall quite amusingly during the summer, Mr. Cutter was trying, for some length of time, to place foreign customers, sitting against the opticians windows, with drinks brought around from The Bell, back inside his barriers without success. He eventually managed to get them behind his barriers, only for them to wander up Timberhill, once he had walked inside!

In my opinion, the customers of the Murderers are much more controlled, and monitored, than those of adjoining pubs and bars. Quite recently, patrons from either 'Traffik', or The Bell were causing a disturbance very late at night, and they threw both glasses, and/or bottles towards the Opticians. Mr. Cutter came up and swept up the broken glass, and debris, almost immediately, despite it not being his responsibility. I also often hear incidents occurring around the Bell Hotel/Traffik, and witness Police attending those premises to break disturbances or fights, on a regular basis, however, the only Police presence we see outside the Murderers is on match-days, and again, I have not yet seen any incidents of disorder related to this.

In the summer months, my flats windows (which are directly above the Murderers outside seating area) are open, and despite the general 'chit-chat' from the tables, I have no issue from the noise created from the patrons using the furniture, either day or night. Even when open late at night, Mr. Cutter, his staff, and door staff, are respectful of me as a resident, and remind there occasional 'excitable' clientele to quieten down.

Phil Cutter, has always made himself available to me as a resident, and regularly asks if I have any concerns or issues. He spoke to me, before his decision to open later on Friday's and Saturdays until 1.00am, last year, and followed this up later to see if it had any impact on me - It has not. I have never had the need to approach him in regard of any concerns that I have about his premises, however I do feel that, given the need, he would be willing and capable of rectifying any such concerns which would arise.

With regular footfall in the surrounding streets, and so many pubs, clubs and bars in the direct vicinity, both during trading hours at the Murderers, and beyond, there are always people walking around these streets, often late at night, sometimes drunk, sometimes singing, and occasionally arguing! There is regular noise/disturbances, but I would never directly attribute this noise to any one of the local licensed establishments. This is a result of living in the city centre, which I knew I would encounter to some degree when I moved in to my flat. I would consider the area around timberhill to be a very friendly and safe area and one in which I feel more than happy to live in and to walk my dog around late at night in.

Because of these reasons, I believe that it would be almost impossible for Mr. Cutter to control his patrons

03/11/2008

who go outside, without at least the barriers to confine them. The smoking ban has forced these patrons outside, but has meant absolutely no change to the amount of noise created outside the pub – it remains minimal. It is only right that the furniture be allowed to stay outside, in order for the smokers, drinkers and diners be allowed to be outside without being in breach of local by-laws and smoking legislation.

Therefore, I have no objections to this application and would like to register my total support for it.

Yours faithfully,

Lewis Grant  
5A Orford Street  
Norwich  
NR1 3LE



HAIRBY

Hair by Tony  
8 Orford Hill  
Norwich NR1 3QD  
Telephone:  
(01603) 625802

10th November 2008

Ref:- 08/01930/TABCHA.

Dear Ian Streetes,

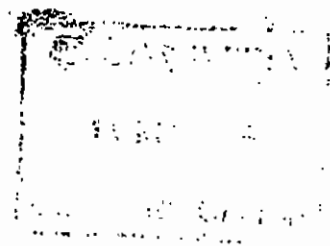
The Gardeners Arms 2-4 Timbrell.

I still think this is a good thing to keep things under control. It helps bring people into the street and Mr Philip Cutler works very hard to make this work, He works very hard with the police and I would think they are happy with the things he has put in place.

I hope you all come up with the right answers

Yours faithfully

T.A. SNEED.



**Streeter, Ian**

---

**From:** Graham Patching  
**Sent:** 12 November 2008 19:37  
**To:** Streeter, Ian  
**Subject:** RE: Tables and chairs licence

dear Ian

thankyou for the documentation, I will pass this to the office to process accordingly.

With reference to the renewal of the table and chairs licence for the Gardeners Arms(ref: 08/01930/TABCHAO). I would like to state for the record that I fully support the application and furthermore I believe that the removal of the facility would lead to the area in front of the pub becoming difficult to police by Mr Cutter and his staff, any person coming out of the pub to enable them to smoke, use mobile phones etc. would no longer have an designated safe area to do so. At present, the area is well marshelled and under constant scrutiny by The Gardeners Arms staff and as it is clearly marked it is also safe from traffic coming down Timberhill. The removal of this safe area would, in my opinion, lead to an unnecessary endangering of the public. please do not hesitate to contact me on 07971236242 for any further comments. Please can you let me know when the application will be processed so that I can attend the hearing to show my full support to Mr Cutter,

yours sincerely  
Graham Patching  
Castlegates Bar  
11-15 Timberhill  
Norwich  
NR7 0NS

---

**Subject:** Tables and chairs licence  
**Date:** Wed, 12 Nov 2008 09:58:47 +0000  
**From:** IanStreeter@norwich.gov.uk  
**To:**

Dear Graham  
Please find attached application form and procedure in respect of the above, as discussed yesterday.  
Regards  
Ian Streeter  
Senior Licensing Officer (Team Leader)  
(01603) 212439

<<Applicant Covering Letter - Grant.doc>> <<Application Form.doc>> <<Insurance Questionnaire.doc>>  
<<Standard Condions (New).doc>>

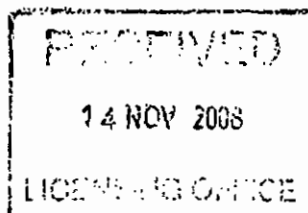
\*\*\*\*\*  
E-Mail Disclaimer - Please Read

**Confidentiality:**

This email and any files transmitted with it are confidential and intended solely for the individual to whom it is addressed. The information in this e-mail may not be used or disclosed except for the purpose for which it has been sent. If you are not the intended recipient you must not disclose it, copy it, distribute it, or take any action based on its contents. Please reply and highlight the error then delete it.

**Security:**

21/11/2008



8 Bailey Close  
Hethersett  
Norwich  
NR9 3EU  
09/11/2008

REFERENCE 08/00650/TABCHA  
Re Tables and Chairs outside Gardeners Arms, Timberhill Norwich.

Dear Sir

As a part time employee and customer for over 20 years I would like to comment on the above application for tables and chairs outside the frontage of the Gardeners Arms on Timberhill Norwich.

As you know the Gardeners Arms, known locally as The Murderers, is a traditional public house one of only a few remaining in the city centre once home to many hundreds of public houses.

The Gardeners Arms has stood the test of time for many years and has served as an oasis in the centre of Norwich for workers, shoppers, and locals alike searching for a place to take liquid refreshment and a wholesome meal.

For many years now the Gardeners Arms have legitimately placed tables and chairs confined by barriers outside the frontage of the premises to cater for the needs of customers desirous to spend time taking their food and drinks outside in a relatively unpolluted area of the city centre. All the outside furniture is taken into the pub during the hours of close. This can only encourage people to use a once neglected thoroughfare and add to the vibrancy of a major shopping centre as is found in major cities both in the U.K. and abroad.

Timberhill has restrictions including one way traffic, a no right turn at its junction with Orford Hill and most important permitted passage for deliveries and emergency vehicles only.

These restrictions can only add to the practicality of this "Al Fresco" drinking and dining atmosphere which is strictly confined to the designated areas by the use of barriers and constant monitoring by the staff and management of the public house. The recently imposed government smoking ban has also led to outside smokers a problem encountered by every licensed premise in the land.

I have been employed part time as a bar supervisor for the last 8 years at The Gardeners and also hold a personal license. Prior to my employ I owned and successfully ran The Kings Head in Hethersett for 13 years and am a fellow of The British Institute of Innkeepers. I therefore feel confident in my ability and obligations towards controlling the running of the Gardeners Arms and outside areas thereto. I am held in the highest esteem by the vast majority of my customers and their respect is reciprocated by myself and my staff.

To this end I strongly support the application REF 08/00650/TABCHA and look forward to the continuance of tables and chairs outside of The Gardeners/Murderers Timberhill Norwich.

Thankyou

Yours Faithfully John. M. G. Ashley.

To be appended to:-

REFERENCE 08/00650/TABCHA

RE. Tables and Chairs outside Gardeners Arms, Timberhill, Norwich.

Enclosed 2x sheets of 8x views showing traffic restrictions on Timberhill, Norwich taken 11.11.2008.

These restrictions are blatantly ignored by many traffic users of Timberhill and I feel it pertinent to include them in my letter of support to the above application. Thankyou.

Yours faithfully

JOHN M.G. Ashley.



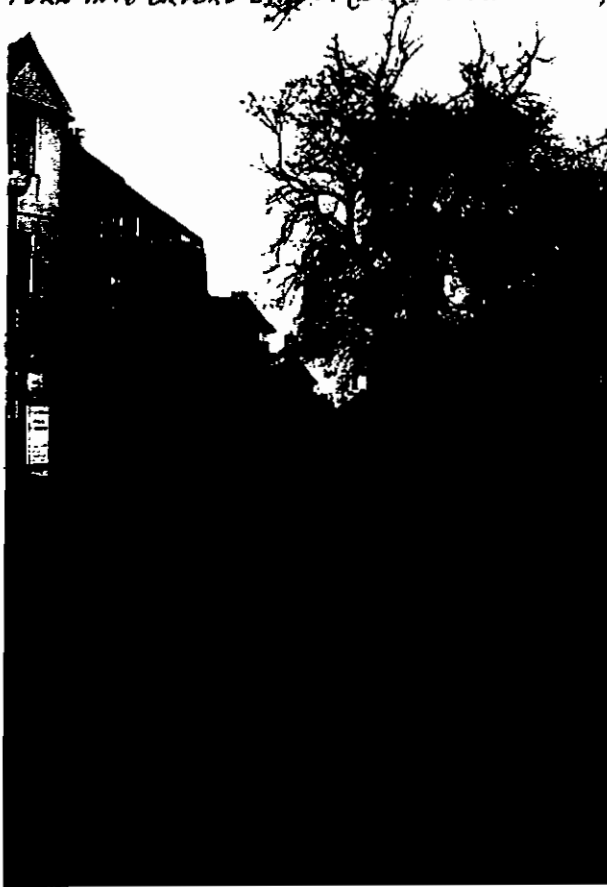
NORTH END TIMBERHILL SHOWING NO RIGHT TURN  
INTO ORFORD STREET



NORTH END OF TIMBERHILL SHOWING NO RIGHT  
TURN INTO ORFORD STREET (CLOSE UP PREVIOUS PICTURE)



SOUTH ENTRY TO TIMBERHILL SHOWING  
TRAFFIC RESTRICTIONS



TIMBERHILL VIEWED TO NORTH

TIMBERHILL VIEWED SOUTH SHOWING NO ENTRY



TIMBERHILL VIEWED SOUTH. GARAGES ARE TO LEFT.



TIMBERHILL VIEWED NORTH SHOWING  
NO RIGHT TURN ON TO ORFORD STREET



SOUTH ENTRY TO TIMBERHILL SHOWING TRAFFIC  
RESTRICTIONS

**Streeter, Ian**

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**From:** Streeter, Ian  
**Sent:** 28 November 2008 11:35  
**To:** 'Colin Daniels '  
**Subject:** RE: The Gardener's Arms

Dear Sir

Thank you for your email which I will include in the report to the council's Regulatory Committee when considering the Gardeners Arms tables and chairs licence.

Yours faithfully

Ian Streeter  
Senior Licensing Officer (Team Leader)  
Norwich City Council  
(01603) 212439  
ianstreeter@norwich.gov.uk

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**From:** Colin Daniels  
**Sent:** 27 November 2008 23:08  
**To:** Streeter, Ian  
**Subject:** The Gardener's Arms

Dear Ian,

I'm writing to you because it has been brought to my attention that the ongoing dispute between The Gardener's Arms and Moss & Leakey Opticians has taken, in my opinion, a unnecessary turn.

It is important to point out at this juncture that I am not speaking for any particular group but purely as a disabled patron of The Gardener's Arms. I was astounded to discover that Mr. Foskett was expressing concerns that the tables and chairs in front of the pub were in some way discriminating against people with disabilities. As a severely partially sighted person who uses a guide dog and on some occasions a white cane find the barriers outside the pub as both a navigational aid and protection for my dog whilst outside the pub.

As Timber Hill has been pedestrianised over the last few years I have found it easier to navigate with or without my dog. The only issues that ever arose in that area of the city were the cobbles which have now been removed and the traffic cones that seem to move about and never be in the same place.

During the time that I have been frequenting the gardener's Arms I have found the management and staff of the pub to be nothing but accommodating to both me and my dog. Mr. Cutter and his staff team always ensure that all customers are looked after whether they are disabled or not. I know that

28/11/2008

†

Mr. Cutter would never intentionally discriminate against anyone and I believe that Mr. Foskett is using the disability issue as a stick to hit him with because this may be his final course of action to have the table and chairs removed.

I hope that a suitable and amicable resolution can be found to these ongoing issues and if I can be of any further assistance please do not hesitate to contact me.

Yours,

Colin Daniels

28/11/2008



# APPENDIX MF G

## Annex 2 – Conditions consistent with the Operating Schedule

### 1 General - all four licensing objectives

2 1. Existing procedures will be applied to the premises in relation to the additional hours requested.

### 3 The Prevention of Crime and Disorder

4 1. The Licensee will operate in strict compliance of the law in respect of the operation of the premises and maintain good standards of behavior by his customers.

2. If required to do so by Police he will operate a Text/Radio Pager with local Police.

3. Door supervisors, who must be SIA registered, will be utilised when required.

4. The Portman proof of age scheme will be in operation on the premises.

5. Regular glass collections will take place.

6. The licensee will advertise, sell and promote the sale of alcohol responsibly, and in such a way that it will not intentionally, or is likely to, encourage the excessive consumption of alcohol.

### 5 Public Safety

6 1. The Licensee will undertake ongoing risk assessments in order to comply with Health and safety and Fire Prevention legislation.

### 7 The Prevention of Public Nuisance

8 1. The Licensee will undertake a risk assessment to ensure that proper measures are taken to avoid any public nuisance.

2. The Licensee will ensure that notices will be displayed at all exits requesting the Public to leave the premises and area quietly and to place litter in the receptacles provided..

### 9 The Protection of Children From Harm

10 1) Children are allowed in the cafe bar area of the premises for the purpose of eating, and must be accompanied by an adult.

2) All children are expected to be off the premises by 18:00. Relevant signage will be affixed in relation to admittance of children.

3) Any 16/17 years employed at the premises will be risk assessed to assess their suitability for the role.



## REGULATORY COMMITTEE

11.00 a.m. – 2.55 p.m.

17 February 2009

Present: Councillors Dylan (Chair) for Item 5, Blower (Chair) for Item \*7 onwards, Cannell, Hooke, Jago, and Ramsay

Apologies: Councillors Banham and Lay

### 1. MINUTES

**RESOLVED** to agree the accuracy of the minutes of the meeting held on 20 January 2009.

### 2. TABLES AND CHAIRS DETERMINATION POLICY

**RESOLVED** – to ask the Committee officer to refer this to the Head of Legal and Democratic Services.

### 3. APPLICATION FOR RENEWAL OF LICENCE TO PLACE TABLES AND CHAIRS ON THE HIGHWAY – THE GARDENERS ARMS PUBLIC HOUSE, 2-4 TIMBERHILL, NORWICH

(Ivan Brown, proprietor, Mr Cutter the applicant, his legal representative Mr Hardie, Mr Foscett, objector, members of the public, Councillor Holmes, representatives from Norfolk Constabulary and the Council's Anti Social Behaviour Officer attended the meeting for this item.)

(A letter from Mr Foscett's solicitor and a copy of an exchange of the Council's emails from and to the Council's solicitor were circulated to members of the committee.)

The Chair outlined the procedure and noted that Mr Foscett's solicitor had written to the licensing office asking for an adjournment to allow his client time to seek legal advice, time to speak to a local Councillor and to consider legal representation at the committee meeting.

The Council's solicitor informed the Committee an email containing the Principal Transportation Planners detailed report was sent promptly after the 3 February 2009 by the Licensing Manager to Mr Foscett. The Council's solicitor said Mr Foscett had sufficient time to seek legal advice and consider representation and Mr Foscett had an opportunity to speak to his local Councillors on a daily basis. For the reasons given in his email response before committee the Council's solicitor did not support the adjournment request.

Mr Foscett confirmed he had meet with his local councillor the previous evening, when Councillor Holmes had witnessed a serious incident on the public highway outside the Gardeners Arms.

Mr Hardie on behalf of the applicant said he opposed an adjournment as he considered the application could be properly heard as all parties have had sufficient time to consider matters.

Mr Foscett said as he had insufficient time to seek legal advice to deal with the various issues contained in the report. He said that the Council's guidelines were not the same as other local authorities, he asked for an adjournment until the next meeting of Regulatory Committee. He explained that if he did not receive an adjournment he would leave the meeting as advised by his solicitor.

(The applicant, his legal representative, Mr Foscett, the Enforcement Officer and all members of the public including Councillor Holmes, the Council's Anti Social Behaviour officers and the representatives from the Norfolk Constabulary left the meeting at this point.)

Following discussion it was –

**RESOLVED**, with 2 members voting against an adjournment, (Councillors Cannell and Hooke) 1 member voting in favour (Councillor Ramsay) and 1 member abstaining (Councillor Jago) to continue with the application for renewal of the licence to place tables and chairs on the highway. Committee considered that Mr Foscett had previously had sufficient time to seek legal advice, consider legal representation and seek the opinion of his local Councillor, that the matters to be considered by committee were known.

(The applicant, his legal representative, Mr Foscett, the Enforcement Officer and members of the public including Councillor Holmes, the Council's Anti Social Behaviour officers and the representatives from the Norfolk Constabulary were re-admitted to the meeting and informed of the decision minuted above).

Mr Foscett left the meeting at this point.

The Enforcement Officer presented the report. He explained this application was to renew an existing licence to place tables and chairs on the highway.

Mr Hardie on behalf of the applicant addressed the committee during which he referred to the letters of support for the application and the guidance supplied by the highways department, which addressed issues raised by Mr Foscett. He said his client was aware of the problems Mr Foscett had but was not aware of any complaints of noise or nuisance. His client had no control over the area beyond the tables and chairs. He asked that the application be granted for 12 months.

Councillor Holmes gave his account of the disturbance outside the Gardeners Arms the previous evening. Mr Ashley, Senior Supervisor at the public house said he had worked at the Gardeners Arms for 8 years and said the tables and chairs area was constantly monitored by staff and management. Mr Daniels, a visually impaired person gave his account of the running of the establishment by the staff and management and gave his support for the application. Mr Grant as a close neighbour said he could not remember any incidents of disorder or noise attributed

to the public house. He had never had any issues or concerns and fully supported the application. There were no objections by the Police Authority or the Highways authority. Members of the Norfolk Constabulary spoke and confirmed they were happy with their relationship with the management of the premises and had no issues with control of the public on matchdays.

In reply to questions from Councillor Ramsay regarding disturbance, the applicant explained the way they deal with any incidents that may arise and in particular the incident the previous evening.

Following summing up by the applicant's legal representative -

(The applicant, his legal representative, the Enforcement Officer and all members of the public including Councillor Holmes, the Council's Anti Social Behaviour officers and the representatives from the Norfolk Constabulary left the meeting at this point.)

Following discussion it was -

**RESOLVED**, unanimously to grant a 12 month licence to the Gardeners Arms Public House to place tables and chairs on the highway, subject to all the conditions on the previous licence.

Members stated their reasons including the following:-

- they had carefully considered matters raised by the objectors and the responses made to these. Committee noted the support of the local resident;
- Members considered the level of nuisance arising from the use of the tables and chairs to be minimal;
- Members noted the report of the Principal Transportation Planner and considered this use to be an appropriate use of the highway;
- Members confirmed they had considered their duties under the Disability Discrimination Act and noted the support of a partially sighted user of the premises;
- Members therefore, considered it appropriate to grant the licence and this was granted for a period of twelve months.

(The applicant, his legal representative, the Enforcement Officer and members of the public including Councillor Holmes, the Council's Anti Social Behaviour officers and the representatives from the Norfolk Constabulary were re-admitted to the meeting and informed of the decision minuted above).

#### **4. EXCLUSION OF PUBLIC**

**RESOLVED** to exclude the public from the meeting during consideration of items 5 - 10 (inclusive) below on the grounds contained in paragraphs 1 and 3 of Part 1 Schedule 12A of the Local Government Act 1972.

**APPENDIX**

**Streeter, Ian**

**From:** Allison, Tim [Tim.Allison@fire.norfolk.gov.uk]

**Sent:** 07 February 2011 16:18

**To:** Streeter, Ian

**Subject:** RE: Gardeners Arms Timberhill Norwich - application to renew tables and chairs licence

**REG CTG**

**21-2-11**

Hi Ian,

I have had a look through the attached correspondence you sent regarding the renewal of the tables and chairs licence for The Gardeners Arms.

As long as the access width is not reduced below the original dimensions quoted in the application of February 2007 eg the available width shown for Fire Appliances is 3.8metres (between pavements) we would have no objection to this renewal.

Bearing in mind there is reference to this having been reduced then we would follow the same guidance as the building regulations and Chief Fire Officers Association in that a minimum available width of 3.7metres is required.

However the pavements on this stretch of road are 'notional' so could be included in the measurements, as per the diagrams in the attached correspondence, thereby giving us more than the required minimum width.

Regards

Tim

**Tim Allison**  
**Fire Safety Advisor**  
**Central Fire Safety Department,**  
**Bethel Street, Norwich. NR2 1NW**  
**Tel: 01603 229036**  
**Mob: 07919 492273**  
**[tim.allison@fire.norfolk.gov.uk](mailto:tim.allison@fire.norfolk.gov.uk)**  
**[www.norfolkfireservice.gov.uk](http://www.norfolkfireservice.gov.uk)**

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**From:** Streeter, Ian [mailto:IanStreeter@norwich.gov.uk]

**Sent:** 07 February 2011 12:41

**To:** Allison, Tim

**Subject:** Gardeners Arms Timberhill Norwich - application to renew tables and chairs licence

Hi Tim

I hope I'm writing to the right person, but if not can you forward to the appropriate officer who would deal with the matter.

I have received an application from Phil Cutter of the Gardeners Arms (aka The Murderers)

09/02/2011

# APPENDIX

## E

### REG CTTE

#### 21-2-11

Note for Ian Streeter

#### Gardeners Arms PH – Timberhill

I have been sent a copy of the further objection to the renewal of the License at The Gardeners Arms, Timberhill, received from David Foscett. I stand by the contents of my previous note (February 2009), but here are a few additional points in relation to the latest correspondence from Mr Foscett.

#### Guidance

The objection specifically cites two Government publications, namely Manual for Streets (MfS) and Inclusive mobility (IM). As I previously said, both of these documents are guidance, and in a historic environment, where there is a need to cater for movement and to ensure that the street operates as a vibrant place where people want to be (that is, after all, the function of a pedestrianised street in a City Centre). It is, therefore, inappropriate to apply the guidance as inflexible standards that do not take account of the overriding aims of MfS on of which, as I previously mentioned is to *recognise the importance of the community function of streets as spaces for social interaction*.

For reference, and so that there is no ambiguity in what is actually said, I have reproduced here the entire advice contained in IM relating to street widths

#### 3 Footways, Footpaths and Pedestrian Areas

The distinction between a footway and a footpath is that a footway (usually called the pavement) is the part of a highway adjacent to, or contiguous with, the carriageway on which there is a public right of way on foot. A footpath has no contiguous carriageway. Where reference is made to one, it can generally be regarded as applying to the other for design purposes.

##### 3.1 Widths

A clear width of **2000mm** allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints **1500mm** could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. The absolute minimum, where there is an obstacle, should be **1000mm** clear space. The maximum length of restricted width should be **6 metres** (see also Section 8.3). If there are local restrictions or obstacles causing this sort of reduction in width they should be grouped in a logical and regular pattern to assist visually impaired people. It is also recommended that there should be minimum widths of **3000mm** at bus stops and **3500mm**

|   |
|---|
| to <b>4500mm</b> by shops though it is recognized that available space will not always be sufficient to achieve these dimensions. |
|---|

## **Comments on most recent objections**

*The recommendation that there should be a 3.5m wide pavement outside shops means that at least 7m is desirable in Timberhill*

It is clear from the guidance (reproduced above) that the intention is (where possible) to allow for wheelchairs to pass each other, give adequate access for necessary street furniture, whilst people congregate outside the businesses and within the street. This is because shopping streets are expected to be designed as social spaces, even where there is an adjacent and busy vehicular carriageway and the aim is to ensure that people do not have to step out in front of traffic. There is no evidence of any significant level of pedestrian conflict on Timberhill, and the pedestrian flows are, in any case relatively light. Suggesting that 7m metres width is necessary in these circumstances, and using it as justification for preventing social use of a pedestrianised street is totally contrary to the aims of both this guidance (which is to ensure that disabled people are properly catered for within the built environment), and MfS.

*I previously suggested the 2.75m running width is acceptable for fire tender access*

This is the advice in manual for streets, which I reproduced just to demonstrate that the much greater width here is significantly wider than the minimum that could be acceptable. I think that is obvious from the context.

*Designing everything to a minimum creates potentially hazardous situations.*

Timberhill is very far from 'minimum' in any respect. Emergency access is more than adequate, space for pedestrians substantially exceeds the minimum recommended levels, and the street has been carefully redesigned to cater for modern use in an historic context (which it would be inappropriate to change), specifically with the aim of providing an environment where increased social activity is possible.

## **Issues were not previously addressed**

*Concern about shared surfaces deterring pedestrians*

Timberhill is a pedestrianised street with access allowed solely for the servicing of adjacent businesses. This is typical of pedestrianised streets in the city (although some are time limited), and every time we have undertaken work of this nature,

pedestrian flows have increased substantially. The design actively encourages pedestrian activity rather than deterring it

*The issue of the gradient was not addressed*

Timberhill is on a natural slope, and the gradient is not excessive (and certainly within the limits that would be acceptable for a new highway). Vehicular speeds are low, and so far as I can see this is not an issue

*Vehicular swept paths were not considered*

These are considered at the design stage and are usually only an issue where very tight turns are necessary. In any case, Timberhill is almost straight at this point.

*The area might need to be widened to cater for Disabled Access requirements*

The impact of this will have to be considered if it is proposed. It does not affect consideration of the current proposals

## **Conclusion**

I remain of the opinion that there are no transportation reasons why tables and chairs should not be located on Timberhill outside the Gardeners Arms.

Bruce Bentley

Tuesday, 08 February 2011



## **Note for Ian Streeter**

### **Gardeners Arms PH – Timberhill**

I have been sent a copy of an objection to the renewal of the License at The gardeners Arms, Timberhill, received from David Foksett and Nadarajah Sasitharan. This note has been prepared as a response to the points made in that correspondence where they relate to issues within the Public Highway

### **Guidance**

The objection specifically cites two Government publications, namely Manual for Streets (MfS) and Inclusive mobility (IM). Firstly, these are both guidance, and do not contain 'standards'. This is important, because the whole point of guidance is that it is employed with consideration. Previous advice on Highways design such as that contained in the forerunner to MfS focussed on a standard approach, largely giving priority to vehicular based movement. MfS in particular sought to reverse that approach. It is particularly important to note that much of the advice that is contained in MfS had been practiced here in Norwich for many years prior to its publication. The main changes in approach the MfS recommends (over this previous standards based approach, which as I have said was not used in Norwich anyway, are detailed in paragraph 1.6.1. I've highlighted (*in italics*) those areas that I believe to be most relevant here:

- *applying a user hierarchy to the design process with pedestrians at the top;*
- *emphasising a collaborative approach to the delivery of streets;*
- *recognising the importance of the community function of streets as spaces for social interaction;*
- *promoting an inclusive environment that recognises the needs of people of all ages and abilities;*
- reflecting and supporting pedestrian desire lines in networks and detailed designs;
- developing master plans and preparing design codes that implement them for larger-scale developments, and using design and access statements for all scales of development;
- creating networks of streets that provide permeability and connectivity to main destinations and a choice of routes;
- moving away from hierarchies of standard road types based on traffic flows and/or the number of buildings served;
- *developing street character types on a location-specific basis with reference to both the place and movement functions for each street;*
- encouraging innovation with a flexible approach to street layouts and the use of locally distinctive, durable and maintainable materials and street furniture;
- using quality audit systems that demonstrate how designs will meet key objectives for the local environment;
- designing to keep vehicle speeds at or below 20 mph on residential streets unless there are overriding reasons for accepting higher speeds; and

- using the minimum of highway design features necessary to make the streets work properly

IM is also guidance, and recognises that ideal footway widths might not be possible within the available width, but suggests that ideally, outside shops 4.5m width would be desirable.

I fully agree with the objectors concerning the application of local design guidance, embracing the principles of MfS, and this is indeed what our own street design standards do. However, Norwich is an historic City, and to blandly apply width standards in existing historic streets (where it is often impossible to achieve any of the suggested widths, even those in MfS) would clearly be inappropriate. We thus suggest that any pavement cafes should 'leave sufficient footway space for the volumes of pedestrians using the street'.

The important point here is the MfS tells us that we should apply local guidance embracing MfS. Therefore applying guidance that has been prepared for Wolverhampton or indeed Hammersmith and Fulham is not necessarily appropriate for Norwich.

### **Context**

Timberhill is a pedestrian area. The entire width of the street is pedestrian pavement, but has been constructed to take the weight of necessary vehicles. It has been designed to achieve the effect of a street with a vehicular carriageway, but does not have a traditional carriageway and kerb edge. As with many historic streets, the width varies, but along much of its length it is too narrow for two large service vehicles to pass each other without striking buildings to either side. Access to the street is permitted for access and servicing only, and the street is one-way for vehicles from Golden Ball Street to Red Lion Street. Parking is not permitted. There have been no injury accidents on Timberhill during the last 15 years.

### **Comments on objections**

*'Existing footway is as low as 1.2m'*

The entire width of the street is footway, as it is a pedestrianised area. There is therefore around 6 metres available for pedestrians (4.7m with the tables and chairs in place that well exceeds the recommended width).

*'Existing vehicular carriageway width is 3.6m'*

The entire width of the street is capable of supporting vehicles and the differentiation is for streetscape purposes within a pedestrian area, and the total running width available is therefore around 6m, and around 4.7m with the chairs and tables in place. In any event, MfS continues to say that 'to simply reach a fire the access could be reduced to 2.75m', and the Fire Brigade are always consulted as part of street redesign, and again as part of any application for licences on the Highway.

In the unlikely event that a fire was to break out in an adjacent building, I think it reasonably likely that the Fire Brigade would move any tables and chairs that were causing an obstruction, and indeed any vehicle loading in the vicinity.

*A notional 5.1 m shared pedestrian and emergency vehicle pathway leaves only 0.6m available between opposite frontages*

This dimension is provided from guidance produced by other local authorities for their own use, and as I have already said is therefore not necessarily applicable in Norwich. However, even if it were, it is still guidance, and I have spoken to both Hammersmith & Fulham and Wolverhampton who have advised me that they do not apply this dimension rigidly (as indeed in the spirit of MfS they should not), and the dimension is suited to two-way operation, whilst Timberhill is of course, only one-way. Additionally, there are many pedestrianised streets across the country which are used as emergency accesses to a wide area. In the case of Timberhill, the only requirement for access other than servicing would be in the event of an emergency in Timberhill itself, which hopefully is a very rare event indeed.

*'The guidelines require authorities to 'take into account parking (problems) and the level of parking enforcement' MfS 7.2.2*

Yes they do, but what MfS actually says is 'Carriageway widths should be appropriate for the particular context and uses of the street. Key factors to take into account include: 'whether parking is to take place in the carriageway and, if so, its distribution, arrangement, the frequency of occupation, and the likely level of parking enforcement (if any);'

Parking is not permitted on Timberhill, and as the street is within the City Centre levels of parking enforcement are high. Most of the vehicles on the street are legitimately there servicing local businesses. This is not a 'massive parking problem'.

*'The application obstructs proper use of the highway in its existing format, and more so in a format meeting DDA regulation, and does not embrace MfS guidelines as directed.'*

Firstly the advice referred to are guidelines, not regulations or directions, and need to be interpreted to individual circumstances and the locality. In any case the main thrust of MfS is to encourage the use of streets as real places for people to engage with each other, and to give vehicle movement much less prominence in design. Timberhill is a pedestrian area, and the width of street available for vehicle manoeuvring is more than adequate for the circumstances

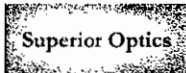
### **Photographs**

These appear to demonstrate admirably that pedestrian are well aware that the full width of the street is available for their use. Those photographs showing the movement of large vehicles seem to show that, despite the narrowness of the street the arrangements work quite well. It is inevitably the case that when a large vehicle enters a street such as Timberhill, it will dominate the area. At least one of the

photographs relates to a period when the street was being reconstructed. There would inevitably be more congestion at that time.

Bruce Bentley BSc BTP  
Principal Transportation Planner  
Tuesday, 03 February 2009





A REPUTATION IN OPTICS GAINED THROUGH EXCELLENCE

Moss

&

Leakey

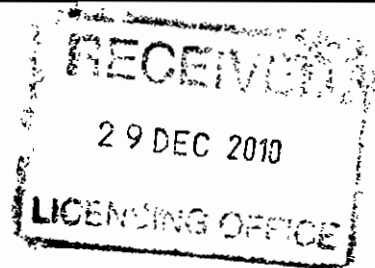
Designer Eyewear

**APPENDIX G**

**REG GTR**

**21-2-11**

Attn: Ian Streeter  
Licensing Office  
Norwich City Council  
City Hall  
Norwich  
NR2 1NH



24<sup>th</sup> December 2010

For attention: Regulatory Committee

Re. Renewal Application for a Tables & Chairs Licence: The Gardeners Arms (GA)

The writers are Mr David Foskett and Dr Nadarajah Sasitharan, the partnership trading as Moss & Leakey Opticians at 1 Timberhill Norwich.

We object to renewal principally on the following grounds;

- 1/ obstruction to movement, unsuitability of site space (including the application area and surrounds) and function;
- 2/ continuing (and historic) breach of licence conditions;
- 3/ nuisance and impact on the character and vitality of the area.

We submit herewith evidence, correspondence and record logs to the Committee in supporting of our objection. Our keeping of record logs is pursuant to advice received from NCC.

We expand on each of the above grounds of objection below but comment, in the first instance, on documents lodged in support of the contested licence application of February 2009 insofar only as such comments are considered most pertinent to the licence application to be determined:

- Applicant's letter of 4<sup>th</sup> November 2008

*The Applicant alleges the exaggeration and fabrication of nuisance events and the false reporting of these to Committee by Moss & Leakey (M&L)".*

We confirm that we have always accurately logged and reported nuisance to the Police or Licensing Enforcement and at their request. We have been advised of the appropriateness of recording such nuisances for the purpose of allowing the decision-making Committee to consider them within the context of the application and the requirement for the applicant to demonstrate why the application should be granted and in the very terms of the application. The introduction of an external CCTV system has provided recorded digital video evidence which has been viewed and witnessed by various

Partners Dr. N. Sasitharan & D. Foskett

Head Office

1 Timberhill  
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Tel 01603 661001

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david@mossandleakey.wanadoo.co.uk

- 1 -

Also at

16 Norfolk Street  
Kings Lynn PE30 1AN  
Tel 01553 765270

29 Market Place  
Dereham NR19 2AP  
Tel 01362 699798

15 High Street  
Hunstanton PE36 5AB  
Tel 01485 535800

police officers and authorised Council officers alike. There is of course nothing controversial by the fact that reference is made to such material in support of an objection to a licence application, whether that application is made for a fresh grant or for renewal.

At all times accurate reports have been communicated to Committee and indeed supported with witness evidence given by Councillor Adrian Holmes to the Regulatory Committee.

Indeed, we consider that the Applicant has provided, whether wilfully or otherwise, misleading evidence to the Committee in support of previous applications and in order to seek to undermine our objection. We append correspondence from The Gallery Timberhill dated 19<sup>th</sup> May 2008 (**Appendix A.1**) and to Howes Percival dated 22<sup>nd</sup> May 2008 (**Appendix A.2**)

*The Applicant alleges low levels of nuisance historically and promotes his efforts made to control nuisance events*

Numerous instances of noise nuisance and anti-social behaviour are a matter of record and are undisputed save by the Applicant. The harmful impact of the use of tables and chairs at the Applicant's site on neighbouring businesses has been highly specific, not least on our business.

The Applicant contradictorily writes that there is no history of nuisance and yet also acknowledges that nuisance and complaints of nuisance have been ongoing since the inception of M&L (Feb 2003) and also over "...a further four years...".

We note that there has been an exponential escalation of nuisance since the smoking ban on 1<sup>st</sup> July 2007. Local police officers advise this to be a problem throughout the City where smokers are now forced to move from the confines of licensed premises into outdoor public spaces.

The declarations of goodwill made by the Applicant and his purported concern for our business - manifesting in an extensive action plan for the control of nuisance - are wholly inconsistent with the actual and persistent breach of licence conditions intended to protect us from nuisance (see below).

*The Applicant writes that the "real issue" is M&L's unreasonable perception of nuisance*

In point of fact the essential problem has been one of the Applicant's disregard for the nuisance issue. It is clear that the Applicant views nuisance in an altogether different way from how it must be assessed: whether there has been unreasonable interference with the enjoyment of land. The Applicant's treatment of 'nuisance' has been to identify whether or not physical violence has occurred in and around the area designated for the use of tables and chairs.

It is highly instructive that both premises immediately facing the application site have strongly objected to persistent nuisance and describe the same disorder, rowdiness and foul language a principal grievance. The immediacy of the location of the tables and chairs together with the capacity of the area and frequent spill-over of patrons has undoubtedly resulted in nuisance and repeatedly so. The sensitive receptors, of which our business is just one, sited within the vicinity of The Gardeners Arms means that the harmful effects of the nuisance are significant. Many of these effects however cannot meaningfully be abated or satisfactorily controlled by means of licence condition.

Despite adding Licence Condition 16 at the previous hearing, 'Licensee to ensure no nuisance or annoyance to neighbouring premises', the Applicant does not consider rowdiness and foul language



to constitute real nuisance which he would describe as high spirited "banter" warranting no control by him outside his licensed premise when this manifests in the street.

*The Applicant describes general trading conditions as the cause of loss of business*

We have evidence showing a substantial and wholly unsustainable fall in our trading position immediately following 1<sup>st</sup> July 2007. This substantial fall has been continual. Losses at Norwich are inconsistent with other practices in the group, unhampered by this phenomenon, and can only be attributed to the grossly unwelcoming and intimidating atmosphere in the street which disallows relaxed window shopping from which the new business we depend on is found.

Both neighbouring objectors have vigorously contended that the NCC's objective of enhancing the character and vitality of the area is not being promoted by the grant of the tables and chairs licence.

In summary, the sentiment of this inappropriately personal letter is an expression of serious ill will toward M&L and explains, in part, the Licensees inappropriate use of the application site.

Licensing letter of 14<sup>th</sup> September 2007

We acknowledge receipt of this guidance from Mr Streeter relating to conditions applying to the licence and which touch on the following:

- the number of tables and chairs allowed (and required) by condition;
- other unauthorised use of the licensed space;
- the requirement for the licensed area to be barriered.

We deal with these points below.

Report to Regulatory Committee: 17<sup>th</sup> February 2009

We are of the view that the report did not satisfactorily record the breadth of the problems arising from this licence.

Those key matters which were not dealt with in the report were:

- a detailed description of the area surrounding the application site highlighting the acute narrowness of the street and the confinement of noise levels and for the obstruction of pedestrian and disabled access;
- acknowledgement of the applications sites acute proximity to other neighbouring trading premises and the potential impact on those businesses in the event of noise and nuisance arising;
- records of the extent of nuisance events and complaints made between hearings;
- records of breaches of licence and non-compliance arising between hearings;
- notes on action taken by NCC in ensuring adequate monitoring and compliance at the site.

This is not an exhaustive list.

Note for Ian Streeter (NFIS): Highways Report dated 3<sup>rd</sup> February 2009



We adopt but do not rehearse here our representation of 17<sup>th</sup> November 2008. This representation addresses the obvious inadequacies and inappropriateness of the area for tables and chairs.

Inclusive Mobility (IM) and Manual for Streets (MfS) give clear recommendations for the design of highways. In principle the recommendations set out in these authoritative guides should be followed in all cases wherever possible. Where it is not possible for the recommendations to be followed, clear and adequate reasons should be given. No clear or adequate reasons have been given as to why the key recommendations announced in these publications are being rejected, and by the grant of the licence.

Not least, paragraph IM 3.1 states: 'It is recommended that there should be a minimum width of 3.5m-4.5m by shops' and hence our original submission that at least 7.0m is recommended for pedestrian traffic in a street such as Timberhill which has shops on both sides of the street. The reasoning is clear here when MfS states 'In areas of high pedestrian flow the quality of the walking experience can deteriorate unless sufficient width is provided ... insufficient capacity should be avoided. It is inconvenient and may encourage people to step into the carriageway'

Further, MfS 6.7.2 & 6.7.3 states: 'The Building Regulation requirement B5 (2000) concerns access and facilities for the Fire Service...there should be a minimum 3.7m running carriageway...' and 'The Association of Chief Fire Officers has expanded upon and clarified these requirements. If an authority wishes to reduce ... they should consult the local Fire Safety Officer.'

The NfIS report suggests a 2.75m access is adequate but this is misleading. MfS proposes a 2.75m absolute minimum width for a single access route but only in the context of a low density residential housing estate setting (which is likely to include cul-de-sacs in the design) but certainly does not propose this in a city centre environment which bears a major city centre shopping mall fronting on to it. Similarly, the distinction between one-way and two-way operation of the street in the report is irrelevant when the desirable 5.1m highway width is sought only to accommodate a single 'speeding' Fire engine passing pedestrian traffic in the highway on its way to a fire event.

In any event, it is clearly impossible to provide even the minimum pedestrian footpath widths fully in a street measuring just 6.0m in total and IM states in these circumstances '... it is recognized that available space will not always be sufficient ...'. Likewise maintaining a clear running carriageway width of 3.7m for the Fire Service (by kerbing the carriageway) at the expense of leaving footpaths of just 1.2m for pedestrian movement on either side of the street would be nonsensical and dangerous.

Therefore we agree with the NfIS report in as much as the current design and layout at Timberhill is probably the best solution given the physical parameters of the street when an 'ideal' situation cannot be accommodated. However, where we disagree with the report is that we believe the application site to be an unnecessary and unwarranted obstruction of a major pedestrian desire line in the City.

To illustrate this we may consider an engineer designing a new highway. If he were to design down to 'minimum this' upon 'minimum that' upon 'even less than minimum the other' he would create a potentially hazardous scheme and this would be inarguably bad practice. Where the report is flawed is that it seeks to do just that but 'in reverse' in explaining away inadequate provision upon inadequate provision to justify an historical situation.

Significantly, had the report sought instead to suggest the most efficacious scheme for pedestrian and vehicular movement in the street it could only propose the full and unobstructed use of the

available highway for that purpose, using 'best practice'. The report is, we feel, incoherent in terms of the clear recommended guidance and has evidently started at an 'end point finding'.

Importantly, we consider that the report has also failed to address gradients in the street, vehicular swept paths on the curving highway and pedestrian anxiety with shared surface designs. MfS and IM refer to studies describing how pedestrian visitors are deterred from entering an area when they feel threatened by or in conflict with vehicular traffic and particularly on shared surfaces where footway / carriageway definition is uncertain.

In this context the report clearly failed to recognise the high volumes of vehicular and pedestrian traffic and has showed no appreciation of the chaotic parking issues which present at the Timberhill & Orford Plain area. Presently, these are lightly policed.

Notably also, the 'what if' scenario, should the application site require enlargement to meet with DDA regulations, has been completely unanswered.

#### Detailed Objection

##### 1/ obstruction to movement, unsuitability of site space (including the application area and surrounds) and function:

- Obstruction to movement

We rely in part on our submission of 17<sup>th</sup> November 2008, its narrative, diagrams and images which all remain relevant in making our objection. For the purposes of clarity, and so this is not confused with our new submission, we attach this for information purposes at **Appendix B**.

In addition, there has been a recent and significant development which concerns movement in the street, namely the inception of the NHS Timberhill Health Centre. The Centre deals with emergency admissions between it and the NNUH and in making these transfers the Ambulance Service are inclined to drive against the one-way traffic flow up and along Timberhill to access the facility.

In other documents it was suggested (perhaps facetiously) that if the application site's barriers and tables & chairs were in the way of an Emergency Service Vehicle (ESV) the application site obstruction should be quickly dismantled to restore access. Careful consideration must be given to this development and the likely (and wholly unacceptable) obstruction to movement of an ESV could mean the difference between life and death.

We note that 'Inclusive Mobility and Manual for Streets' set codes of practice for the good design of barrier free environments precisely to avoid such unacceptable conflicts and in the light of these new developments we consider the licence should not be renewed for this reason alone.

- Unsuitability of site space and function

Discussion and correspondence has been had over three years with Licensing & Enforcement regarding the misuse of the application site space. Despite an enormous effort, we and L&E have been largely unsuccessful in having the site operate in accordance with the conditions of the licence and within the framework of the licensed activities. We contend this failure in itself to be indicative of structural problems arising from the impracticality of the spacing.

The licence is for a set number of tables and chairs arranged in a set pattern but these stipulations are routinely flouted and telescoping areas of the site are without any tables or chairs providing just standing space for drinking and smoking in the public highway. Practically, diners drinkers and smokers are unable to use the space independently and the conflict of usage raises significant public health issues.

The licensed space is just 1.5m in width and inadequate to accommodate tables, seating and walkways for access to these. In refreshment spaces Inclusive Mobility 9.4 recommends 'Gangways between tables should be a minimum of 1.3m wide to allow for the passage of wheelchair users and people with assistance dogs, ... 0.9m may be acceptable ... where space is limited'.

Barriers are not contiguous and instead erected in short 3.0m sections, punctuated by four 1.5m-2.5m open sections which lie beyond the entry point in order to allow access and egress to and from the space. Diagram A (**Appendix C**) describes the access movement lines which are consequently well beyond the licensed space and substantially increase the highway in usage by the Applicant. This not only means a breach of licence, and a failure to observe the reasons for conditioning the licence in this way, but in practice also means that the physical obstruction of the narrow way is hazardedly obstructed.

The in practice functioning of the site obstructs a major part of the highway as we have shown in video evidence to Committee when during match day usage and other peak events. This most vividly illustrates the unacceptability of the situation.

Historical events, evidenced and exemplified in volume, together with the Applicant's ongoing manipulation of the licence is in itself implicit acknowledgement by the Applicant of the problematic spacing and hazardous obstruction of the space.

## 2 / continuing (and historic) breach of licence conditions

A brief summary of the numerous breaches witnessed is as follows;

- Condition 7 - permission hours 08:00 to 23:30 - regularly breached (see: Site Times Log - **Appendix D**).

A log has been kept for a period of one annual cycle between 7<sup>th</sup> March 2009 and 30<sup>th</sup> April 2010, excepting winter months. In this period 313 days were logged and 185 breaches were recorded.

Sample extracts:      21<sup>st</sup> Oct to 9<sup>th</sup> Dec 2009 - 44 of 44 days logged in breach consecutively  
                                 15<sup>th</sup> Mar to 30<sup>th</sup> April 2010 - 32 of 45 days logged in breach

We refer also to the latest notification of breaches sent to Licensing & Enforcement in correspondence at 28<sup>th</sup> August 2010 at **Appendix E**

- General Condition - positioning of T&Cs and manipulating numbers to maximise space

This has been an historic, extensive and ongoing breach of licence. Ian Streeter's letter of 27<sup>th</sup> September 2007 clarified the situation to us and informed the Applicant "if the permission is clearly being used other than in accordance with the terms under which it was granted, then the Council may re-consider the permission granted." There has, thus far and without proper justification, no reconsideration of the licence.

We ask the Committee to consider the effectiveness of this advice when in the interim a running battle ensued to have the Applicant observe these terms.

In any event Mr Streeter wrote again on 24<sup>th</sup> June 2009 (**Appendix F**) on this same matter, 21 months later, prompting our copying him into complaint correspondence to the Applicant at 1<sup>st</sup> July 2009 (**Appendix G**) in which we wrote (extracted):

"We are complaining yet again to the City Council regarding your strategy of removing tables and chairs from the application site immediately in front of our premise. We consider this a deliberate act to increase the numbers of customers using this area, who are stood rather than seated, with the inevitable and consequent result for us that noise and other nuisance is increased in direct proportion to the overcrowding.

For the record; we have much recorded data...(insertion. CCTV evidence)...showing that you are not placing the furniture as detailed on your license application, on most occasions this amounting to as little as 25% or NIL of the quota shown."

We have witnessed all sorts of game playing in the period including the 7 tables and 21 chairs being stacked one on top of the other in piles at the top end of the site so they could not be described as removed from the site.

This situation has been intolerable and it is unreasonable of NCC to expect us to have to continually log and report incidents when we have seen so little action by council officers in the past when we have done so.

The only time we can guarantee observance of numbers and pattern is on the run-up to the renewal hearing.

- Condition 10 - strident advertising - continual breach

strident advertising remains permanently applied to 'A' boards on the perimeter of the space (see image 1; **Appendix A**)

strident advertising had been loosely attached intermittently to barriers and has become permanently fixed by 3<sup>rd</sup> June 2010 when M&L first wrote to Licensing in complaint (**Appendix H**).

It has become the established practice of the Applicant to avoid compliance wherever and whenever he can and for as long as possible. Correspondence was entered into again at 11<sup>th</sup> June, 28<sup>th</sup> August and 14<sup>th</sup> September 2010 before compliance (**Appendix J.1,J.2,J.3**).

- Condition 3 - placement of objects - continual breach (refer images 1,3,4 **Appendix A**)

barriers and 'A' boards are placed into other parts of the highway beyond the 1.5m designated space, chairs are moved outside the space by clients at peak times and into sunnier areas outside the space at other times.

- Condition 11 - close monitoring by Applicant - regular breach

Councillor Adrian Holmes gave evidence to Committee in person describing the lamentable level of monitoring at the hearing of 17<sup>th</sup> February 2009 which was consistent with our written reports to the Police and Licensing & Enforcement.

- Condition 16 – Licensee to control nuisance and annoyance to neighbouring occupiers - persistent breach

The Applicant has shown no intention of satisfying this condition and to avoid repetition we refer Committee back to section Objection 1/ describing the manipulation of the whole licence in the interests of commercial gain.

The above licence conditions are meant to provide us with protection and NCC the scope to enforce were expedient. Regrettably the Applicant has come to believe that he can work these on a 'take it or leave it' basis with impunity and only reinforced by the lack of any formal monitoring from NCC and the exhibition of the powerlessness or reluctance of Enforcement to act anyway.

We have asked the question 'how many breaches and how extensive' before the Applicant is brought to book and/or the licence revoked but this is another Information Request where no answer is forthcoming. Enforcement clearly has as much idea as us and could only write at 21<sup>st</sup> September 2010 referring us back to this regulatory hearing (**Appendix K**)

### 3 / nuisance and impact on the character and vitality of the area

The Applicant's approach has been conveyed by his letter to Committee of 4<sup>th</sup> November 2008, and we are aware that this was discussed in our absence at the February 2009 hearing together with his pillorying of M&L on Facebook pages and the positioning of a Highways Salt Bin against M&L's premise by him and his staff caught on our CCTV system and viewed by Cllr Holmes and other council officers.

The Applicant wrote in his letter "I believe that it is simply the case that this matter will not be allowed to be put to rest until Mr Foskett moves his premises ..." and he clearly set out to bring this about soon afterward with an extended display of open hostility and harassment. The Applicant took great and very personal exception to Planning Consent becoming approved for M&L's newly installed CCTV system at this same time and the harassment became unbearable, Police were involved and a period of Restorative Justice/Community Mediation ensued.

During that process a trial period was agreed and tables chairs & barriers were removed from the lower section of the site, i.e. the section most adjacent to our front door. The relief of nuisance was profound, we wrote to council mediation officers at 6<sup>th</sup> July 2009 (**Appendix L**),

"It was a 'no brainer' that if we had less people in front of the shop it would cause less nuisance, during the trial so far there have been less people and we have had less nuisance"

What had prompted this correspondence was the Applicant informing the mediation officers that he intended suspending the trial for the Lord Mayors show and would be removing his furniture again (the trial broke down after this). Our correspondence continued:

"the whole point was that we should see him reducing nuisance at ALL times not just when convenient and unlikely to cost him some takings, he has to show an ability to self-police and limit his customer numbers whatever the financial cost to him - he must also abide by the spirit of the license whatever the excuses he cobbles up, if he removes tables and chairs at any time there is just one reason which is to overcrowd the area with more people and we then get the consequent nuisance"

Perhaps we can submit just this one last illustration:

Whilst drafting this objection letter, it is a cold mid-December Tuesday lunch time, we have a busy clinic ongoing and five pub customers are sat at the low end of the site space adjacent to our front door. The principle of the group is a mid-20s lady who is continually using abusive language and audibly so. Shoppers and office workers on their lunch break and passing in the street are clearly distracted and perplexed by the noise and foul language but this just seems to encourage the lady to play to her audience. There is no sign of any Gardeners Arms staff monitoring or controlling the site, the nuisance continues and Moss & Leakeys Practice Manager has needed to apologise to patients in the shop again.

By reason of the licence we have endured three and a half years of this unrelenting nuisance, which is both undeniable and wholly unsatisfactory. The position has become untenable.

#### In conclusion:

It was regrettable that M&Ls presentation at the February 2009 hearing was constructively disallowed when we were unable to arrange for our legal representation to attend within the six working day deadline set by NCCs Legal Services Dept. Our objection as a whole could not be expanded upon. This particularly infringed upon the technical element of the objection which had originally prompted the three month delay in hearing the application which allowed NCC to prepare a Highways Report.

After all of the time, effort and expense involved in researching and preparing our objection and arranging our legal representation the report then went totally uncontested.

In reviewing this objection, the situation now is clear. The Applicant has at best shown an ambivalent attitude to the themes of this objection which have, as a direct consequence, meant that our business has suffered immensely. The position is unsustainable.

The Applicant has also shown a ready willingness to breach the terms and conditions of licence for his benefit.

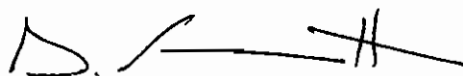
The space and function of the application site is impractical and is implicitly accepted so by the Applicant, evidenced by his actions.

The sheer impracticality of the spacing means that this objection cannot be overcome or otherwise 'conditioned out' by way of use (and indeed irrespective of the user). It is not therefore simply a matter of proper highways management that Committee needs to consider. The non-statutory guidance which is to be applied by all wherever possible, militates strongly against the issue of the licence. No sound reasons can be advanced in support of such a radical departure from this guidance. Consistently, no reasons have ever been given by NCC in support of the historic departures from the guidance.

Finally we would return to the Councils ultimate objective in considering this licence, that it might encourage a café culture in the City, enhancing its character and vitality. Unfortunately, this licence is entirely counter-productive as the space is restrictive and confined in a narrow street. It becomes populated with alcohol fuelled customers and nuisance, rowdiness and the use of foul language are the inevitable consequences. Our clients, i.e. the general public, repeatedly and justifiably complain that they are intimidated by the sheer volume of people standing in the public highway and feel unsafe as a result. Those same general public are driven from this area by this licence and are deterred from using the highway precisely because of it.

For all the foregoing reasons we strongly request that the renewal application be rejected.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'D. Foscett', with a stylized flourish at the end.

David Foscett - Managing Partner

**From:** The Gallery Timberhill  
**Date:** 19/05/08 15:45:38  
**To:** AnthonyShearman@norwich.gov.uk  
**Cc:** davidmossandleakey@gmail.com  
**Subject:** Murderers Table and chairs

Mr Shearman,

I have just had an informal chat with David and Marilyn of Moss and Leakey regarding the table and chairs outside the Murderers. We discussed some of the issues that impact on their business from the tables and chairs being outside the Murderers.

A concern they express related to my email of 17th Feb 2008 regarding the incident outside the nail bar opposite my gallery, and in particular my statement that two people joined the fray from the pub. There were two people directly involved in the incident and these two people were the focus of the incident that took place. They had joined the incident after it had begun inside the nail bar (an altercation relating to a bill not being paid I am led to understand), then continuing in front of the premises.

However as a matter of absolute accuracy I would say that the incident did bring with it a group of spectators, as many such incidents do. It would be impossible for me to say how many people fell within this group, it was quite a nebulous group including associates of the individuals directly involved, those sat outside the pub and general passers by stopping to watch.

I hope this clarifies any ambiguity that may have arisen from my previous comments.

Regards

Declan Keiley



**From:** David Foscett

**Date:** 22/05/08 14:09:36

**To:** [brian.hardie@howespercival.com](mailto:brian.hardie@howespercival.com)

**Subject:** Fw: Murderers Table and chairs

Dear Mr Hardie

We had naively thought that both parties would present honest and factual evidence to the Regulatory Committee to consider and consequently were shocked to have you discredit our evidence as you did.

At the hearing you referred to a passage from Neil Howes letter of 9<sup>th</sup> February describing an incident at the neighbouring nail bar in which he refers to the involvement of a group of ten to twelve people. You then read out Declan Keileys account verbatim with emphasis on the "... two men joined the fray from the pub" and contrasted M&Ls account with Mr Keileys describing Mr Howes as biased and wildly exaggerated.

The committee members were suddenly confused and concerned whether any of our evidence was given honestly and in that one pivotal moment all and every shred of evidence we had presented was viewed with suspicion. We were unable to recover the situation and feel that your evidence may have unduly affected the outcome of the hearing.

Given that there was such huge disparity between accounts, a factor of six to one, and that your evidence was so damning if correct we wonder how you could justify presenting it without personally investigating first to confirm its veracity. Mr Keiley is easily contactable as an immediate neighbour of your client and was happy to clarify the situation to us in just moments which he confirms in his e-mail of 19<sup>th</sup> May to Mr Shearman which we attach.

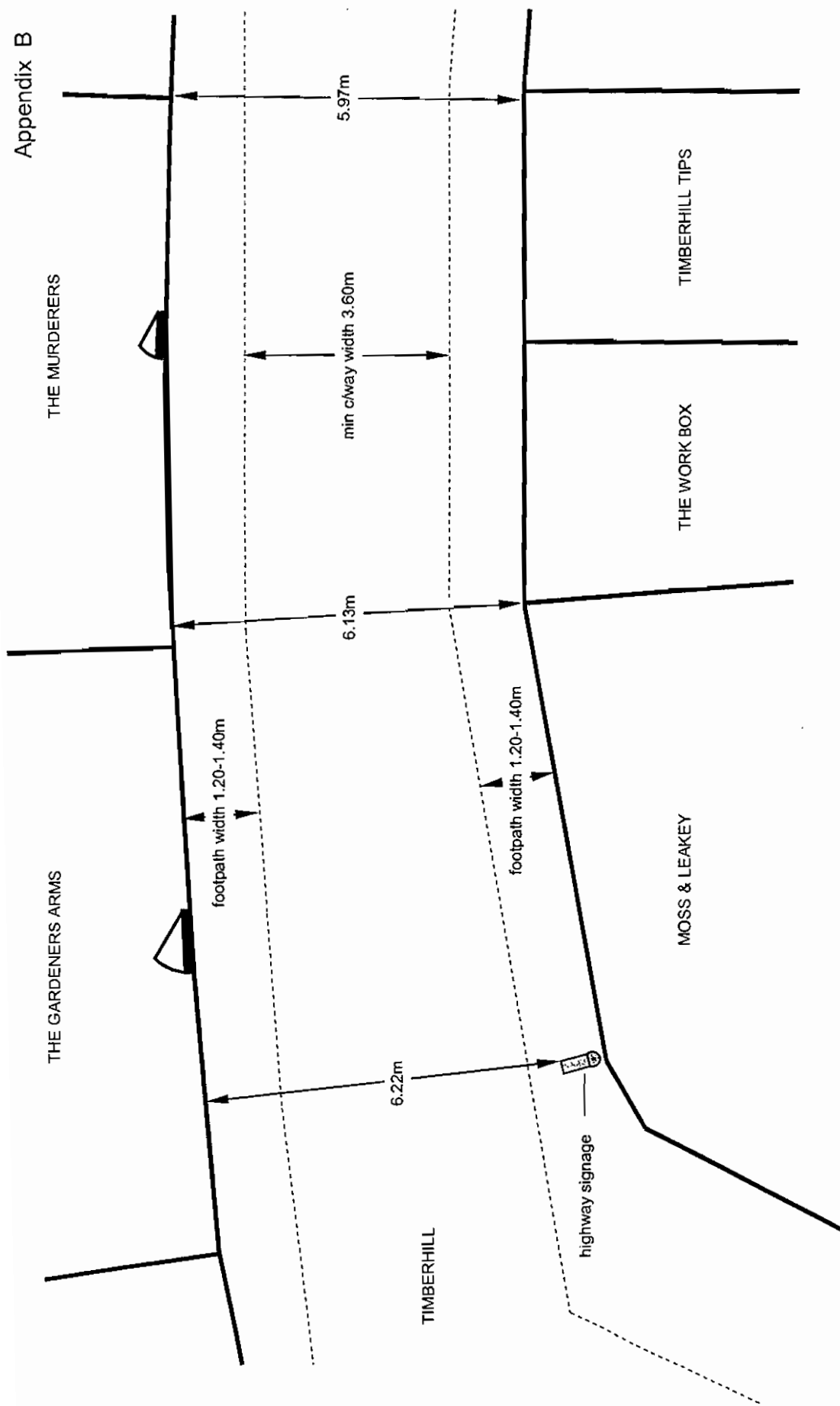
Mr Keileys e-mail that you read from was sent to PC Shepherd to confirm the number of people coming from Mr Cutters PH who were directly involved in the "fray", those actually involved in the brawl and throwing punches, and in the fifth para of Mr Howes account that is precisely what he states he understood had happened too. In stating to the committee that these two people amounted to all and every person leaving the PH you presented evidence that was grossly inaccurate. We have been extremely careful in reporting events accurately as to tender evidence that is either wilfully false or that is not believed to be true would leave us liable to prosecution whilst your evidence was tendered with your clients certain knowledge that this was indeed wilfully false.

The Law Society advises us that a solicitor becoming aware that evidence he has tendered is false or misleading must remedy the situation and we would be obliged if you would detail how you will now go about this.

Would you please reply to us within seven days to avoid further action.

Sincerely D. Foscett

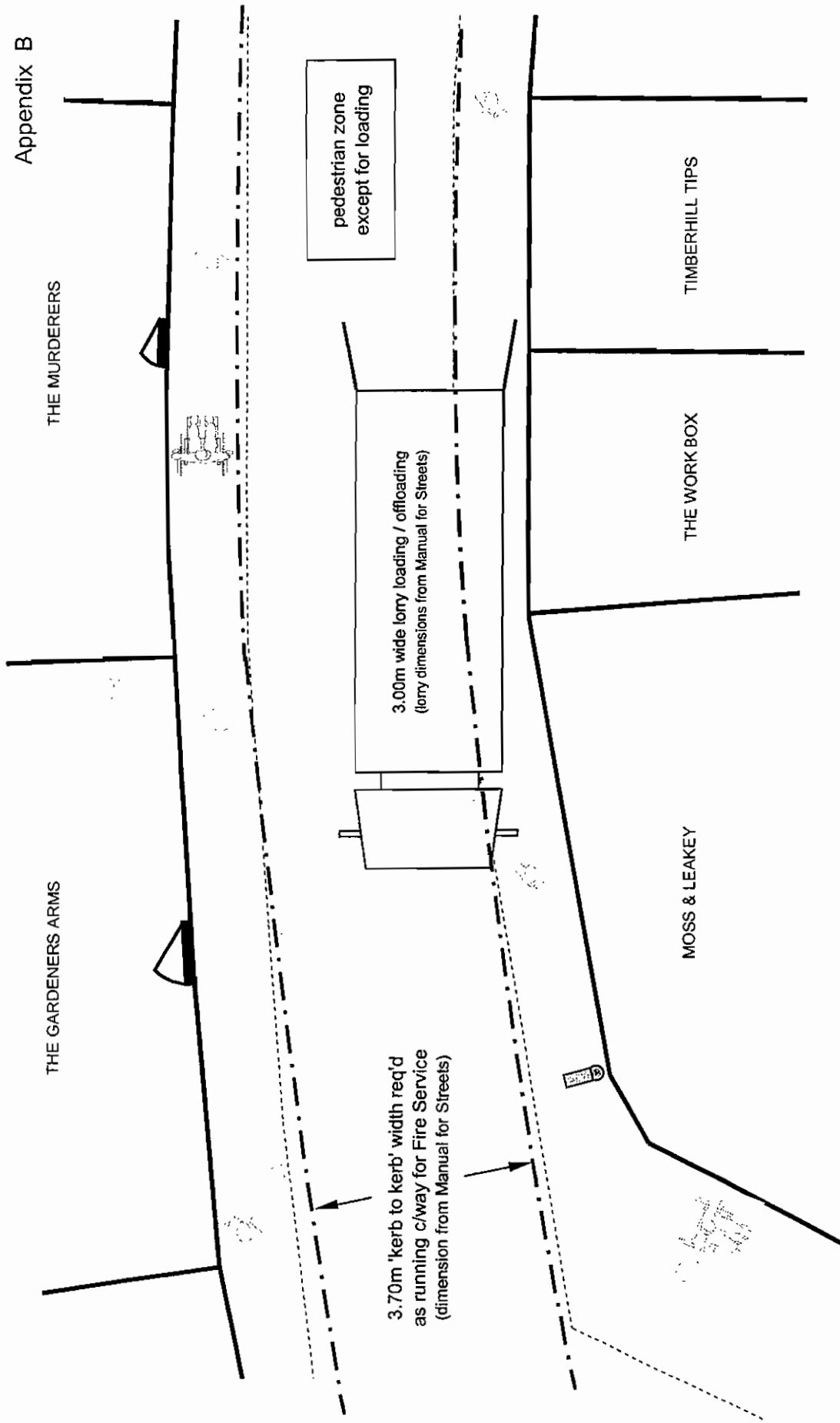
# Appendix B



scale 1:100

DRWG 1  
STREET LAYOUT & DIM'S

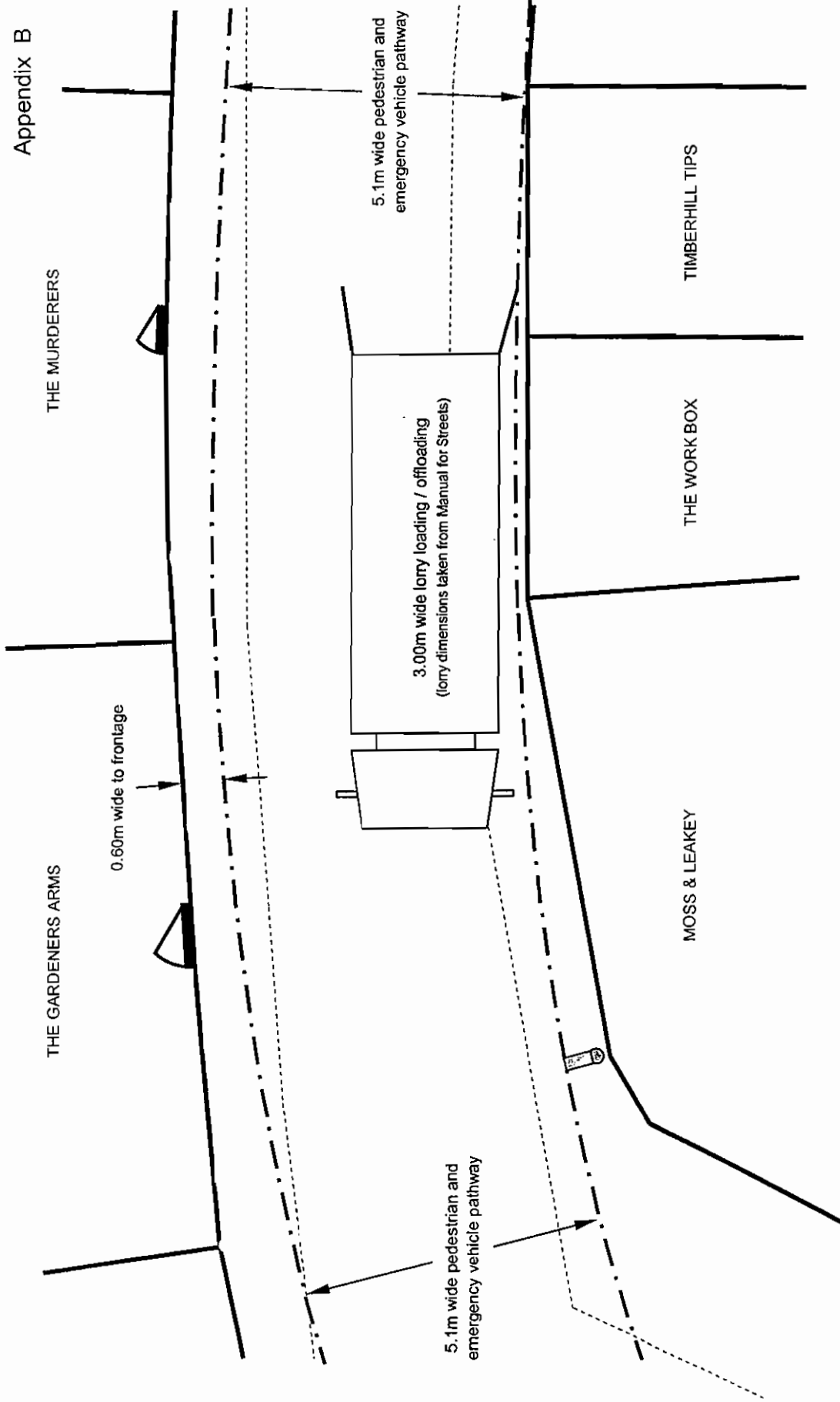
# Appendix B



scale 1:100

DRWG 2  
STREET & VEHICULAR USE

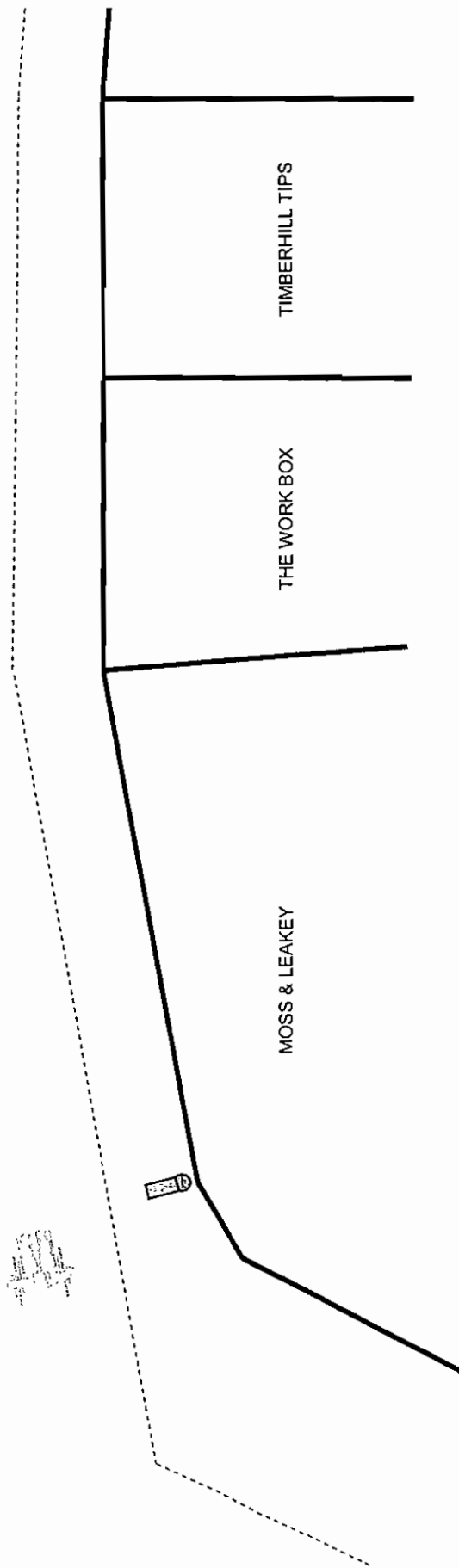
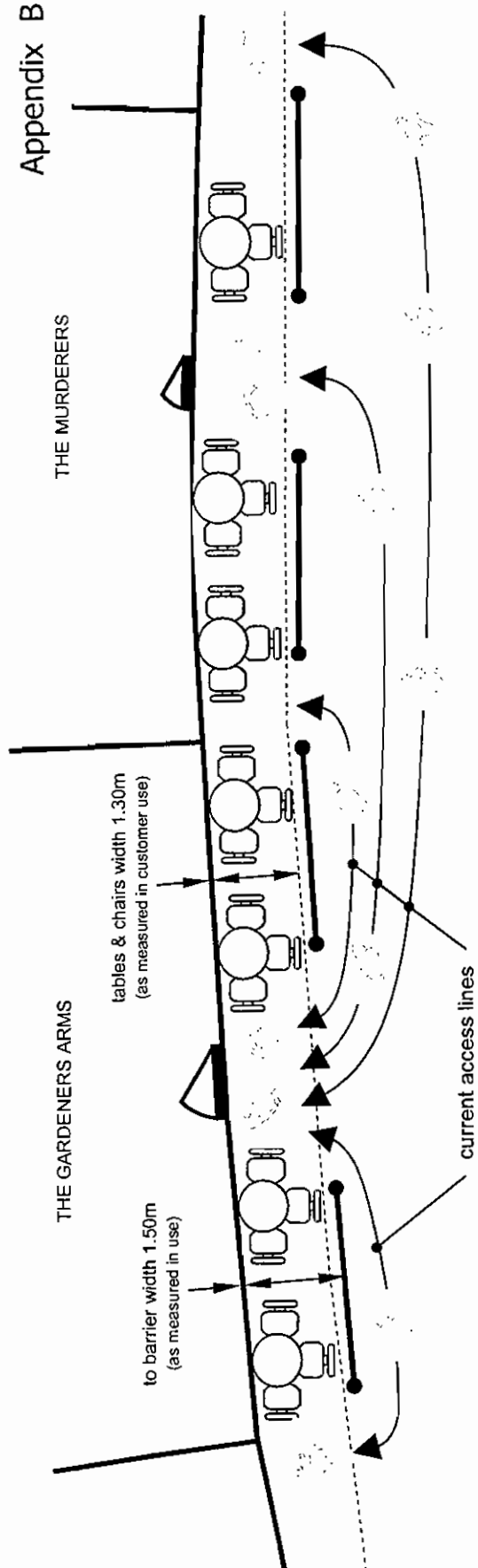
# Appendix B



DRWG 3  
PROPOSED SITE AND CONFLICT  
WITH EMERGENCY VEHICLE  
REQ'TS

scale 1:100

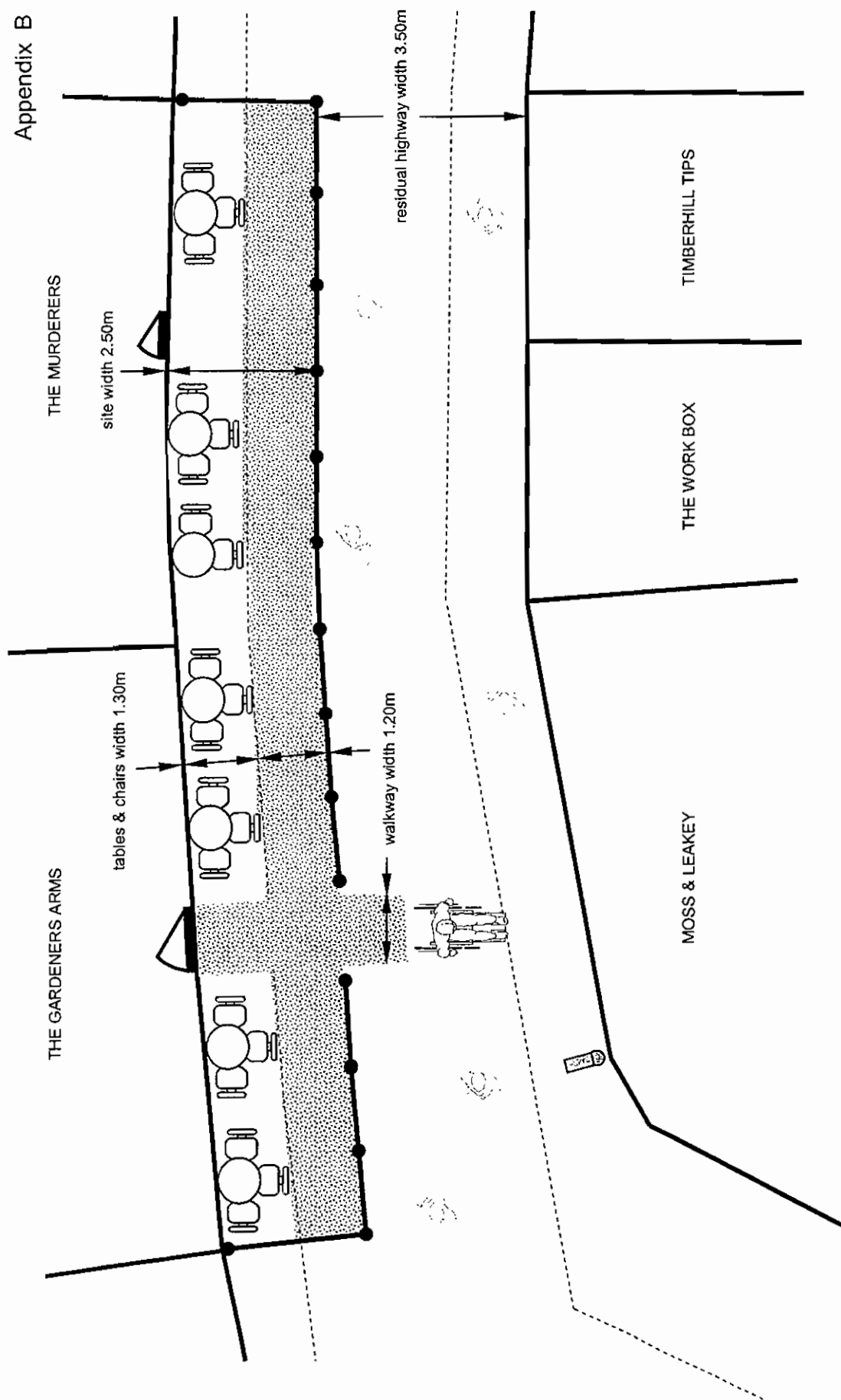
# Appendix B



scale 1:100

Drwg 4

# Appendix B



scale 1:100

Drwg 5

Attn: Ian Streeter  
Licensing Office  
Norwich City Council  
City Hall  
Norwich  
NR2 1NH

17<sup>th</sup> November 2008

Dear Sirs

Re. Renewal of Tables & Chairs License - The Gardeners Arms (TGA)

**EXTRACT OF OBJECTION ONLY**

**1/ Timberhill is too narrow to accommodate the application site**

*please refer DRWG 1, 2 & 3*

Standards at Timberhill are already dramatically compromised given the physical restraints of the street.

a/ Existing footway width as low as 1.20m - guidelines propose "... *minimum widths of 3.50 to 4.50m by shops. (i.e. 7.00 to 9.00m where shops both sides of street)*" MfS 3.1

b/ Existing vehicular carriageway width is just 3.60m - guidelines state "*The Association of Fire Officers (requires) a 3.7m carriageway kerb to kerb ... for operating space ... (and as) the running carriageway*" MfS 6.7.3

c/ A notional 5.10m wide shared pedestrian and emergency vehicle pathway leaves only 0.60m (two foot imperial) to opposite frontages - WCC and H&FC guidelines require, "*there should be at least 5.10m clear between tables and chairs/enclosures on either side of the street*" - if 'swept path' turning circle calculations are applied the pathway would increase to a minimum width of 5.40m virtually filling Timberhill

The street is curving and on a gradient, has high flows of vehicles and pedestrians and clearly these minimum standards are already inadequate in this location. Also, guidelines require authorities to, "*take into account parking (problems) and levels of parking enforcement*" MfS 7.2.2, and it is a matter of record that this is an area with a massive historical parking problem.

The application site obstructs proper use of the public highway in its existing format, and more so in a format meeting DDA regulation, and does not embrace updated MfS guidelines as directed.

Attached is photographic evidence, *please refer IMAGES 1 to 4*



Appendix B - IMAGE 1





Appendix B - IMAGE 2





Appendix B - IMAGE 4

THE GARDENERS ARMS

THE MURDERERS

Appendix C

tables & chairs width 1.30m  
(as measured in customer use)

to barrier width 1.50m  
(as measured in use)

current access lines

MOSS & LEAKEY

THE WORK BOX

TIMBERHILL TIPS

scale 1:100

Diagram A

## MURDERERS ARMS - TABLE &amp; CHAIRS REMOVAL TIMES

PERMITTED TIME 23:30

## Appendix D

2009 (sht 1)

|      |        |       |
|------|--------|-------|
| Sat  | 07-Mar | 23:46 |
| Sun  | 08-Mar | 23:15 |
| Mon  | 09-Mar | 23:22 |
| Tue  | 10-Mar | 23:00 |
| Wed  | 11-Mar | 23:40 |
| Thur | 12-Mar | 23:46 |
| Fri  | 13-Mar | 23:20 |
| Sat  | 14-Mar | 00:49 |
| Sun  | 15-Mar | 22:00 |
| Mon  | 16-Mar | 22:56 |
| Tue  | 17-Mar | 22:47 |
| Wed  | 18-Mar | 23:10 |
| Thur | 19-Mar | 23:10 |
| Fri  | 20-Mar | 23:42 |
| Sat  | 21-Mar | 00:22 |
| Sun  | 22-Mar | 22:48 |
| Mon  | 23-Mar | 23:10 |
| Tue  | 24-Mar | 23:12 |
| Wed  | 25-Mar | 23:36 |
| Thur | 26-Mar | 23:17 |
| Fri  | 27-Mar | 23:52 |
| Sat  | 28-Mar | 00:21 |
| Sun  | 29-Mar | 21:45 |
| Mon  | 30-Mar | 23:14 |
| Tue  | 31-Mar | 23:42 |
| Wed  | 01-Apr | 23:07 |
| Thur | 02-Apr | 23:44 |
| Fri  | 03-Apr | 23:54 |
| Sat  | 04-Apr | 00:38 |
| Sun  | 05-Apr | 22:40 |
| Mon  | 06-Apr | 23:03 |
| Tue  | 07-Apr | 23:35 |
| Wed  | 08-Apr | 23:16 |
| Thur | 09-Apr | 23:51 |
| Fri  | 10-Apr | 00:07 |
| Sat  | 11-Apr | 00:15 |
| Sun  | 12-Apr | 22:33 |
| Mon  | 13-Apr | 22:58 |
| Tue  | 14-Apr | 23:17 |
| Wed  | 15-Apr | 23:09 |
| Thur | 16-Apr | 23:37 |
| Fri  | 17-Apr | 23:48 |
| Sat  | 18-Apr | 00:46 |
| Sun  | 19-Apr | 21:57 |
| Mon  | 20-Apr | 23:12 |
| Tue  | 21-Apr | 23:17 |
| Wed  | 22-Apr | 23:37 |
| Thur | 23-Apr | 23:16 |
| Fri  | 24-Apr | 23:18 |
| Sat  | 25-Apr | 23:48 |
| Sun  | 26-Apr | 22:24 |
| Mon  | 27-Apr | 23:09 |
| Tue  | 28-Apr | 23:14 |
| Wed  | 29-Apr | 22:56 |
| Thur | 30-Apr | 23:21 |
| Fri  | 01-May | 23:58 |
| Sat  | 02-May | 01:13 |
| Sun  | 03-May | 23:07 |
| Mon  | 04-May | 22:17 |
| Tue  | 05-May | 23:37 |
| Wed  | 06-May | 22:59 |
| Thur | 07-May | 23:11 |
| Fri  | 08-May | 23:48 |

days breaches  
63 29

|      |        |       |
|------|--------|-------|
| Sat  | 09-May | 00:37 |
| Sun  | 10-May | 22:53 |
| Mon  | 11-May | 23:48 |
| Tue  | 12-May | 23:16 |
| Wed  | 13-May | 23:39 |
| Thur | 14-May | 23:20 |
| Fri  | 15-May | 23:51 |
| Sat  | 16-May | 00:23 |
| Sun  | 17-May | 22:36 |
| Mon  | 18-May | 23:16 |
| Tue  | 19-May | 22:23 |
| Wed  | 20-May | 22:52 |
| Thur | 21-May | 23:43 |
| Fri  | 22-May | 23:58 |
| Sat  | 23-May | 00:33 |
| Sun  | 24-May | 23:08 |
| Mon  | 25-May | 22:53 |
| Tue  | 26-May | n/a   |
| Wed  | 27-May | n/a   |
| Thur | 28-May | n/a   |
| Fri  | 29-May | 23:43 |
| Sat  | 30-May | 23:30 |
| Sun  | 31-May | 22:41 |
| Mon  | 01-Jun | 23:53 |
| Tue  | 02-Jun | 23:42 |
| Wed  | 03-Jun | 23:38 |
| Thur | 04-Jun | 23:14 |
| Fri  | 05-Jun | 23:51 |
| Sat  | 06-Jun | 00:17 |
| Sun  | 07-Jun | 23:09 |
| Mon  | 08-Jun | 23:43 |
| Tue  | 09-Jun | 23:20 |
| Wed  | 10-Jun | 23:53 |
| Thur | 11-Jun | 23:56 |
| Fri  | 12-Jun | 23:21 |
| Sat  | 13-Jun | 00:41 |
| Sun  | 14-Jun | 22:10 |
| Mon  | 15-Jun | 23:10 |
| Tue  | 16-Jun | 23:42 |
| Wed  | 17-Jun | 23:12 |
| Thur | 18-Jun | 23:43 |
| Fri  | 19-Jun | 00:34 |
| Sat  | 20-Jun | 23:42 |
| Sun  | 21-Jun | 20:16 |
| Mon  | 22-Jun | 22:40 |
| Tue  | 23-Jun | 23:12 |
| Wed  | 24-Jun | 23:04 |
| Thur | 25-Jun | 23:39 |
| Fri  | 26-Jun | 23:43 |
| Sat  | 27-Jun | 01:13 |
| Sun  | 28-Jun | 22:40 |
| Mon  | 29-Jun | 23:00 |
| Tue  | 30-Jun | 23:35 |
| Wed  | 01-Jul | 23:10 |
| Thur | 02-Jul | 23:16 |
| Fri  | 03-Jul | 00:08 |
| Sat  | 04-Jul | 00:24 |
| Sun  | 05-Jul | 22:55 |
| Mon  | 06-Jul | 23:05 |
| Tue  | 07-Jul | 23:10 |
| Wed  | 08-Jul | 01:46 |
| Thur | 09-Jul | 23:42 |
| Fri  | 10-Jul | 23:54 |

days breaches  
60 30

|      |        |       |
|------|--------|-------|
| Sat  | 11-Jul | 01:14 |
| Sun  | 12-Jul | 22:45 |
| Mon  | 13-Jul | 23:17 |
| Tue  | 14-Jul | 23:43 |
| Wed  | 15-Jul | 23:15 |
| Thur | 16-Jul | 00:04 |
| Fri  | 17-Jul | 00:34 |
| Sat  | 18-Jul | 00:22 |
| Sun  | 19-Jul | 22:51 |
| Mon  | 20-Jul | 23:48 |
| Tue  | 21-Jul | 23:15 |
| Wed  | 22-Jul | 23:17 |
| Thur | 23-Jul | 23:10 |
| Fri  | 24-Jul | 00:46 |
| Sat  | 25-Jul | 00:24 |
| Sun  | 26-Jul | 22:51 |
| Mon  | 27-Jul | 23:20 |
| Tue  | 28-Jul | 23:22 |
| Wed  | 29-Jul | 23:15 |
| Thur | 30-Jul | 23:41 |
| Fri  | 31-Jul | 23:53 |
| Sat  | 01-Aug | 23:50 |
| Sun  | 02-Aug | 22:10 |
| Mon  | 03-Aug | 23:10 |
| Tue  | 04-Aug | 23:46 |
| Wed  | 05-Aug | 23:41 |
| Thur | 06-Aug | 23:20 |
| Fri  | 07-Aug | 00:43 |
| Sat  | 08-Aug | 00:35 |
| Sun  | 09-Aug | 22:40 |
| Mon  | 10-Aug | 23:05 |
| Tue  | 11-Aug | 23:56 |
| Wed  | 12-Aug | 23:17 |
| Thur | 13-Aug | 23:20 |
| Fri  | 14-Aug | 00:24 |
| Sat  | 15-Aug | 00:27 |
| Sun  | 16-Aug | 22:25 |
| Mon  | 17-Aug | 23:52 |
| Tue  | 18-Aug | 23:18 |
| Wed  | 19-Aug | 23:51 |
| Thur | 20-Aug | n/a   |
| Fri  | 21-Aug | 00:43 |
| Sat  | 22-Aug | 00:33 |
| Sun  | 23-Aug | 22:28 |
| Mon  | 24-Aug | 23:41 |
| Tue  | 25-Aug | 23:22 |
| Wed  | 26-Aug | 23:48 |
| Thur | 27-Aug | 23:26 |
| Fri  | 28-Aug | 00:32 |
| Sat  | 29-Aug | 00:14 |
| Sun  | 30-Aug | 22:47 |
| Mon  | 31-Aug | 23:54 |
| Tue  | 01-Sep | 23:51 |
| Wed  | 02-Sep | 23:18 |
| Thur | 03-Sep | 23:21 |
| Fri  | 04-Sep | 01:12 |
| Sat  | 05-Sep | 23:53 |
| Sun  | 06-Sep | 23:12 |
| Mon  | 07-Sep | 23:49 |
| Tue  | 08-Sep | 23:12 |
| Wed  | 09-Sep | 23:43 |
| Thur | 10-Sep | 23:47 |
| Fri  | 11-Sep | 23:55 |

days breaches  
62 34

## MURDERERS ARMS - TABLE &amp; CHAIRS REMOVAL TIMES

PERMITTED TIME 23:30

## Appendix D

2009 (sht 2)

|      |        |       |
|------|--------|-------|
| Sat  | 12-Sep | 00:47 |
| Sun  | 13-Sep | 22:48 |
| Mon  | 14-Sep | 23:16 |
| Tue  | 15-Sep | 23:47 |
| Wed  | 16-Sep | 23:43 |
| Thur | 17-Sep | 23:56 |
| Fri  | 18-Sep | 23:38 |
| Sat  | 19-Sep | 00:32 |
| Sun  | 20-Sep | 22:44 |
| Mon  | 21-Sep | 22:43 |
| Tue  | 22-Sep | 22:55 |
| Wed  | 23-Sep | 23:23 |
| Thur | 24-Sep | 23:20 |
| Fri  | 25-Sep | 00:11 |
| Sat  | 26-Sep | 01:05 |
| Sun  | 27-Sep | 23:01 |
| Mon  | 28-Sep | 22:53 |
| Tue  | 29-Sep | 23:29 |
| Wed  | 30-Sep | 23:17 |
| Thur | 01-Oct | 23:12 |
| Fri  | 02-Oct | 00:04 |
| Sat  | 03-Oct | 00:39 |
| Sun  | 04-Oct | 22:56 |
| Mon  | 05-Oct | 22:53 |
| Tue  | 06-Oct | 23:02 |
| Wed  | 07-Oct | 23:18 |
| Thur | 08-Oct | 23:23 |
| Fri  | 09-Oct | 23:44 |
| Sat  | 10-Oct | 01:17 |
| Sun  | 11-Oct | 23:01 |
| Mon  | 12-Oct | 22:39 |
| Tue  | 13-Oct | 23:43 |
| Wed  | 14-Oct | 23:24 |
| Thur | 15-Oct | 23:49 |
| Fri  | 16-Oct | 01:12 |
| Sat  | 17-Oct | 00:31 |
| Sun  | 18-Oct | 22:41 |
| Mon  | 19-Oct | 23:44 |
| Tue  | 20-Oct | 23:19 |
| Wed  | 21-Oct | 23:55 |
| Thur | 22-Oct | 23:53 |
| Fri  | 23-Oct | 01:13 |
| Sat  | 24-Oct | 01:04 |
| Sun  | 25-Oct | 23:47 |
| Mon  | 26-Oct | 00:19 |
| Tue  | 27-Oct | 00:34 |
| Wed  | 28-Oct | 00:36 |
| Thur | 29-Oct | 01:12 |
| Fri  | 30-Oct | 01:41 |
| Sat  | 31-Oct | 02:11 |
| Sun  | 01-Nov | 00:15 |
| Mon  | 02-Nov | 23:56 |
| Tue  | 03-Nov | 00:43 |
| Wed  | 04-Nov | 00:23 |
| Thur | 05-Nov | 00:43 |
| Fri  | 06-Nov | 01:34 |
| Sat  | 07-Nov | 02:14 |
| Sun  | 08-Nov | 23:53 |
| Mon  | 09-Nov | 00:38 |
| Tue  | 10-Nov | 00:36 |
| Wed  | 11-Nov | 00:21 |
| Thur | 12-Nov | 00:45 |
| Fri  | 13-Nov | 01:45 |

days breaches

63 40

2010

|      |        |       |
|------|--------|-------|
| Sat  | 14-Nov | 02:13 |
| Sun  | 15-Nov | 01:17 |
| Mon  | 16-Nov | 00:19 |
| Tue  | 17-Nov | 00:12 |
| Wed  | 18-Nov | 00:21 |
| Thur | 19-Nov | 00:16 |
| Fri  | 20-Nov | 01:44 |
| Sat  | 21-Nov | 02:04 |
| Sun  | 22-Nov | 00:07 |
| Mon  | 23-Nov | 00:19 |
| Tue  | 24-Nov | 00:49 |
| Wed  | 25-Nov | 00:48 |
| Thur | 26-Nov | 00:36 |
| Fri  | 27-Nov | n/a   |
| Sat  | 28-Nov | n/a   |
| Sun  | 29-Nov | n/a   |
| Mon  | 30-Nov | n/a   |
| Tue  | 01-Dec | 00:16 |
| Wed  | 02-Dec | 23:53 |
| Thur | 03-Dec | 00:46 |
| Fri  | 04-Dec | 01:17 |
| Sat  | 05-Dec | n/a   |
| Sun  | 06-Dec | n/a   |
| Mon  | 07-Dec | 23:47 |
| Tue  | 08-Dec | 23:45 |
| Wed  | 09-Dec | 00:41 |

days breaches

20 20

|      |        |       |
|------|--------|-------|
| Sat  | 13-Mar | n/a   |
| Sun  | 14-Mar | n/a   |
| Mon  | 15-Mar | 00:00 |
| Tue  | 16-Mar | 11:43 |
| Wed  | 17-Mar | 00:02 |
| Thur | 18-Mar | 11:30 |
| Fri  | 19-Mar | 01:21 |
| Sat  | 20-Mar | 00:39 |
| Sun  | 21-Mar | 11:20 |
| Mon  | 22-Mar | 11:03 |
| Tue  | 23-Mar | 11:26 |
| Wed  | 24-Mar | 10:25 |
| Thur | 25-Mar | 11:56 |
| Fri  | 26-Mar | 00:55 |
| Sat  | 27-Mar | 00:02 |
| Sun  | 28-Mar | 23:21 |
| Mon  | 29-Mar | 23:46 |
| Tue  | 30-Mar | 23:53 |
| Wed  | 31-Mar | 23:43 |
| Thur | 01-Apr | n/a   |
| Fri  | 02-Apr | n/a   |
| Sat  | 03-Apr | 01:07 |
| Sun  | 04-Apr | 23:16 |
| Mon  | 05-Apr | 00:04 |
| Tue  | 06-Apr | 00:15 |
| Wed  | 07-Apr | 23:54 |
| Thur | 08-Apr | 23:42 |
| Fri  | 09-Apr | 00:54 |
| Sat  | 10-Apr | 00:46 |
| Sun  | 11-Apr | 22:26 |
| Mon  | 12-Apr | 23:43 |
| Tue  | 13-Apr | 23:28 |
| Wed  | 14-Apr | 23:29 |
| Thur | 15-Apr | 23:54 |
| Fri  | 16-Apr | 00:36 |
| Sat  | 17-Apr | 00:43 |
| Sun  | 18-Apr | 23:08 |
| Mon  | 19-Apr | 23:38 |
| Tue  | 20-Apr | 23:46 |
| Wed  | 21-Apr | 23:47 |
| Thur | 22-Apr | 23:26 |
| Fri  | 23-Apr | 01:16 |
| Sat  | 24-Apr | 00:45 |
| Sun  | 25-Apr | 23:38 |
| Mon  | 26-Apr | 23:09 |
| Tue  | 27-Apr | 23:39 |
| Wed  | 28-Apr | 23:47 |
| Thur | 29-Apr | 23:51 |
| Fri  | 30-Apr | 01:00 |

days breaches

45 32

**From:** David Foskett  
**Date:** 28/08/10 14:51:15  
**To:** anthony.shearman@norwich.gov.uk; IanStreeter@norwich.gov.uk  
**Cc:** SASI  
**Subject:** Fw: Re: MURDERERS ARMS

Dear Tony

The large Sky 3D banner has appeared again attached to the application site barriers just as before, could you please once again direct the Licensee to remove this. The A boards forming an integral part of the barrier have never been attended to and you might also mention the regular breaching of the 23.30 time limit on the site.

I would be obliged if you would record these repeated and deliberate breaches for confirmation at the November hearing.

Kindest Regards David Foskett

**From:** Streeter, Ian  
**Date:** 24/06/09 10:52:45  
**To:** David Foskett  
**Cc:** Stephenson, Michael  
**Subject:** Tables and Chairs licence - The Gardeners Arms

Dear Mr Foskett

I have been asked to respond to the matters raised in your telephone conversation yesterday with the council's Regulatory Services Manager, Michael Stephenson.

As you are aware, the conditions attached to the tables and chairs licence in respect of the Gardeners Arms stipulate the maximum number of tables and chairs that are allowed to be placed in the licensed area. The conditions do not stipulate that the maximum number of tables and chairs must be placed on the highway during the period of the licence. On this point I would refer you to our previous correspondence from September 2007, the relevant extract set out below:

*As you state in your letter, the permission granted to place tables and chairs on the highway stipulates the maximum number of tables and chairs allowed within the licensed area. The permission is also subject to a number of conditions, one of which relates to the licensed area being barriered off. If the permitted area is clearly being used other than for which it was granted (e.g. no tables and chairs being put out) then the Council may re-consider the permission granted. However, if the number of tables and chairs used fell short of the maximum number by a small amount (e.g. one or two) then it is unlikely that the Council would re-consider the permission. I have contacted the holder of the tables and chairs licence and informed them that if the permission is clearly being used other than in accordance with the terms under which it was granted, then the Council may re-consider the permission granted.*

I have contacted the licence holder again and reminded him of the contents of the above paragraph.

The current tables and chairs licence is due for renewal in November this year. You will be notified if an application is made and will be given the opportunity to make representations. If representations are received, the application will be considered by the council's Regulatory Committee.

In the meantime, if you consider that the licence conditions (a copy of which have previously been forwarded to you) are not being complied with, please contact the council's enforcement section. I believe you already have the necessary contact details.

If you wish to raise any matters concerning the premises licence issued to the Gardeners Arms under the Licensing Act 2003, then, providing the matter relates to one of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm), and is in the control of the licence-holder, you may apply to review the premises licence. Please let me know if you require the necessary documentation.

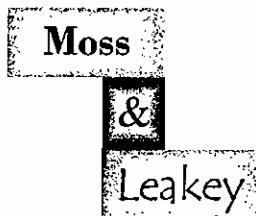
Yours sincerely

Ian Streeter  
Senior Licensing Officer (Team Leader)  
Norwich City Council  
(01603) 212439  
ianstreeter@norwich.gov.uk



**PRIVATE & CONFIDENTIAL**

Mr P Cutter  
The Gardeners Arms  
Timberhill



BY HAND

1<sup>st</sup> July 2009

Dear Mr Cutter

**Breach of License:** Condition 16 - The Licensee shall take all reasonable and necessary steps to ensure customers of The Gardeners Arms using the licensed area do not cause nuisance and annoyance to neighbouring occupiers and that as far as possible those customers are enjoined (prohibited by command) not to use parts of the highway other than the licensed area

**Incident type:** Frequent general nuisance from concentrations of standing customers

**Incident date:** At various times throughout the day and particularly weekends

We are complaining yet again to the City Council regarding your strategy of removing tables and chairs from the application site immediately in front of our premise. We consider this a deliberate act to increase the numbers of customers using this area, who are stood rather than seated, with the inevitable and consequent result for us that noise and other nuisance is increased in direct proportion to the overcrowding.

For the record; we have much recorded data showing that you are not placing the furniture as detailed on your license application, on most occasions this amounting to as little as 25% or NIL of the quota shown.

Council officers tell us that they cannot direct you to replace the furniture, as there isn't currently any written condition that is quantity or position based attaching to license, but have passed on our complaint and advised you to observe the spirit of the license given that it is a Tables & Chairs License and not granted for other use.

Despite the knowledge of our distress at the nuisance you have chosen to ignore their advice and instead use the loop-hole of the omitted condition to continue to cram tables and chairs in the high end of the site and place the minimum numbers in the area causing us such concern. We consider this a calculated and deliberate act intended to cause us the maximum amount of nuisance believing you cannot be reprimanded in so doing.

This wanton disregard is to breach Condition 16 which requires you to take ALL reasonable and necessary steps to not cause nuisance to us as a neighbouring occupier. Your application site drawing shows four tables and twelve chairs in the lower half of the site and we consider these essential to limit numbers and ensure customers are seated and thereby calmer than if they are standing and exhibiting a more tribal behaviour. Removing them is to be entirely unreasonable.

If you do not replace and maintain furniture as detailed on your application site drawing we will ask the council to immediately withdraw your license on the grounds that you are failing to observe the requirements of Condition 16. We will then ask that the council verify in writing that the furniture has been persistently removed, and that they will also confirm this to members at the next regulatory hearing, when we will seek to have the license permanently revoked.

There are many other issues which we wish to raise regarding your non-observance of Condition 16, and how you persistently fail to control nuisance, but in the interests of clarity on this particular issue we have separated this from our other concerns at this time as we want to see immediate action on your part.

We require your response by return.

David Foscett - Managing Partner

c.c. [ianstreeter@norwich.gov.uk](mailto:ianstreeter@norwich.gov.uk)

**Partners** Dr. N. Sasitharan & D. Foscett

|                    |                                    |  |                |   |  |   |
|--------------------|------------------------------------|--|----------------|---|--|---|
| <b>Head Office</b> | 1 Timberhill<br>Norwich<br>NR1 3JZ | Tel: 01603 661001<br>Fax: 01603 661008<br><a href="mailto:david@mossandleakey.waradon.co.uk">david@mossandleakey.waradon.co.uk</a> | <b>Also at</b> | 16 Norfolk Street<br>Kings Lynn PE30 1AN<br>Tel: 01553 765270 | 29 Market Place<br>Dereham NR19 2AP<br>Tel: 01362 690708 | 15 High Street<br>Hunstanton PE36 5AB<br>Tel: 01495 525 990 |
|--------------------|------------------------------------|--|----------------|---|--|---|

**From:** David Foskett  
**Sent:** 03 June 2010 16:18  
**To:** Streeter, Ian  
**Cc:** SASI  
**Subject:** MURDERERS ARMS

Dear Ian

Would you please inspect the barriers at the Murderers PH Tables & Chairs area

The license requires these to be made of a plain material without advertising other than a discreet business logo

Currently these have been over-draped with large and garish 'Sky Sports 3D' & 'Big Games Atmosphere' banners in breach of condition 10

You might also consider whether the A boards forming part of the barrier structure are also "stridently advertising"

We would appreciate you maintaining our confidence in making this complaint as we do not wish to worsen the animosity from the Licensee

Yours sincerely

David Foskett - Managing Partner and,  
Dr N Sasitharan - Partner

**From:** David Foskett  
**Date:** 11/06/10 11:21:59  
**To:** anthony@shearman@norwich.gov.uk  
**Subject:** Fw: Re: MURDERERS ARMS

Dear Tony

I can tell you have spoken with the Licensee as a banner on one of the fabric barriers has been removed, so thank you for your prompt action

Unfortunately it looks like we are going to have to go through the same silly one-by-one 'teeth pulling' exercise as always of having the Licensee test yours and our patience by complying fully only when absolutely forced, i.e. showing always his unwillingness to observe respect for his neighbours trading positions

There still remains a large advertising banner fixed to the fabric barrier and the A board barriers are still stridently advertising

I am sorry to bother you again and put pressure on dwindling public finances but can you please ensure the Licensees full compliance or seek to revoke his license and stop his game playing with us both.

Regards again David

**From:** David Foscett  
**Date:** 28/08/10 14:51:15  
**To:** anthony.shearman@norwich.gov.uk; IanStreeter@norwich.gov.uk  
**Cc:** SASI  
**Subject:** Fw: Re: MURDERERS ARMS

Dear Tony

The large Sky 3D banner has appeared again attached to the application site barriers just as before, could you please once again direct the Licensee to remove this. The A boards forming an integral part of the barrier have never been attended to and you might also mention the regular breaching of the 23.30 time limit on the site.

I would be obliged if you would record these repeated breaches for confirmation at the November hearing.

Kindest Regards David Foscett

**From:** David Foskett  
**Date:** 14/09/10 17:15:49  
**To:** anthonyshearman@norwich.gov.uk; markleach@norwich.gov.uk  
**Cc:** IanStreeter@norwich.gov.uk  
**Subject:** Fw: Re: MURDERERS ARMS

Dear Tony

Re. Murderers Arms - Tables & Chairs Licence

It is with regret that we are having to contact you yet again, and so soon afterward, regarding the calculated and deliberate breach of licence conditions by this Licensee

The Sky banner attached to the barriers appeared again on Saturday morning and was not removed until Monday morning, i.e. in place for the whole of 11<sup>th</sup> September & 12<sup>th</sup> September (we have dated CCTV evidence). We guessed that the Licensee had planned in advance to explain this away on his unknowing Duty Manager there that day so to preclude this we approached the manager directly and advised that he was breaching condition 10 of the licence, needless to say this was ignored and the banner remained throughout the whole weekend. We suggest the tactic is to comply weekdays when you can respond and, when we can't contact you, to put the banner back out.

Just as with all the game playing over positioning the tables and chairs that went on for the first two years after our objection, and still abused now when it suits, it would appear that the Licensee has taken it as read again that he can get away scot-free whatever the extent of his non-compliance with the licence terms. Whichever way you want to argue it there can be no disputing that this is absolutely the fact of the matter and the Licensee sees you as either powerless or unwilling to act.

As we have advised on several occasions he is continually in breach of condition 7 (licensed times), we have over a years records supporting this, he will not observe condition 10 (no strident advertising), he abuses the number and positions of the tables & chairs consistently and his effort on condition 16 (nuisance to neighbours) is laughable as evidenced again this Saturday just gone with more nuisance in the street. We are totally reliant on these conditions for the 'protection' of our business interest and no more so than at the busier weekends when your offices are closed and we cannot ask you to help.

Condition 13(b) of the licence states that you may withdraw the licence "if any condition of this permission is broken" and we might ask on what grounds you continue to allow this in these circumstances of multiple breaches. Is there really nothing that the Licensee can do to have you act in curtailing his hostile and frankly malevolent behaviour to his neighbours.

On this occasion can we please request a formal response to our complaint as we note that we have been denied this facility when we have written in the recent past. Our legal brief may need to consider your response in detail as part of our upcoming objection. You might also advise us if there is a complaints procedure if we consider the enforcement of the licence to be inadequate.

In conclusion, can we assure you again that our complaint is genuine and made for all the right reasons when we are a bona fide rate paying business only trying the best we can to protect our business interest and looking for your support in aiding this too. To think otherwise would be to play into the hands of the miscreant Licensee and further perpetuate this untenable situation which on top of creating nuisance to neighbouring businesses places an unsustainable burden on limited public finances in policing and enforcement. The time is surely long past when something decisive has to be seen to be done.

Yours sincerely

David Foskett  
Dr N Sasitharan

Citywide Services  
Public Protection (Environment)  
Norwich City Council  
City Hall  
Norwich  
NR2 1NH

Mr D Foskett  
Moss and Leahey  
1 Timberhill  
Norwich,  
NR1 3JZ

Tuesday, 21 September 2010

Your reference:

Our reference:

Dear Mr Foskett

It is unfortunate that I have been unable to respond to your recent correspondence until now, as I have been on leave. To enable complaints to be dealt with in a more timely manner in future, they should be directed via our Customer Contact Centre which is available on 0344 980 3333 or via email [info@norwich.gov.uk](mailto:info@norwich.gov.uk).

I have been in contact with the licensee and made clear the position with regard to compliance with the licence conditions, which I have been assured is understood.

I note that you wish to make representation to the Regulatory sub committee against the renewal of the tables and chairs licence, if received, and have been in contact with Ian Streeter regarding the process and potential dates.

I have taken advice from my manager and it is felt that this is the best route to deal with your grievances at this time, rather than direct action under condition 13(b) as you suggest.

Norwich City does have a formal complaints procedure should you feel that enforcement action has been inadequate. Details are available via our website on this web address

[http://www.norwich.gov.uk/webapps/atoz/service\\_page.asp?id=1323&pid=1014](http://www.norwich.gov.uk/webapps/atoz/service_page.asp?id=1323&pid=1014).

Yours sincerely

Tony Shearman  
Environmental Protection Officer  
Tel: 01603 212278

**From:** David Foskett

**Date:** 06/07/09 17:50:01

**To:** fischer-harrisons@norfolk.pnn.police.uk; Sharples Peter D

**Cc:** SAS1

**Subject:** MOSS & LEAKEY QUERY

Spencer and Sgt Sharples

I am not sure whether you want to get involved any more as Spencer did say the Thursday evening meeting was the very last of the mediation process but I was copied in on Cutters letter of 5th July sent to you both (he is using an old e-mail address of mine so please don't disclose my current address)

I guess you know that intellectually I really do find him hard work but if you can reason with him to keep things 'alive' please do so, if you really don't want to get involved just let me know and I will have to write directly

It was a 'no brainer' that if we had less people in front of the shop it would cause less nuisance, during the trial so far there have been less people and we have had less nuisance - as we saw it the purpose of the trial was to see whether we considered Cutters efforts and the reduction of nuisance he could deliver to be such that we might drop or at least 'limit' our objection to his license - at risk he has the prospect of having his whole license revoked if our concerns are once again ignored when we can then only continue to object to get some relief - Cutter asserts the trial arrangement is harder to police but his woolly talk makes no sense and certainly we saw no evidence of this, it is a wriggle and an excuse to drop the trial or 'amend' it as he now proposes - if it is harder to police that is tough, he is required "to take all reasonable and necessary steps etc etc" which he has failed to do in the past and he must show us now he is genuinely concerned for our business' well-being and not just his business' takings

So how does he show this concern

Cutter writes that he could have filled more space with more customers on Saturday, well that is the whole problem when he can only see pound signs flashing and will not look after our interests too when our trading position is then so badly damaged on the retailers best day - it is unbelievable that STILL he thinks we will be happy to see the area cleared mid-week when he doesn't have any customers there anyway and then expect us to put up with it heaving at other more crucial times - the whole point was that we should see him reducing nuisance at ALL times not just when convenient and unlikely to cost him some takings, he has to show an ability to self-police and limit his customer numbers whatever the financial cost to him - he must also abide by the spirit of the license whatever the excuses he cobbles up, if he removes tables and chairs at any time there is just one reason which is to overcrowd the area with more people and we then get the consequent nuisance

Whilst feeling like we are banging our heads against a brick wall again and wondering why on earth are we bothering, we do not want to be entirely churlish when Cutter and more surprisingly the real boss Ivan Brown have been making an effort even though not 'perfect' yet but if Cutter doesn't realise we want to see this maintained through Norwich match days, World Cup match days, the Ashes cricket, Xmas and Bank Holidays, stag parties, Lord Mayors shows et al then he will just make us more determined to object - he is also angling to get the barrier put back now with all his waffle about meandering customers in the street, the reality was actually quite the contrary of what he says when there was at last a clear area by the pub for the odd person to make their calls and smoke other than in the road or at our window as the drinkers were cleared out of the way to the other side - Cutters problem is he sees that as a waste again rather than being content with the benefit it gave us

It is only day three of the trial and he is already writing "... when we return the furniture to our original positions" to stop near accidents he says. So there you have it, he will put them back irrespective of what we think without consideration for anyone else. No pre-judgement there then and what anyway is the point of the trial with an attitude like that.

Frankly, if the barrier goes back on Lord Mayors day and/or the tables and chairs are taken in so we are swamped Cutter and Ivan Brown can knock the trial on the head altogether as far as we are concerned. What they would be saying by doing that is 'we don't care about Moss & Leakeys business being damaged, we see an opportunity to make some money and we don't give a damn for the cost to our neighbour'.

I don't want to argue with Cutter or Ivan Brown anymore and I don't want to have to beg either, I want them to show my business partner and I the respect of acknowledging they must work at all times to limit nuisance to us as a priority and not make up a tame excuse for doing the opposite. If we are totally frustrated at having no control over the nuisance, if we cannot complain to Cutter and get it to stop, if we cannot complain to the council and get it to stop then perhaps you can imagine how we feel in that powerless situation. The only thing we can do then is to object and if you can get that across to him you will have done much better than us.

Cutter likes his sayings and perhaps this one has never been more appropriate, 'there are none so blind as those that cannot see'. So as an optician I would wish you the very best of luck.

Regards David

# APPENDIX H

Page 1 of 1

Fuller, Maxine

From: Ethika  
Sent: 09 December 2010 19:50  
To: Licensing  
Subject: The Gardener's Arms/Murderers | Reference - 10/02154/TABCHA

LEG CTE

21-2-11

Dear Ian Streeter,

It has come to my attention that Philip Cutter is to re-apply for a licence to place tables and chairs outside the Gardener's Arms/Murderer's Public House in Timberhill. During the past three and half years that I have been running Ethika at 25 Timberhill the clearly defined area outside the Gardener's Arms/Murderer's used by customers has always been well maintained, clean and tidy. During summer months it allows people to eat and drink in a comfortable and secure environment and in the winter pub customers who smoke can use a delineated space and are provided with ashtrays so the street isn't littered with fag ends. Philip Cutter and his staff regularly monitor customers in this external zone.

The Murderer's was described to me by one of my customers (who has lived for many years in London) as being a delight and one of the best city pubs he'd visited anywhere. Certainly I always feel comfortable meeting up with friends in the Murderers. Philip Cutter and his team are professional, friendly, helpful and a pleasure to deal with whether as neighbours in Timberhill or as bar staff with their clientele. Philip is proactive in promoting not only the pub but also Timberhill, he is generous with his time and contributes greatly to the local business community.

Needless to say I support his re-application for the licence to place tables and chairs outside the Gardener's Arms/Murderer's public house in Timberhill, Norwich.

Please do not hesitate to contact me should you require any further information.

Yours sincerely,

Roberta Pumer  
Owner/Director  
Ethika Emporium Ltd

## Ethika

Roberta Pumer  
Ethika  
25 Timberhill  
Norwich NR1 3JZ

tel: 01603 251111  
mobile: 07791 111111  
email: info@ethika.co.uk

Registered Office, 23 Star Hill, Rochester, Kent ME1 1XF. Company Registration: 6099991



Please consider the environment before printing this e-mail



8 BAILEY CLOSE,

HETHERSETT,

NORWICH NR9 3EL

21.12.2010

21 DEC 2010

REF. 10/02154/TABCHA

To whom it may concern.

I wish to comment on the application by Mr Philip Cutler to renew his licence to place tables and chairs on part of the highway immediately in front of his premises, namely The Gardeners Arms 2-4 Turbertell, Norwich.

My comments are in-depth, both favourably.

Firstly, the nature of my employ is as senior bar supervisor at the Gardeners Arms I have held this position for the past 10 years. Prior to this I was landlord of The Kings Head in Hethersett, a public house I owned for almost 13 years. It was a busy public house, devoid of any trouble. I am also a past fellow of the British Institute of barkeepers and also hold a personal licence. With this experience I consider myself capable to give unwavering attention to customers wishing to relax themselves, to the facilities provided including the tables and chairs outside.

Any disturbance caused by deliveries to the Gardeners Arms to the limited flow of traffic along Turbertell is kept to a minimum and safety to the general public is kept to a safe level. Barriers are also provided to prevent the overflow of patrons onto the highway.

Professional Development

21 DEC 2010

Post Room

therefore ensuring that the tables and chairs are

an asset to visitors, workers and shoppers to our  
fine city and that they can enjoy refreshment and  
company in safety, overseen by myself, staff and  
at busy times the registered doorman.

My second comment is that of a long standing  
customer of the Gardens Arms. I find the facilities most  
welcome and the tables and chairs outside provide a  
continental ambience, weather permitting. Safety and  
tidiness are maintained at all times.

By law those who wish to smoke may not do so  
inside the premises, therefore the tables and chairs outside  
also provide comfort to those who wish to pursue the  
habit.

To these ends I wish to support Mr Lutter's  
application unreservedly

Thankyou

Yours faithfully

J. M. G. ASHLEY

# CENTRAL NORWICH CITIZENS' FORUM

21<sup>st</sup> December 2010

Mr Ian Streeter  
Licensing Manager  
Public Protection  
Citywide Services  
Norwich City Council  
via e-mail

Dear Mr Streeter

## **Re: REVIEW OF TABLES AND CHAIRS LICENCE THE MURDERERS, TIMBERHILL, NORWICH**

It has been brought to my attention that a neighbour has sought to have the tables and chairs licence of the Murderers reviewed and I want you to know that my Forum regards the Murderers as being one of the most responsibly managed public houses in the city and Mr Philip Cutter a thoroughly professional proprietor who acts at all times with care and concern for his customers, his neighbours and the community at large.

I have known Mr Cutter for many years and am well aware of his contribution to both the business as well as the resident community in Norwich. He is an active member of the Norwich City Licensing Forum, of the Board of the Norwich City Centre Partnership and frequently participates in the public meetings I chair on behalf of the City Centre Safer Neighbourhood Action Panel (SNAP). He is also the founder of the STAY CENTRAL group of licensed premises proprietors that encourage the promotion of businesses in his area to attract visitors to make better use of the city centre in the evenings.

I have often visited the Murderers and know that the tables and chairs outside are well used, responsibly monitored and customers well behaved and I am also aware of the animosity displayed by his neighbour towards Mr Cutter and the recent attempt at restorative justice that has been tried and has demonstrated that Philip Cutter has done all that can reasonably be expected of him to overcome the rift that has developed between them but to no avail.

//....

Central Norwich Citizens' Forum is a company limited by guarantee and registered in England No 4855745 and a charity registered with the Charity Commission for England and Wales No 1106226.

Registered office: 2 Renshaw Court, Norwich NR3 1UJ, Website: [www.centralnorwichcitizensforum.co.uk](http://www.centralnorwichcitizensforum.co.uk)

Tel: 01603 611111, e-mail: [info@centralnorwichcitizensforum.co.uk](mailto:info@centralnorwichcitizensforum.co.uk)

It is my and our view that Mr Cutter has amply demonstrated in the last two years that he operates his tables and chairs licence competently and thoroughly and should be allowed to keep it. The tables and chairs themselves add to the streetscape of the Timberhill area and are an attractive adjunct to the already delightful frontage of this traditional Norwich pub.

Yours sincerely

**Julian F Foster**  
**CHAIRMAN**

**Fuller, Maxine**

**From:** Norwich Retail Store [mailto:retail@norwich.orvis.co.uk]  
**Sent:** 24 December 2010 14:31  
**To:** Licensing  
**Subject:** Gardeners Arms Timberhill Ref 10/02154/TABCHA

Dear Mr Streeter,

I would like to register my full support for the application made by Mr. Cutter on behalf of the Gardeners Arms on Timberhill to renew his tables and chairs licence.

Phil Cutter is a very considerate neighbour to us and works tirelessly to promote the street for the benefit of all traders.

The furniture to the front of the premises has never caused the Orvis store any inconvenience and I genuinely believe that should any issues arise regarding the furniture, their patrons or their premises in the future Mr. Cutter and his staff are approachable and would be willing to resolve any problems.

This furniture gives vibrancy to the street and makes the general public aware that Timberhill is open to visitors.

Yours truly

Suzanne Mann  
Store Manager

**The Orvis Norwich Store**

**Orvis Donates 5% of pre-tax profits annually to organisations that protect fish and wildlife habitat.**

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# APPENDIX I

## Annex 2 – Conditions consistent with the Operating Schedule

LEG CITE

21-2-11

- 1 **General - all four licensing objectives**
- 2 1. Existing procedures will be applied to the premises to the premises in relation to the additional hours requested.
- 3 **The Prevention of Crime and Disorder**
- 4 1. The Licensee will operate in strict compliance of the law in respect of the operation of the premises and maintain good standards of behaviour by his customers.  
2. If required to do so by Police he will operate a Text/Radio Pager with local Police.  
3. Door supervisors, who must be SIA registered, will be utilised when required.  
4. The Portman proof of age scheme will be in operation on the premises.  
5. Regular glass collections will take place.  
6. The licensee will advertise, sell and promote the sale of alcohol responsibly, and in such a way that it will not intentionally, or is likely to, encourage the excessive consumption of alcohol.
- 5 **Public Safety**
- 6 1. The Licensee will undertake ongoing risk assessments in order to comply with Health and safety and Fire Prevention legislation.
- 7 **The Prevention of Public Nuisance**
- 8 1. The Licensee will undertake a risk assessment to ensure that proper measures are taken to avoid any public nuisance.  
2. The Licensee will ensure that notices will be displayed at all exits requesting the Public to leave the premises and area quietly and to place litter in the receptacles provided..  
3.
- 9 **The Protection of Children From Harm**
- 10 1) Children are allowed in the cafe bar area of the premises for the purpose of eating, and must be accompanied by an adult.  
2) All children are expected to be off the premises by 18:00. Relevant signage will be affixed in relation to admittance of children.  
3) Any 16/17 years employed at the premises will be risk assessed to assess their suitability for the role.

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

1. The Licensee will ensure sufficiently appropriately trained staff working to be able to monitor customers coming in and their actions and behaviour inside and also to be available to manage departure of customers (in addition to those needed to serve alcohol and general running of the business etc)
2. 'No ID-No Entry' policy for those persons that appear to be under 21 at times when door supervisors are in operation.
3. Security Industry Authority (SIA) trained door supervisors will be on duty on Friday and Saturday evenings with ability to screen customers coming in, manage behaviour inside and prevent incidents and drunkenness, and to manage dispersal by marshalling, standing at the door as people leave.
4. The Designated Premises Supervisor (DPS) will become a member of Norwich Pubwatch and Norwich Licensing Forum. The DPS or appropriate representative to attend minimum of 3 meetings of each group per year.
5. An adequate CCTV system will be installed and operated covering inside the premises and the entry and exit points.
6. The outside seating area will close at 2330hrs with tables and chairs securely removed.
7. The outside seating area will be cleared of empty glasses at 15 minute intervals.