



NORWICH City Council

APPENDIX G

memorandum

To: Ian Streeter, Licensing Your ref: 11/01678/TABCHA
From: Tony Shearman, Environmental Our ref:
Protection
Date: 3rd October 2011 cc:

Subject: Gardeners Arms, Timberhill – Application for grant of a tables and chairs licence.

Dear Ian,

I have received details of the above application to place 8 tables and 24 chairs on the highway.

I have no objections to the granting of this application, however I feel that the Regulatory Committee should consider the following should the matter require being brought before them.

Although this is an application for the grant of a new licence it is of some significance that there is an existing licence in place. The existing licence only allows 7 tables and 21 chairs.

The existing licence has been brought before the committee a number of times in the past few years due to a number of complaints/objections raised by Mr Foscett of Moss and Leakey Opticians, who are also located in Timberhill, opposite the northern end of the proposed area.

The previous licence renewal application was heard by committee in February this year. This application for renewal was granted, subject to the two extra conditions listed below.

- if the premises are open and the premises licence holder wishes to make use of the licence then the maximum number of tables and chairs noted on the licence shall be placed during the hours of operation of the licence and these shall be placed as evenly in the area marked on the plan attached to the licence as can be managed other than as necessary to allow unimpeded access to doorways; and
- all persons drinking beverages in the area marked on the plan attached to the licence shall be seated.

It is my understanding that the conditions were required to address perceived nuisance issues caused by the licensee not placing the tables and chairs out to fill the area, and allowing large numbers of customers to stand drinking rather than occupying the seats.

Since the imposition of the above conditions, Norwich City Council has received numerous complaints from Mr Foskett regarding alleged breaches of the new conditions in relation to the tables and chairs being marginally out of place and customers standing drinking. The allegations have included stills taken from Moss and Leakey's CCTV footage. The pictures provided are all timed/dated, and the vast majority fall outside of the opening hours of Moss and Leakey, which are Monday-Saturday 9.00am-5.30pm.

I have attached the CCTV pictures for the information of the committee. It is accepted that the photographs show technical breaches of the above conditions may be occurring, although there is no evidence to indicate that any nuisance is being caused as a result of this.

Although the intention of the imposed conditions is clear, from the investigation of the complaints received from Mr Foskett and the routine inspections that have been carried out to check compliance with the license, it is clear that the additional conditions attached at February's meeting are neither practical to enforce or proportionate to the problems being caused by their non-compliance.

I have spoken at great length with the licensee and he fully understands that the area should not be used to allow a large area for customers to stand. This new application reflects this, and therefore proposes an extra table and 3 extra chairs which will provide less standing room in the area.

Bearing in mind that the grant of this licence would leave less standing room, that no evidence has been produced of any significant nuisance caused by the use of the area to date, and also that the above conditions are not practical to enforce or proportionate to the problems being caused; it is my recommendation that the licence be granted with the standard conditions only.

If it is felt necessary to impose further conditions to ensure that all of the tables and chairs should be placed out and evenly spread, then the first condition above may be considered. However it should be noted by the committee that any subsequent enforcement action considered by this department will take into account the following:-

- The layout of the tables and chairs will be in the general manner as laid out in the plan but this will not be absolute.
- Families or groups of more than 3 may at times move a table and/or chairs to allow them to sit together.
- Tables/chairs cannot be expected to remain exactly in one place for the entire day and the re-placing into the correct positions by the licensee will be on an 'as far as practicable' basis.
- On less busy evenings allowance will be given for the licensee to gradually remove unused tables/chairs as customers leave towards the end of the trading, provided that the size of the enclosed area is adjusted accordingly.

- Any complaint regarding a breach of conditions will be assessed as to the enforcement action necessary. Where the breach is of a technical nature it is unlikely that formal enforcement action would be considered appropriate if no other condition was also being breached so as to cause nuisance to the complainant.

Regards,



Tony Shearman
Environmental Protection Officer

Seal, Colin

From: Jones, Hannah
Sent: 20 September 2011 11:33
To: CMSI
Subject: FW: Moss & Leakey Enforcement Complaint
Attachments: 10 09 11 GROUP STAND DRINK A.JPG; 10 09 11 GROUP STAND DRINK B (2).JPG; 10 09 11 GROUP STAND DRINK C.JPG; 10 09 11 GROUP STAND DRINK D.JPG; 10 09 11 GROUP STAND DRINK E.JPG; 10 09 11 GROUP STAND DRINK F.JPG; 10 09 11 GROUP STAND DRINK G.JPG; 10 09 11 GROUP STAND DRINK H.JPG; 10 09 11 GROUP STAND DRINK J.JPG; 10 09 11 GROUP STAND DRINK K.JPG; 10 09 11 GROUP STAND DRINK L.JPG; 10 09 11 GROUP STAND DRINK M.JPG; 10 09 11 GROUP STAND DRINK N.JPG; 10 09 11 GROUP STAND DRINK P.JPG; 10 09 11 GROUP STAND DRINK Q.JPG; 10 09 11 GROUP STAND DRINK R.JPG; 10 09 11 T&Cs FINAL DISMANTLE.JPG

Please can this also be scanned to CN: 32915
Many thanks

Hannah Jones
Executive Assistant
(to Bridget Buttinger, Deputy Chief Executive)

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www.norwich.gov.uk

From: David Foskett [REDACTED]
Sent: 16 September 2011 15:24
To: Massey, Jerry
Subject: Moss & Leakey Enforcement Complaint



Dear Mr Massey

Gardeners Arms - Breach of Licence Condition

Event Log – Saturday 10th September

21/09/2011

General continual instances of disturbance noise nuisance emanating from the site that remains completely ignored and uncontrolled by the Licensee as conditioned

Continual instances of PH customers standing and drinking both in the licensed area and public highway, several instances are caught on CCTV for your inspection (seven day loop)

Continual instances of furniture out of position throughout the whole site which is not repositioned by PH staff, some caught on still images and CCTV for your inspection (seven day loop)

Saturday 10 09 11

1/ Sample standing drinkers, joined by PH staff and left unchallenged. Images follow;

17:54:14	A	man stands drinking from table
17:56:21	B	ditto
17:58:43	C	ditto
18:41:05	D	man stands drinking, doorman looks on and leaves unchallenged
18:52:26	E	man stands drinking, joined by doorman, remains unchallenged
19:06:44	F	man stands drinking, doorman looks on and leaves unchallenged
19:07:14	G	ditto
19:07:55	H	others join, standing drinking
19:22:12	J	man stands drinking, doorman unconcerned
19:26:44	K	ditto
19:38:50	L	others in group now leave table and stand drinking with doorman, doorman unconcerned
19:43:08	M	ditto
19:48:35	N	ditto
20:13:45	P	(same) man stands drinking, doorman unconcerned
20:53:56	Q	man standing drinking, large group forming, doorman unconcerned
21:52:52	R	(same) others in group stand drinking, doorman unconcerned

This event spanned over four hours and the same customers were left unchallenged to stand drinking at will

Attached herewith is photographic snapshot evidence (sixteen)

2/ Site hours

23:35:56 final dismantle of site, beyond licensed hours

Attached herewith is photographic snapshot evidence

Please note: when viewing the above evidence these images also illustrate,

a/ the failure of the Licensee to manage the re-positioning of site furniture which remains out of pattern and strewn around the site and,

B/ that large groups form within the site in part because of this failure, causing considerable noise nuisance

C/ the dearth of attendance from PH staff in general

As Enforcement will not view CCTV footage to corroborate our written evidence, to confirm the time lines and extent of breaches, we submit these serial 'diary' images in demonstration instead.

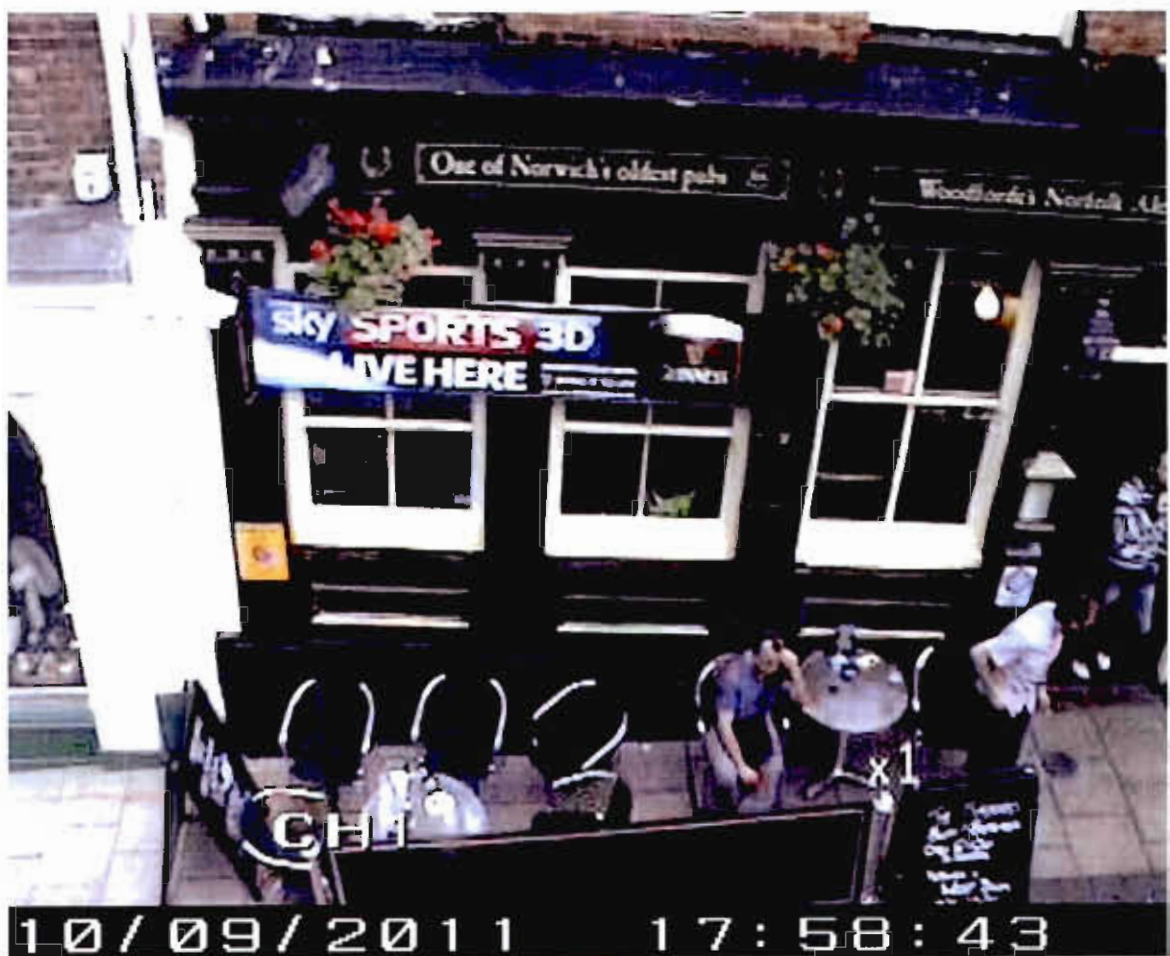
Yours sincerely

David Foskett
Managing Partner

21/09/2011

































CH1

x1

10/09/2011

21:52:52

Seal, Colin

From: Jones, Hannah
Sent: 20 September 2011 11:29
To: CMSI
Subject: FW: Moss & Leakey Enforcement Complaint

Attachments: 11 09 11 STAND DRINK A.JPG; 11 09 11 STAND DRINK B.JPG; 11 09 11 STAND DRINK C.JPG; 11 09 11 STAND DRINK D.JPG; 11 09 11 STAND DRINK E.JPG; 11 09 11 STAND DRINK F.JPG; 11 09 11 STAND DRINK G.JPG; 11 09 11 STAND DRINK H.JPG; 11 09 11 STAND DRINK J.JPG; 11 09 11 STAND DRINK K.JPG; 11 09 11 STAND DRINK L.JPG; 11 09 11 T&Cs FINAL DISMANTLE.JPG; 11 09 11 T&Cs PARTIAL DISMANTLE.JPG; 12 09 11 GROUP STAND DRINK.JPG; 12 09 11 GROUP STAND DRINK A.JPG; 12 09 11 GROUP STAND DRINK C.JPG; 12 09 11 GROUP STAND DRINK D.JPG; 12 09 11 T&Cs FINAL DISMANTLE.JPG; 12 09 11 T&Cs PARTIAL DISMANTLE.JPG

Please can this be scanned to contact no. 32915

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From: David Foscett [REDACTED]
Sent: 19 September 2011 17:41
To: Massey, Jerry
Subject: Moss & Leakey Enforcement Complaint



Dear Mr Massey

Gardeners Arms - Breach of Licence Condition

Event Log dates: Sunday 11th & Monday 12th September

21/09/2011

General

There is inadequate management and inadequate staffing of the site resulting in continual instances of;

- 1/ disturbance noise nuisance emanating from the site which is uncontrolled, in breach of condition
- 2/ PH customers standing and drinking in the licensed area (and public highway), in breach of condition
- 3/ furniture out of position and/or not repositioned, in breach of condition

Please note: still images and CCTV (seven day loop) available for your inspection

Sample Events - (not an exhaustive list of these)

1/ standing drinkers, left unchallenged by PH staff. Images follow;

Sunday 11 09 11

16:20:41	A	man stands drinking, not challenged by PH staff
16:21:55	B	ditto
16:26:38	C	ditto
16:35:24	D	ditto
16:40:24	E	man stands drinking
19:17:32	F	(same) man stands drinking, not challenged by PH staff
19:19:25	G	ditto
19:24:23	H	ditto
19:30:50	J	ditto, others in group stand drinking
19:31:19	K	ditto
19:35:07	L	group stands drinking

This event spanned (intermittently) a period over three hours, at no time were the standing drinkers challenged by any member of the PH staff

Attached herewith is photographic snapshot evidence (eleven)

Monday 12 09 11

20:07:12	A	group congregates, stand drinking, not challenged by PH staff
20:07:55	B	ditto
20:09:20	C	ditto
20:14:21	D	ditto

Attached herewith is photographic snapshot evidence (four)

2/ Site furniture

Sunday 11 09 11

22:14:08	furniture partially dismantled, two barriers some chairs
22:57:37	final dismantle commences

Monday 12 09 11

22:29:24	furniture partially dismantled, two barriers some chairs
23:06:01	final dismantle

The 'in part' positioning of furniture at the site is in breach of licence conditioning

Attached herewith is photographic snapshot evidence (four)

Please note: when viewing the above evidence these images also illustrate,

- a/ the failure of the Licensee to manage the positioning and re-positioning of site furniture which remains out of pattern and strewn around the site and,
- B/ that large groups regularly form within the site causing considerable noise nuisance and,
- C/ the general lack of attendance from PH staff

Yours sincerely

David Foscett
Managing Partner

21/09/2011





CH1

11/09/2011 16:21:55







CH 1

x 1

11/09/2011

16:40:24









CH1

x1

11/09/2011

19:30:50



















Seal, Colin

From: Jones, Hannah
Sent: 22 September 2011 09:49
To: CMSI
Subject: FW: Moss & Leakey Enforcement Complaint
Attachments: 13 09 11 STAND DRINK A.JPG; 13 09 11 STAND DRINK B.JPG; 13 09 11 STAND DRINK C.JPG; 13 09 11 STAND DRINK D.JPG; 13 09 11 STAND DRINK E.JPG; 13 09 11 T&Cs PARTIAL DISMANTLE B.JPG; 13 09 11 T&Cs PARTIAL DISMANTLE C.JPG; 13 09 11 T&Cs PARTIAL DISMANTLE D.JPG; 13 09 11 T&Cs PARTIAL DISMANTLE E.JPG; 13 09 11 T&Cs PARTIAL DISMANTLE F.JPG; 13 09 11 T&Cs PARTIAL DISMANTLE G.JPG; 13 09 11 T&Cs PARTIAL DISMANTLE A.JPG; 14 09 11 T&Cs PARTIAL DISMANTLE A.JPG; 14 09 11 T&Cs PARTIAL DISMANTLE B.JPG; 14 09 11 T&Cs PARTIAL DISMANTLE C.JPG

For scanning to PN 3475766

Many thanks

Hannah Jones
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From: David Fosskett [REDACTED]
Sent: 21 September 2011 18:34
To: Massey, Jerry
Subject: Moss & Leakey Enforcement Complaint



Dear Mr Massey

Gardeners Arms - Breach of Licence Condition

23/09/2011

Event Log dates: Tuesday 13th & Wednesday 14th September

General

There is inadequate management and inadequate staffing of the site resulting in continual instances of;

- 1/ disturbance noise nuisance emanating from the site which is uncontrolled, in breach of condition
- 2/ PH customers standing and drinking in the licensed area (and public highway), in breach of condition
- 3/ furniture out of position and/or not repositioned, in breach of condition

Please note: still images and CCTV (seven day loop) available for your inspection

Sample Events - (not an exhaustive list of these)

1/ standing drinkers, left unchallenged by PH staff. 1 images follow;

Tuesday 13 09 11

18:49:52	A	men stand drinking, not challenged by PH staff
18:53:13	B	ditto
18:56:18	C	ditto
18:59:25	D	ditto
19:03:25	E	ditto

Attached herewith is photographic snapshot evidence (five)

2/ Site furniture

Tuesday 13 09 11

22:15:00	A	furniture partially dismantled, two barriers some tables & chairs left in site
22:24:58	B	ditto, 3 females stand drinking in the site from glasses on footpath, not challenged by PH staff
22:31:10	C	ditto, 2 females stand drinking, not challenged by PH staff
22:33:19	D	ditto, men stand drinking, not challenged by PH staff
22:58:00	E	further dismantle, just two barriers left
23:10:07	F	ditto, customers with nowhere to sit
23:21:19	G	final dismantle

Wednesday 14 09 11

21:52:51	A	furnitures partially dismantled, two barriers some tables & chairs in site
22:50:22	B	ditto, standing drinker
23:16:28	C	final dismantle

The 'in part' positioning of furniture at the site is in breach of licence conditioning, these extended events spanned a period in excess of two and a half hours

Attached herewith is photographic snapshot evidence (nine)

Please note: when viewing the above evidence these images also illustrate,

- a/ the failure of the Licensee to manage the positioning and re-positioning of site furniture which remains out of pattern and strewn around the site and,
- B/ that large groups regularly form within the site causing considerable noise nuisance and,
- C/ the general lack of attendance from PH staff

Yours sincerely

David Foskett
Managing Partner

23/09/2011

















CH1

x1

13/09/2011

22:31:10







CH1

x1

13/09/2011

23:10:07









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



5 October 2011

BY HAND

For attention: Regulatory Committee

Re. Renewal Application for a Tables & Chairs Licence: The Gardeners Arms

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

We strongly object to grant of the tables and chairs application, in whole.

We observe that this application (8 tables and 24 chairs) represents an increase in the tables and chairs entitlement granted by the Regulatory Committee in February 2011 (7 tables and 21 chairs).

Our principal grounds of objection are:

1. Nuisance and adverse impact on the amenity, character and vitality of the surrounds;
2. Continuing (and historic) breach of extant licence conditions;
3. Obstruction to movement and unsuitability of site space (including the application area and surrounds) and function.

In the interests of transparency we submit for the information of the Regulatory Committee further evidence, correspondence and record logs in support of our objection.

Our keeping of record logs is directly pursuant to the advice given by NCC and the Regulatory Committee upon determining the previous tables and chairs licence application in February 2011.

We amplify each of the above grounds of objection below but draw to the Regulatory Committee's attention in the first instance:

1. Documents filed in support of the (contested) licence application of February 2011; and
2. Local newspaper article reporting the 21st February 2011 hearing.

Documents filed in support of the contested licence application of February 2011

Licensing letter of 4th March 2011

We acknowledge receipt of guidance from Mr. Ian Streeter relating to conditions applying to the licence and which relate to the following:

- A fixed number of tables and chairs be in the area at all times when the licence is in use;
- The tables and chairs be evenly spaced other than to allow access to doorways;
- All persons drinking shall be seated;

We acknowledge also other explanatory comments:

- Outdoor drinking in the public highway whilst standing is not an appropriate use of the facility whatever the degree of public disturbance;
- Certain photographic evidence submitted was not contemporaneous;
- The Committee expressed their (uniform) "significant concern" at the established breaches of the licence conditions (and accepted by the Applicant);
- Breaches of the licence were accepted by the Applicant;

We address these points below.

Report to Regulatory Committee: 21st February 2011

We are of the view that the report did not satisfactorily record the considerable breadth of the problems arising from the grant of the licence.

Key issues/matters which were not dealt with in the report include:

- the acute narrowness of the application street, the reverberation of noise and the obstruction of pedestrian flow and disabled access (which a detailed description of the area surrounding the application site demonstrated);
- acknowledgement of the application site's acute proximity to other neighbouring trading premises and the damaging impact on those businesses when noise and other disturbing nuisance arises;
- nuisance events and complaints made to Licensing by M&L between hearings (as records demonstrate);
- breaches of licence and non-compliance reported by M&L between hearings (as records demonstrate);
- inadequate enforcement monitoring of the application site.

Local newspaper article reporting the 21st February 2011 hearing

Norwich Evening News article: 23rd February 2011 - (Appendix A)

An article entitled: 'People still allowed to drink outside Norwich pub - but they have to sit down', appeared two days after the hearing of 21st February. Extracts and the Applicant's quotes include:

- The Murderers in Timberhill has kept its tables and chairs licence, but the extra conditions were described by the landlord as "farcical";

- The conditions added to the pub's licence are that outside tables have to be spaced out a set amount and drinkers have to be seated, but smokers can stand.
- The Applicant stated: "The conditions are farcical. How can we assure the tables are placed at a certain distance other than taking a ruler out every day?"

The Applicant confirmed here (and has frequently demonstrated subsequently) his contempt for the reasoning underlying the licence conditions imposed on the licence.

Conditions imposed with the intention of relieving the serious nuisance caused by the inappropriate use of the site have not been recognised by the Applicant as arising out of the established nuisance, and failed management. The Applicant's concern has been only that a unencumbered be granted subject to light conditions, allowing him a free rein.

The Applicant's acknowledgement in the article that his licence was conditioned such that he would require a ruler to position tables and chairs, is diametrically at odds with actual mismanagement and the careful manipulation of the position of tables and chairs for commercial advantage. The subject of this persistent and strongly evident 'game-playing' on the positioning of tables and chairs has proven to be a consistent theme - in all of our earlier objections to the grant of a tables and chairs licence, and for over four years now. Notwithstanding the observations of the Committee in February 2011, this problem remains as disruptive as ever.

DETAILED OBJECTION

OBJECTION 1: Nuisance and adverse impact on amenity and the character and vitality of the area:

The persistent nuisance and annoyance from the application area and surrounds remains the primary reason for our making this objection.

Naturally we refer (briefly) to the evidence of nuisance submitted in our objection against the February 2011 grant. In light of events following February 2011 we restate our fundamental concern which has become even more relevant (just as set out in our June 2009 objection)

"...the whole point was that we should see [the Applicant] 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..."

Two and a half years later, despite the well-intentioned efforts of the Committee, nothing has improved as a result of the Applicant being granted a licence. The corresponding nuisance and adverse impact on amenity and the character and vitality of the area remains immensely disturbing and continues to blight our occupation of the neighbouring premises.

Condition 16 is all that (outwardly at least) controlled nuisance and disturbance being caused by the use of the licensed area. Regrettably, we were correct in defining this condition as "toothless" given that the Applicant has so evidently shown no intention of observing this condition.

The licence incorporates the purposeful wording: 'the Licensee shall take all reasonable and necessary steps'. The Applicant's unarguable conduct since February 2011 confirms that no reasonable or necessary steps have been taken.

Following the Applicant's letter of 4th November 2008, we formerly wrote of the Applicant's misperception of nuisance:

"...the essential problem has been one of the Applicants disregard for the nuisance issue ... (he) views nuisance in an altogether different way from how it must be assessed ... (his) treatment of 'nuisance' has been to identify whether or not physical violence has occurred ... (he) does not consider rowdiness and foul language to constitute real nuisance ... warranting no control by him outside his licensed premise"

It is self-evident that the Applicant will never accept that the use of the licensed area amounts to a nuisance and that he will remain of the view that we must tolerate living alongside it, powerless.

The overwhelming, almost daily, adverse impact of the licence on our lives remains. The intimidating atmosphere created by the licensed area – whether observed or abused by the Applicant – disallows absolutely even a moment's ordinary window shopping from which any viable business is dependent, especially in the current economic climate.

Footfall which would otherwise pass our shop window is understandably discouraged by the incessant noise, shouting, wolf-whistling, cat-calling, swearing.

By reason of the licence entitlement – which has ultimately proven a privilege grossly abused by the Applicant and to our continuing misery – we have been forced to endure four and a half years of unrelenting nuisance.

The dominating character of the nuisance and adverse impact is forcefully exemplified in the context of the Applicant's recurrent flouting of the licence since it was granted last February, below.

OBJECTION 2: Continuing (and historic) breach of licence conditions

Since the hearing in February 2011 complaints detailing licence breaches (and other matters) have been submitted to NCC via its Licensing, Enforcement and Regeneration & Development Departments. Much of this correspondence is supported by time-dated digital imagery and/or video evidence, as previously requested by Committee.

Bridget Buttinger Deputy CEO has advised us in correspondence dated 2nd September 2011, "At this hearing (Regulatory Committee), all the information held by the council will be made available to the committee to assist them in determining the application."

We have consciously been open about acceding to the Council's invitation to provide information so that it may finally confirm for itself, in the absence of enforcement investigation and action (which, regrettably, has inexcusably not taken place), the sheer impact of the licence and the redundant scheme of conditions imposed which have been willingly ignored by the Applicant. Tellingly, the Applicant cannot, in the light of this evidence, even begin to suggest that he has sought reasonably to comply with many, if any, of the conditions imposed.

No justification can exist. Insofar as any licence condition is imposed only because of necessity, the objectionable harm which has arisen from the Applicant's apathy necessarily carries wholly unsustainable intolerable knock-on impacts for us. The blight remains unimaginable.

Our submissions filed with the Council instructively include a substantial diary which spans a complete calendar month, commencing 17th August and which describes a multitude of breaches of various licence conditions. This is endorsed by no less than one hundred and 55 contemporaneous digital images.

Following the serious warning received by the Applicant from Committee regarding previous licence breaches, such breaches soon became obvious and frequent. Just as before, the Applicant has tested the boundaries of how the conditions imposed on the licence may be ignored.

To avoid explanation here of the significant extent of licence breaches, we assume here that:

1. The Committee have viewed all of the evidence submitted by M&L to NCC since 7th March 2011; and,
2. The Committee have received and considered a enforcement report which documents and adequately takes into account this evidence.

It will be noted by the Committee that the following *substantial* breaches which are either *continual* or take place with *high frequency*, without any justification, but, we regret, also without any enforcement investigation and action being consequently taken:

1. Condition 7 – duration of permission being between 08:00 to 23:30 hours only

Most recent examples of a breach of Condition 7 include:

17/09/11	tables/chairs erected until	00:19:49	photo image submitted
22/09/11	tables/chairs erected until	23:39:18	photo image submitted
28/09/11	tables/chairs erected until	23:37:16	photo image submitted
03/10/11	tables/chairs erected until	23:44:21	photo image submitted

On 05/09/11 we wrote to Mr. Jerry Massey, stating: "There have now been four breaches in the last eight days, would you describe that as acceptable?" To date, we have not received any confirmation that enforcement investigation or action will follow.

27/08/11	furniture erected until	23:42:30	photo image submitted
01/09/11	furniture erected until	23:38:00	photo image submitted
02/09/11	furniture erected until	23:59:25	photo image submitted
03/09/11	furniture erected until	23:54:08	photo image submitted

Other breaches of Condition 7 which have not been submitted further to the above, but which have been recorded by log (log commencing 05/08/11): August 5, 6, 9, 12, 13, 15, 17, 18, 24.

2. Condition 10 – outdoor advertising

A-boards remain permanently sited on the perimeter barrier of the space

The Applicant's application to amend the extant advertising condition for barriers enclosing the licensed area was refused by the Committee at the February 2011. The Applicant presently flouts this condition by enclosing the licensed area by use of 4 no. free standing barriers, supplemented by 6 no. A-boards; one positioned at either end with four along the length. The 6 no. A-boards amount to the length of one-and-a-half free standing barrier lengths (i.e. 27% of the enclosure).

In the interest of public safety along a well-trafficked highway and to prevent persistent overspill from the licensed area, the Applicant has allowed the A-boards to form in excess of a quarter of the enclosure.

3. Condition 3 - placement of objects

Barriers and A-boards are positioned on other (unlicensed) areas of the highway, beyond the 1.5m designated area; chairs are moved outside the space during peak times and into sun spots outside the area at all times.

On 05/09/11 we wrote to Jerry Massey, stating: "the boundaries of the site are regularly breached to accommodate further crowding ... constantly ignored by Licensee ... will you be investigating these breaches?" To date, no specific response has been received.

Other dates of persistent breach which have been reported and/or which are demonstrated by photo image received by the Council include:

- Aug 2011: 19 and 20
 - Sep 2011: 1, 11 and 16
4. Condition 16 (first component): Licensee shall take all reasonable steps to ensure the control of nuisance and annoyance to neighbouring occupiers.

The persistent nuisance and annoyance from the application area and surrounds is the primary objection. Our consideration of the acute nuisance impact is detailed below: 'nuisance and impact on the character and vitality of the area'.

The Committee had intended to impose Condition 16 in order to protect us. That protection only follows where there is proper enforcement. Regrettably the Applicant has been permitted to depart from Condition 16 with absolute impunity. No enforcement action has been taken despite our assisting NCC with ample, unarguable confirmation of frequent breaches of Condition 1:

- On 09/09/11 we wrote to Mr. Massey, stating: "we have seen no improvement in the Licensee's failure to act to mitigate noise nuisance emanating from the site and bothering our premise. Given the extent of these persistent breaches how do you intend to act?"
- On 15/03/11 we wrote to Mr. Streeter, stating: "tables and chairs ... bunching these again to allow crowding... right opposite our windows".
- On 21/07/11 we wrote to Mr. Shearman, stating: "there is not the remotest effort by the Licensee or his staff at ANY time to control noise nuisance ... at time of writing two children with drunken parents are causing a considerable noise nuisance and disturbing our afternoon clinic".
- On 20/08/11 we wrote to Mr. Massey; event date 19th August (duration 90 minutes): "group of eight young males...increasingly rowdy with foul language...immense disturbance inside our premise...the overcrowding and consequent nuisance created by this wanton non-compliance is wholly unacceptable...attached is photographic snapshot evidence" - photo image submitted.
- On 22/08/11 we wrote to Mr. Massey; event date 20th August (duration 95 minutes): "group of twelve plus males ... incredibly rowdy shouting and cheering all afternoon ... the noise nuisance was incessant and caused our locum optician to complain of the disturbance in his examination room ... at the rear of the premise" - photo image submitted, video evidence (namely, a 30 seconds digital video recording, including background noise recording which stands as a specimen of noise nuisance on 20th August: Video title: 20/08/11 STAG GROUP 30 sec (**Appendix B**). A longer, 10 minutes version of this event will made available at the hearing and is requested to be viewed).
- On 02/09/11 we wrote to Mr. Massey; event date 1st September (duration 91 minutes): "young family ... two year old and six month old ... much disruption and noise nuisance ... child running around inside site and in public highway infront of M&L windows" - photo image submitted.
- On 05/09/11 we wrote to Mr. Massey; event date 3rd September (duration 160 minutes): "group of eight to ten ... increasing noise nuisance as afternoon wears on ... very rowdy late afternoon during very busy clinic" - photo image submitted.
- On 09/09/11 we wrote to Mr Massey; event date 7th September (duration 183 minutes): "group of four ... very rowdy from outset ... as afternoon wears on noise nuisance becoming ever worse, foul and abusive language at high volume, absolutely no effort by PH staff to mitigate noise nuisance ... screaming down his phone with foul and abusive language threatening to kill the other person on the end of it" - photo evidence submitted

- other dates of reported nuisance submitted to NCC

- August 2011: 25, 26, 27, 29
- September 2011: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16

5. Condition 16 (second component): Licensee shall take all reasonable steps to ensure ... that as far as possible those customers are enjoined not to use parts of the highway other than the licensed area.

We accept that there will be the *occasional* customer who will not respect the licence conditions but, in the first instance, the Licensee must rigorously watch over and ensure keen observance that areas other than the licensed area are used, and such that nuisance and annoyance is not brought any closer to our premises. The breach has however been persistent. Demonstrably, the Applicant has exercised no or obviously inadequate control over management of the site, frequently allowing his customers use of the highway.

The instances of breach are tremendous and have been submitted to NCC, again, pursuant to the unambiguous advice given by the Committee in February 2011, alongside a diary log which spans a complete calendar month, commencing 17th August 2011:

- On 22/08/11 we wrote to Mr. Massey; event date 20th August: "continual instances throughout the day of PH customers standing and drinking both in the licensed area and public highway ... attached herewith snapshot photographic [image titles: 20 08 11 OVERSPILL A, 20 08 11 OVERSPILL B (**Appendix C**)] and vide/audio evidence ... to give an impression of the serious noise nuisance bothering our premise].
- Corroborative photo images submitted for dates:
 - Aug 2011: 17, 19, 20, 24, 27
 - Sep 2011: 1, 3, 6, 7, 8, 9, 10, 13, 16

6. Condition 11 - close monitoring by Applicant

Councillor Adrian Holmes gave evidence to Committee during the February 2009 hearing, describing the lamentable level of monitoring. This is entirely consistent with experience of Licensing & Enforcement by that date. Regrettably, the situation has worsened considerably since. Since the grant in February 2011 there has unarguably been even less managerial focus. We wrote on 25th August to Mr. Massey, stating: "at all times there is grossly inadequate management of the site and at busy times, when staff are seconded to serve customers inside the PH, none at all".

This is echoed throughout recent correspondence when we have indirectly reported many breaches of the close monitoring condition, within the diary log spanning an entire calendar month commencing 17th August and submitted to NCC. At times PH staff have been non-existent or, even if present, disinterested to monitor and ensure compliance with the licence conditions.

We refer you to the other condition breaches in this section illustrating examples of inadequate monitoring.

7. Condition 1 (first component): if the licence holder wishes to make use of the licence the maximum number of tables and chairs shall be placed during the hours of operation.

The terms of this condition are obvious. It represents an 'all or nothing' clause.

However, with the same manipulation or refusal to observe of each of the above conditions, the Applicant has, following February 2011, consistently flouted even this explicit condition. We wrote to Mr Massey on 5th September, stating: "The Licensee persistently removes tables and chairs and leaves only barriers erected for

extended periods at the site in breach of condition, customers are then left with no option but to stand drinking in the public highway (within the application site)."

We have also reported and submitted to NCC specific sample events, all evidenced with digital images, as follows:

- On 05/09/11 we wrote to Mr. Massey, citing:
 - a. event date 29th August, duration 67 mins - "21:40 barriers only ... 23:07 dismantled";
 - b. event date 2nd September, duration 29 mins - "23:30 barriers only ... 23:59 dismantled", (30 minutes beyond licensed hours);
 - c. event date 3rd September, duration 24 mins - "23:48 mostly removed ... 23:54 last furniture", (24 minutes beyond licensed hours).
- On 09/09/11 we wrote to Mr. Massey:
 - a. event date 5th September, duration 41 mins - "22:19 barriers only ... 23:00 furniture removed"
 - b. event date 6th September, duration 58 mins - "22:12 part dismantled ... 23:10 furniture removed"
 - c. event date 7th September, duration 79 mins - "22:06 part dismantled ... 23:25 furniture removed"
- On 13/09/11 we wrote to Mr Massey:
 - a. event date 8th September, duration 88 mins - "21:57 barriers only ... 23:25 furniture removed"
- On 14/09/11 we wrote to Mr. Massey:
 - a. event date 9th September, duration 37 mins - "23:00 partially dismantled ... 23:37 dismantled"
- On 21/09/11 we wrote to Mr. Massey:
 - a. event date 13th September, duration 66 mins - "22:15 partially dismantled ... 23:21 dismantled"
 - b. event date 14th September, duration 84 mins - "21:52 partially dismantled ... 23:16 dismantled"
- On 23/09/11 we wrote to Mr Massey:
 - a. event date 15th September, duration 76 mins - "22:13 partially dismantled ... 23:29 dismantled"
- The following breaches are even more frequent:

Sep 2011:	17	(65 mins) & (50 mins beyond hours)
	18	(33 mins)
	19	(60 mins)
	20	(74 mins)
	21	(69 mins)
	22	(39 mins) & (9 mins beyond hours)
	24	(24 mins)
	25	(61 mins)
	26	(52 mins)
	27	(58 mins)
	28	(24 mins) & (7 mins beyond hours)
	30	(17 mins)
Oct 2011:	01	(19 mins)
	02	(48 mins)
	03	(82 mins) & (14 mins beyond hours)
	04	(73 mins)

Please note: All the above are images which will be required to be viewed by the Committee, with advance copy provided.

8. Condition 1 (second component): furniture shall be placed evenly in the area other than to allow access to doorways - in persistent breach.

A interpretation of this condition has been volunteered by the Enforcement Department which departed from that given by the Committee in February 2011. Nevertheless, even in light of the Enforcement Department's view of the requirements of this condition, there has followed a high number of breaches flouting the following requirements:

- a. there is a designated position for furniture at doorways; and,
- b. furniture may be temporarily repositioned by customers but as customers leave they must be repositioned correctly.

We spoke with Mr Shearman on 14th March and wrote to Mr Streeter on 15th March, highlighting the Applicant's failure to position the furniture correctly: "tables and chairs being moved ever further away from the PH doorways, bunching these again to allow crowding". On 21st March we wrote to Mr Stephenson in the same vein, "the substantial standing area Mr Cutter is now leaving directly in front of our shop and the cramming of T&Cs up at the high end", attached were two images [image titles: 21 03 11 SPACING A, 21 03 11 SPACING B (**Appendix D**)] showing a substantial gap to furniture either side of the main doorway with the bulk of furniture crammed to the remainder of the application site.

Mr Stephenson replied on 22nd September: "Tony Shearman visited ... the tables and chairs were not placed with the condition set by committee. The Licensee has been advised of this and asked to ensure that in future they are sited correctly". Further correspondence ensued and by 25th March we had sent three more images [image titles: 22 03 11 SPACING A, 22 03 11 SPACING B, 25 03 11 SPACING (**Appendix E**)] showing little or no improvement and indeed the worse outcome when Mr Cutter had returned on shift and repositioned the furniture further apart, shown on image '22 03 11 SPACING B'.

We refer also to the Evening News article above and the Licensee's acknowledgement that the furniture position was critical (if disagreeable to him). We note also that on the evening of the February 21st, immediately following the Committee hearing, the furniture was repositioned to condition and immediately abutting the doorways at either end of the site. However, within just days, this changed fundamentally: with improper spacing and incorrect positioning.

We have reported and submitted to NCC specific sample events, all evidenced with digital images, as follows:

- On 18/08/11 we wrote to Mr. Massey: "the Licensee moves tables and chairs away from the PH frontage ... in contravention to how detailed in the application ... and is butting these against the barriers ... nearer our premise ... another one of his schemes to allow standing customers to congregate about the doorways leaning on the premise wall"
- On 20/08/11 we wrote to Mr. Massey: event date 19th Aug, duration 90 mins - "the area occupied by the eight customers is immediately opposite our premise entrance door and conditioned to accommodate one table and three chairs ... with three customers at the next table ... there were eleven people drinking when conditioned to accommodate six"
- On 22/08/11 we wrote to Mr. Massey: event date 20th Aug, duration 95 mins - "group of twelve males ... congregated around one table ... the area occupied ... is conditioned to accommodate one table and three chairs ... to prohibit large groups crowding and causing nuisance ... image attached ... area amounting to approximately 15% of the whole site which left eleven chairs for the 85% of the site and hence all the consequent standing inside and outside of the site elsewhere"

- On 25/08/11 we wrote to Mr. Massey: "repeat the point that at your Enforcement Teams instruction the Licensee is required to reposition tables and chairs to pattern and yet they remain strewn around the site without any attention from the PH staff ... why is this still the case some six months from the decision"
- On 30/08/11 we wrote to Mr. Massey; event date 27th Aug 13:14, "no customers now at all in the site, tables and chairs strewn haphazardly across site"
- On 02/09/11 we wrote to Mr Massey; event date 1st Sep 08:34 & 16:05, "set up first thing in the morning either side of doorway approx 2.0m from doorway (Enforcement allowance 1.4m) ... gaining an extra 1.2m around doorway allowing nuisance crowding ... we have complained at length of this condition being continually breached and yet there still appears an open defiance by the Licensee not to comply"
- On 13/09/11 we wrote to Mr Massey; event date 8th Sep, duration 62 mins "approx 12 in group ... note position of furniture after departure, no tables by main door and chair in road ... remain strewn around the site and crammed at one end ... chair still in road 22 minutes since vacated ... pattern ignored by PH staff (for 62 mins) ... until dismantling undertaken ... PH staff did not challenge unseated drinkers nor did they make any effort to reposition tables and chairs to pattern" (8 images at intervals)
- On 16/09/11 we wrote to Mr Massey; "when viewing evidence these images also illustrate the failure of the Licensee to manage the repositioning of site furniture which remains out of pattern and strewn around the site"
- On 23/09/11 we wrote to Mr Massey; event date 16th Sep, duration 68 mins "two tables and two chairs should be six, doorman looks on ... PH staff and doorman look on (five images at intervals) ... deliberate nature of this. As we have complained for four years, the Licensee has clearly instructed his staff to continue to maximise the standing area by the main door and they will not replace the furniture as required"
- Other dates of reported furniture placement breaches submitted to NCC

Aug 2011: 25, 26, 29

Sep 2011: 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15

9. New Condition 2 - all persons drinking beverages shall be seated

Under this perfectly clear condition, any customer leaving the PH premise with a beverage must find a free chair at a table within the site, and be seated at the table. If there are no free chairs or tables they must return immediately inside the premise, thus limiting the maximum number of drinkers within the site to twenty-one if all the furniture were in use.

Breaches of this condition are incessant. The condition is plainly meaningless to the Applicant who remains unconcerned by his flouting of the February 2011 Committee decision. No enforcement investigation or action has been taken, notwithstanding our correspondence:

- On 21/07/11 we wrote to Mr. Shearman: "brazen noncompliance ... the Licensee and his staff stand talking with people breaching this condition and walk away without any attempt at enforcing this and there seems a positive determination to breach now ... in complete defiance of the condition that they sit ... we attach a contemporaneous image"
- On 16/09/11 we wrote to Mr. Massey: event date 10th September, duration 4 hours "standing drinkers joined by staff and left unchallenged ... man (and/or) group stands drinking from table (sixteen images at intervals) ... doorman joins/looks on (eight images at intervals) ... to confirm the time lines and extent of breaches we submit these serial diary images in demonstration"

- On 14/09/11 we wrote to Mr. Massey: event date 9th September, duration 74 mins "standing drinkers joined by staff and left unchallenged ... man (and/or) group stands drinking now unchallenged for 32 minutes PH staff look on unconcerned (six images at intervals) ... PH staff still talking with man standing drinking (6minutes) ... woman drinks whilst standing, doorman moves to allow woman to place drink on window ledge ... woman now drinking unchallenged for 15 minutes, second member of staff joins ... woman stands drinking (31 minutes and four images at intervals) ... at no time was the woman challenged by PH staff"
- On 18/08/11 we wrote to Mr. Massey: event date 17th August, duration 50 mins "put on record and ask you to investigate ... one stands inside barrier drinking and one outside the barriers ... in full view of the PH bar - (M&L take photograph, commotion erupts) - PH staff member eventually appears customers sit PH staff return inside ... (1 min later) customers standing again ... (37 mins later) first sign of PH staff attending tables since incident"
- On 20/08/11 we wrote to Mr. Massey: event date 19th August, duration 90 mins "group of eight young males ... standing & drinking inside the licensed area and in the public highway ... attached is photographic snapshot evidence"
- On 22/08/11 we wrote to Mr. Massey: event date 20th September, duration 95 mins "group of twelve-plus ... standing and drinking inside the licensed area and the public highway ... photographic evidence we have also archived a thirty second video"
- On 25/08/11 we wrote to Mr Massey: event date 24th August, duration 33 mins "three instances ... at all times there is grossly inadequate management ... PH staff seem ill-trained in exercising the appropriate management ... self-evidently misunderstood by the PH staff ... why is this still the case some six months from the decision"
- On 19/09/11 we wrote to Mr. Massey; event date 11th Sep, duration 3 hours "man (and/or) stands drinking (11 images at intervals) ... this event spanned intermittently a period over three hours, at no time were the standing drinkers challenged by any member of the PH staff"
- Other dates of reported drinkers not seated submitted to NCC

Aug 2011: 25, 26, 27, 29

Sep 2011: 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 14, 15, 16

OBJECTION 3: Obstruction to movement, unsuitability of site space (including the application area and surrounds) and function

Various key considerations arise here:

• Obstruction to pedestrian and vehicular flow

We rely on our submission of 17th November 2008, its narrative, diagrams and images which all remain abundantly relevant (and repeatedly proven since February 2011) in making our objection.

• Unsuitability of site space and function

With this objection we have provided substantial and unarguable evidence of various breaches of the licence and instances of disturbance. We have also expressed our opinion, made on the basis of catalogued events over four and a half years, that an intolerable contributor is the lack of will and indeed the ill-will of the Applicant himself. The grossly inadequate management and under resourcing of the site are other factors. But, these on their own are only part of the problem as we contend the failure of the site 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 by virtue of the restrictive physical dimensions of the site these stipulations are routinely flouted, and necessarily so as the Applicant errantly sees it, to avariciously accommodate all of his customers wishing to make use of the area at peak times. Practically, diners, drinkers and smokers are unable to use the space independently and the conflict of usage also raises significant public health issues.

The licensed space is just 1.5m in width and its total floor area is substantially smaller than the footprint of the otherwise large brick premises (perhaps less than 5%). Just as house design has changed with larger bathrooms and kitchen-diners now the order, the modern PH has a large outdoor space in relation to the brick building wherein it can accommodate dining areas smoking areas and children's recreational areas. It is hardly Moss & Leakey's fault that the smoking ban has changed how PHs have to operate in a modern day economy or that this PH sits on a particularly narrow street which cannot afford any more highway space to be used for it.

It is though accurate to say that in granting the licence virtually every guideline for outside refreshment areas has been stretched to the absolute limit if not indeed broken. When one guideline is stretched it may be mitigated by other favourable parameters but in this instance there are so many 'allowances' that cumulatively they result in an area that is woefully inadequate for the size of the premise to comfortably accommodate tables, seating and walkways for access to these. In case of point, refreshment spaces Inclusive Mobility 9.4 recommends alone that 'gangways between tables should be a minimum of 1.3m wide to allow for the passage of wheelchair users and people with assistance dogs and in this one regard to give good access would be to use up virtually all of the space.

How can a large PH decant its Sky football viewers, for their half-time drink and a smoke, into an area one-twentieth of its internal size and not have a problem. When the area is already occupied by other customers the answer of course is that it just can't.

Barriers at the site are not contiguous and again simply because of the lack of space for adequate walkways within it, movement lines are consequently well beyond the licensed space and substantially increase the highway in usage by the Applicant. Not only is this 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 narrow street is hazardously obstructed and that the nuisance and annoyance coming from the space surrounds is closer still to our premise as we have shown with digital image evidence to Committee again this year.

The in practice functioning of the site obstructs a major part of the highway and 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.

Before the smoking ban the licensed area was licensed for the bright dry summer period only, not for the dark wet or icy winter period, it was seldom used and when it was it was only ever lightly bedecked with furniture and customers anyway. Moss & Leakey did not raise objection to the licence at that time for over four years when it was only infrequently bothered by nuisance.

To continue in a state of denial that things have not changed in the last four years has become untenable. The space doesn't work, the applicant cannot make it work and it must be gone now.

Our conclusion

We acknowledge that the Committee may have previously intended, if perhaps in the perceived interests of this objector and various muted traders located within the surrounds to consider it appropriate, on balance, to grant a licence to the Applicant but subject to outwardly strenuous conditions. The Committee's intention may even have been to inspire or develop a café-style culture for the immediate surrounds of the bottom of Timberhill.

Insofar as the Committee may have intended to protect us and others against the onslaught of overwhelming nuisance and other adverse impacts, we regrettably but inevitably inform the Committee that the existence of an extended licensed area for tables and chairs at this specific site has proven intolerable.

Insofar as we have historically opposed the grant, we are sorry to have seen so many of our concerns be realised over what has amounted to an unimaginable 4-and-a-half year blight.

The key difference under this application is that earlier this year the Committee appreciated the wisdom of inviting us to submit for its thorough consideration, unarguable and substantial evidence of impact and breach. We now invite the Committee not to resile from what amounts to a clear commitment to impartially consider what is self-evident. The evidence we submit in objection reflects our true experience.

We therefore finally entrust this Committee with an abundance of evidence which independently and self-evidently demonstrates the adverse impact of the use of the licensed area and separately, the unforgiving willingness of the Applicant to flout the intention of the Committee that the licence be guarded by condition.

Lip-service only has been paid to the possibility that enforcement action may be taken against the Applicant's licence breaches. We and others can regrettably have no confidence in referring impossible and provocative behaviour to the Council's enforcement team.

We invite also the Committee's acknowledgement, that pursuant to its own recommendation, we have undertaken an exhaustive and exhausting monitoring exercise, much to our cost, with the purpose of showing the Committee what we continue to endure as the immediate neighbour of the licensed area. No explanatory is required given that the obvious evidence of impact and wilful breach. Hence, the conclusion that the Applicant can no longer be entrusted with a further tables and chairs entitlement, is irresistible.

We hope that the Committee distinguishes here between any personal animosity which may exist between the parties and what is nevertheless now unarguably apparent for the impartial tribunal to witness and conclude upon.

We confirm that we simply cannot suffer any further impact from an extended licensed use. Nor can we allow ourselves to be subjected to the continual consequence of this licence, however it manifests: ill-will, argument, intimidating and provocative behaviour, threats, intimidation, devices intended to professionally slur, etc. Nor fundamentally should the Committee suffer the Applicant's consistent 'cocking a snook' at the conditions they saw fit to impose as a necessary curb on use.

Insofar as the licensed area virtually sits on top of our premises, it is forever been vital that the guardian of the licence observe its conditioned use. The Applicant's obvious and incessant unwillingness means that the space and function of this outside area is highly impractical.

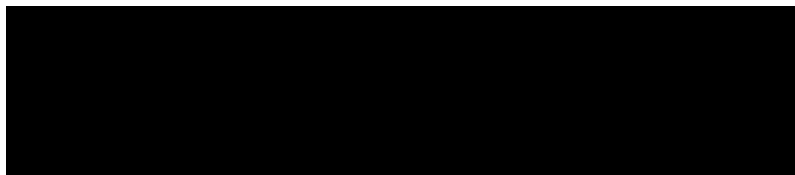
Vividly, conditions do not overcome the harm at this site. This is so even were they meaningfully observed or even enforced. Whilst we may have previously respected an enthusiasm of the Committee to 'creatively' condition the licensed area so as to confer a privilege and not be seen to frustrate the Applicant unnecessarily, fundamentally, there can be no purpose in any condition in which the Applicant so obviously shows no interest and in which the Enforcement Department show no enthusiasm to defend and uphold. This leads only to ridicule and to the critical undermining of the Committee's licensing and regulatory function.

We remain all too aware that that every key, overarching consideration possibly engaged in this application – of community, of private and public rights, of the wider public interest and the peaceful enjoyment of one's property, are flouted by the existence of the licensed area.

Insofar as previous grants of the licence might have been viewed as 'testers' by which others could adjudge impact, their consideration now militates inevitably in favour of refusal.

Finally, for all these reasons we urge that this application be refused.

Yours sincerely,

A large black rectangular box redacting the signature of David Foskett.

David Foskett, Managing Partner

R.P Dr. Nadarajah Sasitharan

[homes24](#)
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People still allowed to drink outside Norwich pub - but they have to sit down





✉ David Bale
Wednesday February 23, 2011
12:55 PM

 Recommend 2  Tweet 6

People drinking outside a popular Norwich city centre pub will now have to sit down, but smokers can stand up, a hearing has ruled.



The Murderers pub in Timberhill, Norwich - part of the Norwich central area Pictures: Adrian Budd Copy: For EN ©Eastern Daily Press 2008

 Comments  Email  Print  Got a story?

The Murderers in Timberhill has kept its tables and chairs licence, but the extra conditions added were described by the landlord as 'farical'.

The pub faced a fresh battle to keep its outdoor tables and chairs – after an attempt to resolve a dispute with neighbouring business Moss and Leakey optician through 'restorative justice' failed and the optician again objected to the plans to the city council.

Now the pub has been successful in getting the licence renewed for another year, but landlord Phil Cutter said the new conditions could be the first step towards the licence eventually being refused.

He said: 'We are pleased we have got the licence but this is the fourth time the licence has come up for renewal in four years, and I expect Moss and Leakey to object again in a year's time.

'Eventually we could have so many conditions imposed on the licence that it could end up being unworkable.'

Mr Cutter said the optician was blaming the pub for a loss of trade, when all businesses across the country were losing out due to the recession.

The conditions added to the pub's licence are that outside tables have to be spaced out a set amount and drinkers have to be seated, but smokers can stand.

Mr Cutter added: 'The conditions are farical. How can we ensure the tables are placed at a certain distance other than taking a ruler out every day?'

David Foskett, managing partner at Moss and Leakey, did not wish to comment.

The Murderers has had permission for the tables and chairs since 1996.

As previously reported, Moss and Leakey believes the road and pavements are not wide enough to safely allow for chairs and tables and say smokers and drinkers outside the pub are rowdy and intimidate their customers who are made to feel unsafe.

Are you in dispute with a neighbour? Call David Bale on 01603 772427 or email david.bale2@archant.co.uk

Other News Articles

Thorpe pub taken over by Norwich landlady - and should reopen soon

Wheelchair slipped when elderly Salhouse woman was being wheeled on, inquest told

Norwich to get new 'fine city' welcome signs

Norfolk councillors experience Norwich bus ride without sight

Broadland area school children show off creative side at Bewilderwood

Dream wedding for brave Thorpe St Andrew mum

Gino comes to Norwich for family fare

Women's car hit husband at low speed in Lowestoft, trial told

Norfolk health bosses criticised over Downham Market Health Centre failings

Bleak prospects for campaign to save Britons Arms in Norwich

Appendix A
Norwich Evening News 23rd Feb 2011



Appendix C

image title:

20 08 11 OVERSPILL A



Appendix C
image title:
20 08 11 OVERSPILL B



Appendix D
image title:
21 03 11 SPACING A



Appendix D

image title:

21 03 11 SPACING B



Appendix E

image title:

22 03 11 SPACING A



Appendix E

image title:

22 03 11 SPACING B



Appendix E

image title:

25 03 11 SPACING







x4

CH1

20/08/2011 15:45:19



21/03/2011 15:25:04



CH1

21/03/2011 15:25:09



CH1

22/03/2011 14:41:48



x1

CH1

22/03/2011 17:36:26



CH1

25/03/2011 09:30:06

APPENDIX

I







20/08/2011 15:45:19



x1

CH1

21/03/2011 15:25:04



CH1

x1

21/03/2011 15:25:09



x1

CH1

22/03/2011 14:41:48



22/03/2011 17:36:26



25/03/2011 09:30:06

INCOMING EMAIL

From: Ives, Jane <JaneIves@norwich.gov.uk>
To: Ives, Jane <JaneIves@norwich.gov.uk>
Date: 05/09/2011 17:34:05
Subject: FW: Moss & Leahey Enforcement Complaint

Jane Ives
Executive Assistant to the
Director - Regeneration & Development
Norwich City Council
Room 205b, City Hall
Norwich NR2 1NH
Tel: 01603 212226
Email: janeives@norwich.gov.uk
Telephone number for all enquiries 0344 980 3333
www.norwich.gov.uk
To take part in the city council's 'your services your say' budget consultation visit
www.norwich.gov.uk

From: David Foskett [REDACTED]
Sent: 30 August 2011 09:25
To: Massey, Jerry
Subject: Moss & Leahey Enforcement Complaint

Dear Mr Massey

Gardeners Arms - Breach of Licence Condition

Event Log - Thursday 25th, Friday 26th & Saturday 27th August

General continual instances of noise nuisance that is completely ignored and uncontrolled by the Licensee as conditioned

Continual instances throughout these days of PH customers standing and drinking both in the licensed area and public highway, several instances are caught on CCTV for your inspection (seven day loop)

Continual instances throughout these days of furniture out of position throughout the whole site which is not repositioned by PH staff, some caught on CCTV for your inspection (seven day loop)

Thursday 25 08 11

14:16:40 couple drinking standing

14:24:30 return into PH, unchallenged throughout

15:02:30 couple back outside

15:04:45 eventually challenged

Attached herewith is photographic snapshot evidence

Friday 26 08 11

18:53:40 young male brings drink from PH, places drink on table, stands drinking and smoking

19:02:30 returns into PH, unchallenged throughout stay

Attached herewith is photographic snapshot evidence

Please note: image attached is taken at outset of incident when TWO staff & ONE Doorman are within 'arms length' of the customer yet seem oblivious to his arrival

Saturday 27 08 11

13:08:00 few customers in the site, many tables and chairs out of position

13:14:00 no customers now at all in the site, tables & chairs strewn haphazardly across site

13:27:00 first effort to reposition (poor one)

Attached herewith is photographic snapshot evidence

Saturday 27 08 11

14:03:55 group of four males congregate at main door, drinking standing

14:04:30 PH staff appears stands by group and ignores them, goes in after 20 secs

14:05:20 PH staff appears again, completely ignores group though standing within 5m, goes in after 4 min 20 secs

14:10:10 PH staff appear again, walk past ignoring group

14:12:00 group leaves, unchallenged throughout stay

Attached herewith is photographic snapshot evidence

Please note: image attached shows PH staff (checked shirt) walking outside past group and showing no interest

Above are further instances demonstrating 'routine' breaches of licence condition over extended periods, on consecutive days and at all and any hour of the duration of the licensed hours, 08:00 to 23:30. All are available for your inspection via CCTV footage and are sample incidents only and not exhaustive for the days, ref. Our general comments above. Transmission by e-mail limits the image numbers we are able to send and precludes the inclusion of video images, however some video is archived for future reference, but we trust those sent give a flavour of the continual and persistent breach of licence conditions at the site.

In this regard we wish to bring to your attention again that not only is the Licensee in breach of license conditions, knowingly and deliberately so, but also continues his attempt to frustrate our evidence gathering as required of us by the Regulatory Committee. Our final image is of the powerful spotlight positioned on an upper floor at the PH and aimed directly at our CCTV camera to 'blind' its view. How sinister is that in your opinion. Attached herewith is photographic snapshot evidence, Saturday 27 08 11.

We note your e-mail of 26th August and are extremely concerned at the suggestion that disassociated enforcement issues might be addressed together with our straightforward and very focused final stage complaint regarding committee decision. We must insist you reply directly and straightforwardly to our formal complaint and separately to any other complaints on other matters.

Whilst grateful for your acknowledgement and advice that our e-mails are recorded it is noted that you were unable to express concern regarding their content or offer hope that the obvious non-compliance would be finally addressed. Perhaps you will now respond in full and specifically to the breach of licence conditions covered under these separate correspondences.

Yours sincerely

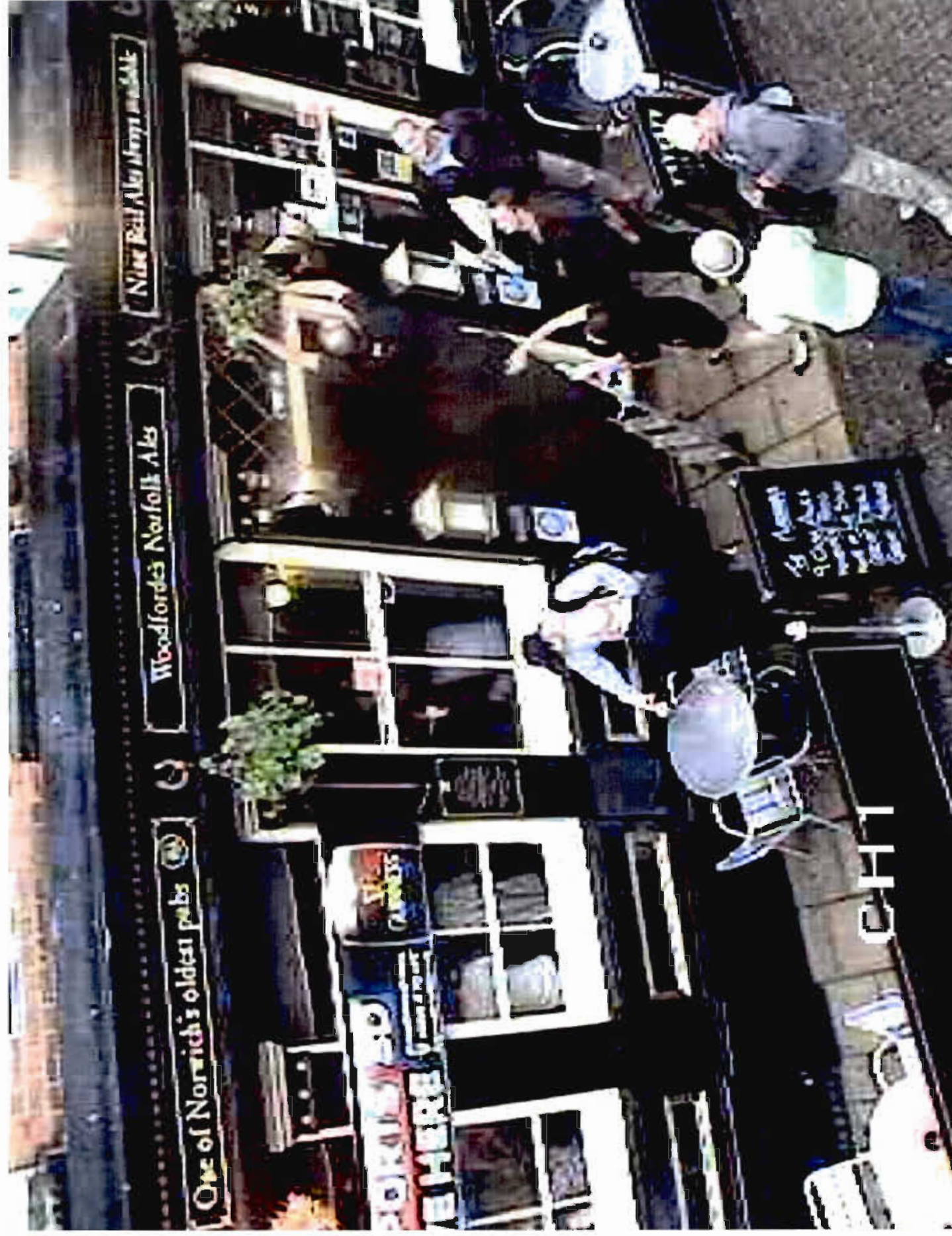
David Foscett

Managing Partner Attachments:

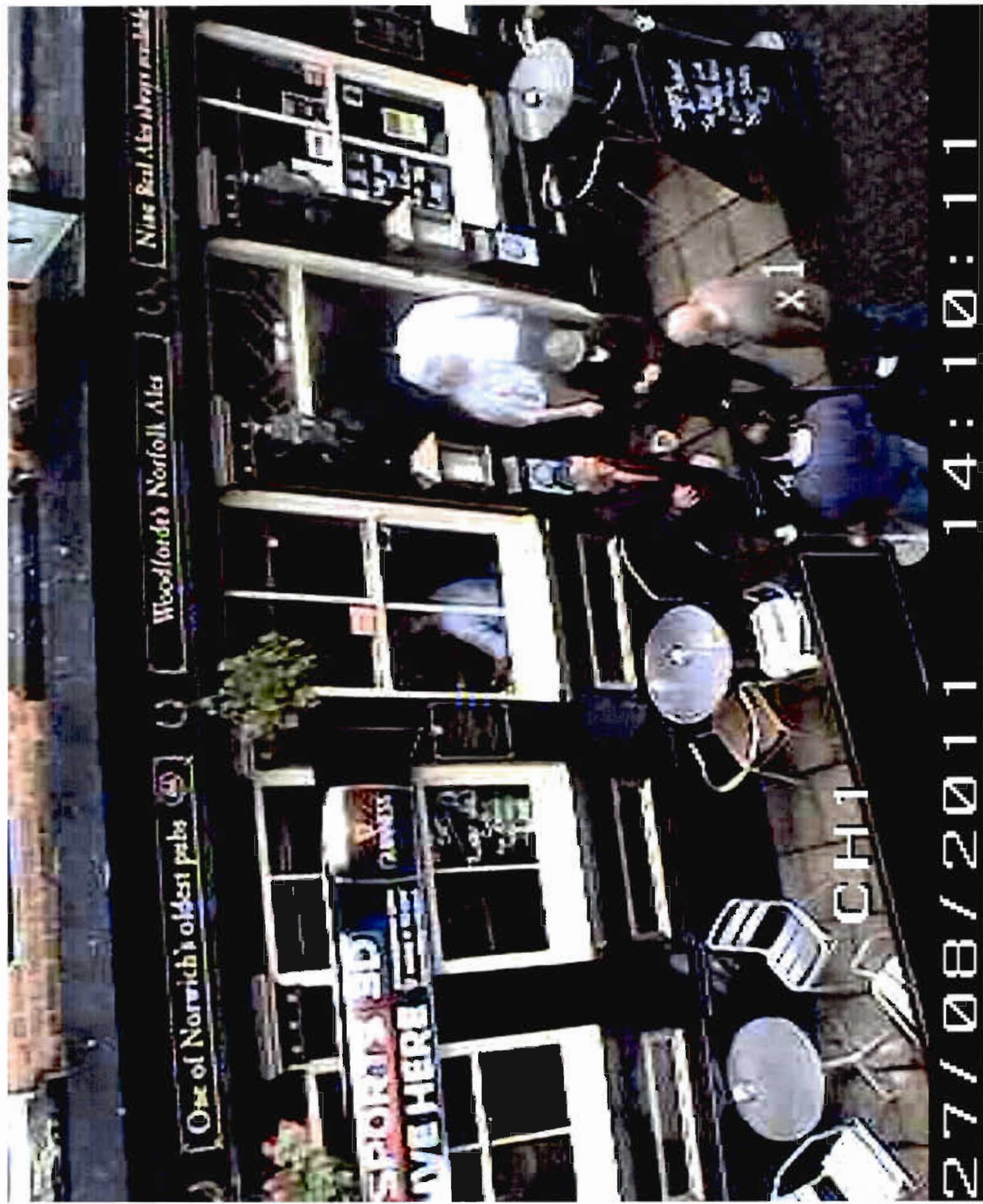
- (1) 25 08 11 COUPLE DRINKING.JPG(111 B)
- (2) 26 08 11 MAN DRINKING NEAR STAFF.JPG(118 B)
- (3) 27 08 11 GROUP DRINK STAFF IGNORE.JPG(111 B)
- (4) 27 08 11 SPOTLIGHT.JPG(1 KB)
- (5) 27 08 11 TABLES STREWN.JPG(110 B)
- (6) moss lh.GIF(6 B)



25/08/2011 14:21:24



26/08/2011 18:53:47







CH1

27/08/2011 13:15:49

INCOMING EMAIL

From: Ives, Jane <JaneIves@norwich.gov.uk>
To: Ives, Jane <JaneIves@norwich.gov.uk>
Date: 05/09/2011 17:28:05
Subject: FW: Moss & Leakey Enforcement Complaint

Jane Ives
Executive Assistant to the
Director - Regeneration & Development
Norwich City Council
Room 205b, City Hall
Norwich NR2 1NH
Tel: 01603 212226
Email: janeives@norwich.gov.uk
Telephone number for all enquiries 0344 980 3333
www.norwich.gov.uk
To take part in the city council's 'your services your say' budget consultation visit
www.norwich.gov.uk

From: David Foskett [REDACTED]
Sent: 02 September 2011 15:46
To: Massey, Jerry
Subject: Moss & Leakey Enforcement Complaint

Dear Mr Massey

Gardeners Arms - Breach of Licence Condition

Event Log - Saturday 27th August & Thursday 1st September

General continual instances of noise nuisance that is completely ignored and uncontrolled by the Licensee as conditioned

Continual instances throughout these days of PH customers standing and drinking both in the licensed area and public highway, several instances are caught on CCTV for your inspection (seven day loop)

Continual instances throughout these days of furniture out of position throughout the whole site which is not repositioned by PH staff, some caught on CCTV for your inspection (seven day loop)

Saturday 27 08 11

23:42:30 tables & chairs in use outside hours (23:30), dismantled time

Attached herewith is photographic snapshot evidence

Thursday 01 09 11

23:38:00 tables & chairs in use outside hours (23:30), dismantled time

Attached herewith is photographic snapshot evidence

Thursday 01 09 11

08:34:00 tables & chairs set up first thing in morning either side of doorway

approx. 2.0m from doorway (Enforcement allowance 1.4m)

Attached herewith is photographic snapshot evidence (two)

Thursday 01 09 11

14:47:30 young family congregate, standing drinking

14:57:30 mother arrives, two year old and six month old children present,
standing drinking

15:04:40 first appearance of PH staff nearby, still standing drinking, much
disruption and noise nuisance

15:18:35 PH staff speak with family, continue to stand inside and outside site
with drinks on table, child running around inside site and in public highway in front of
M&L windows

16:04:25 family leaves

Attached herewith is photographic snapshot evidence (five)

Thursday 01 09 11

16:05:59 (following family departure) tables and chairs re-positioned by PH
staff, replaced either side in excess of 2.00m from doorway (Enforcement allowance
1.4m, i.e. gaining an extra 1.2m around doorway allowing nuisance crowding)

Attached herewith is photographic snapshot evidence

Above are further instances demonstrating 'routine' breaches of licence condition
over extended periods on consecutive days, available for your inspection via CCTV
footage, and are sample incidents only not exhaustive for the days.

We have tried to send you a variety of episodes over these last weeks to give a flavour
of the breaches and nuisance emanating from the site. We had considered giving you
some respite this week but given the noise nuisance yesterday, and particularly from
the disruptive family during a very busy clinic in practice, we felt inclined otherwise.
There remains absolutely no acceptance from the Licensee that he is conditioned and
responsible for mitigating said nuisance from his customers. When will he be forced
to comply.

Regarding the positioning of tables and chairs we have complained at length of this
condition being continually breached and yet there still appears an open defiance by
the Licensee not to comply. When will he be forced to comply.

We wonder how many times the Licensee would have to serve under-age drinkers
before losing his licence but do not imagine it would take years of non-compliance
before action was taken. Given the weight of recent evidence of the wholly
inadequate management of this site, together with the four years of historical evidence
submitted to Enforcement and Committee, is it your intention to allow the licence to
run unchallenged or will you consider it being revoked/suspended in these

circumstances.

With respect and to reiterate, the Licensee has never shown any genuine will to comply and his reluctance appears only matched by your enforcement departments similar reluctance to act.

Yours sincerely

David Foscett

Managing Partner Attachments:

- (1) 01 09 11 OUTSIDE HOURS.JPG(102 B)
- (2) 01 09 11 T&C OUT OF POSITION A.JPG(102 B)
- (3) 01 09 11 T&C OUT OF POSTION B.JPG(89 B)
- (4) 01 09 11 YOUNG FAMILY DRINKING & NUISANCE A.JPG(106 B)
- (5) 01 09 11 YOUNG FAMILY DRINKING & NUISANCE B.JPG(112 B)
- (6) 01 09 11 YOUNG FAMILY DRINKING & NUISANCE C.JPG(95 B)
- (7) 01 09 11 YOUNG FAMILY DRINKING & NUISANCE D.JPG(110 B)
- (8) 01 09 11 YOUNG FAMILY DRINKING & NUISANCE E.JPG(104 B)
- (9) 01 09 11 YOUNG FAMILY T&C REPOSITION.JPG(91 B)
- (10) 27 08 11 OUTSIDE HOURS.JPG(97 B)
- (11) moss lh.GIF(6 B)



01/09/2011 23:34:01



01/09/2011 08:34:49



01/09/2011 08:34:52



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CH1

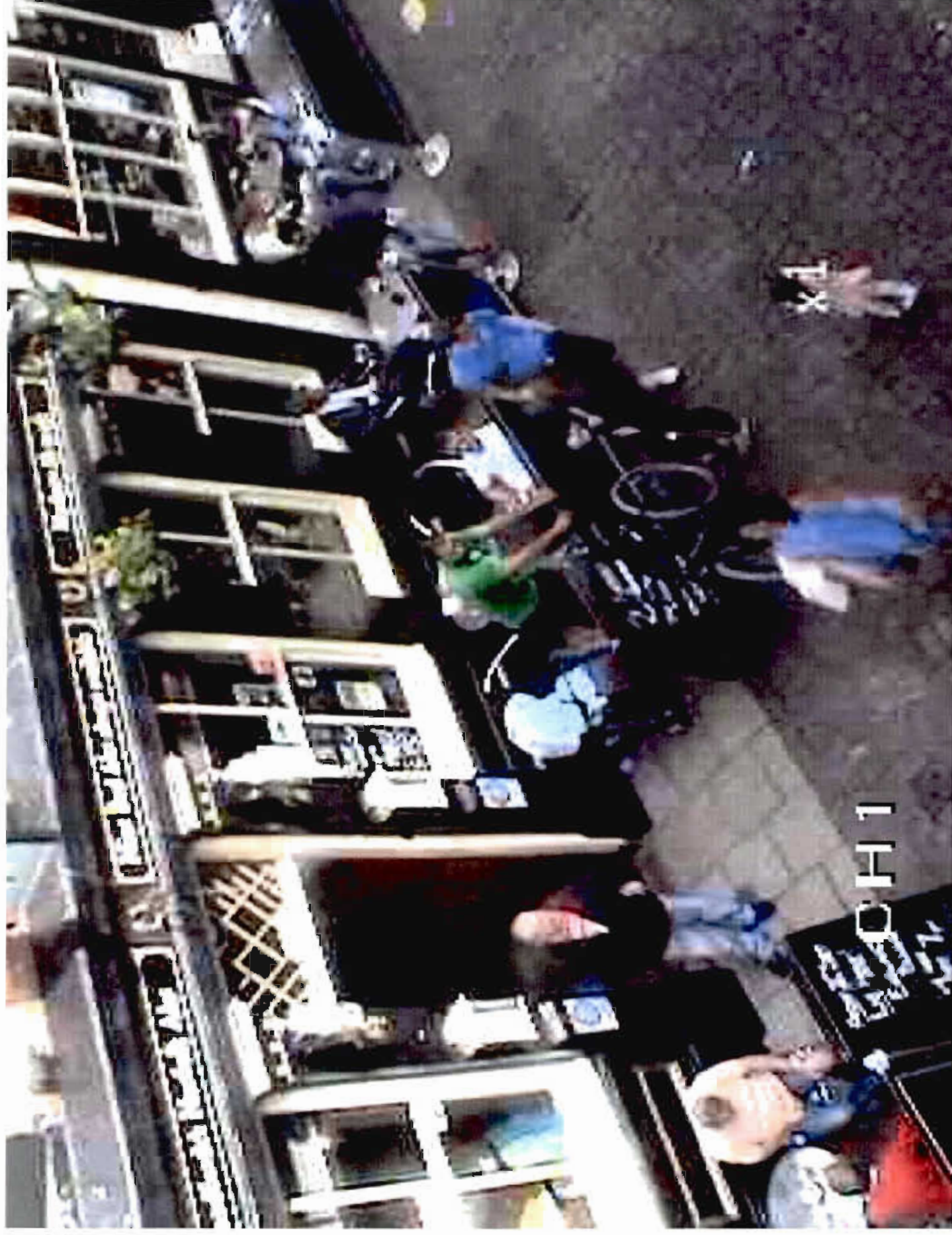
01/09/2011 15:04:42



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CH1

01/09/2011 14:58:02



01/09/2011 15:08:01



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CH1

01/09/2011 15:13:57



01/09/2011 16:02:29



01/09/2011 16:05:59

sky SPORTS 3D
LIVE HERE

x1

CH1

27/08/2011 23:40:07

INCOMING EMAIL

From: Ives, Jane <JaneIves@norwich.gov.uk>
To: Ives, Jane <Janelves@norwich.gov.uk>
Date: 06/09/2011 15:12:06
Subject: FW: Moss & Leahey Enforcement Complaint

Jane Ives
Executive Assistant to the
Director - Regeneration & Development
Norwich City Council
Room 205b, City Hall
Norwich NR2 1NH
Tel: 01603 212226
Email: janeives@norwich.gov.uk
Telephone number for all enquiries 0344 980 3333
www.norwich.gov.uk
To take part in the city council's 'your services your say' budget consultation visit
www.norwich.gov.uk

From: David Foskett [REDACTED]
Sent: 05 September 2011 18:08
To: Massey, Jerry
Subject: Moss & Leahey Enforcement Complaint

Dear Mr Massey

Gardeners Arms - Breach of Licence Condition

Event Log - Monday 29th August, Friday 2nd, Saturday 3rd, Sunday 4th September

General continual instances of disturbance noise nuisance emanating from the site that remains completely ignored and uncontrolled by the Licensee as conditioned

continual instances of PH customers standing and drinking both in the licensed area and public highway, several instances are caught on CCTV for your inspection (seven day loop)

continual instances of furniture out of position (and/or missing) throughout the whole site which is not repositioned by PH staff, some caught on still images and CCTV for your inspection (seven day loop)

Monday 29 08 11

21:40 tables & chairs removed from site leaving barriers only

23:07 barriers dismantled

Friday 02 09 11

23:30:45 tables & chairs removed from site leaving barriers only, man standing drinking

23:59:25 furniture finally dismantled, 30 minutes beyond licensed hours

Attached herewith is photographic snapshot evidence (two)

Saturday 03 09 11

15:30 large group of eight to ten customers congregate, increasing noise nuisance as afternoon wears on

18:10 very rowdy late afternoon during very busy clinic, group start to leave

16:42 barriers and tables & chairs have now moved well beyond site boundary and extending into vehicular highway, remain like this for rest of afternoon, no effort whatsoever by PH staff to remedy

Attached herewith is photographic snapshot evidence

Saturday 03 09 11

23:48:39 barriers and tables & chairs mostly removed from site, customers drinking standing at low end of site

23:48:47 ditto group at high end of site

23:54:08 doorman has been watching episode, removes last furniture, 24 minutes beyond licensed hours

Attached herewith is photographic snapshot evidence (three)

Saturday 03 09 11

Powerful spotlight targeting Moss & Leakeys CCTV camera dome

Attached herewith is photographic snapshot evidence

Sunday 04 09 11

22:27:16 barriers only erected at site

Attached herewith is photographic snapshot evidence

Above are further instances demonstrating 'routine' breaches of licence condition over extended periods on consecutive days, available for your inspection via CCTV footage, and are sample incidents only not exhaustive for the days.

The disputed allowance that customers may position tables and chairs perpetuates the inevitable consequence that large groupings and crowding may form anywhere within the site and thereby greatly exacerbate the noise nuisance from it. In these circumstances the Licensee will not act to mitigate the nuisance by enjoining the customers as conditioned and clearly relishes the fact that this is bothering staff and customers inside our premise. Will you force him to act to stop this nuisance emanating from the site?

The boundaries of the site are regularly breached to accommodate further crowding, and particularly at the low end of the site (where the sun falls) near our premise door, and this is constantly ignored by the Licensee. Will you be investigating these breaches?

The licence was conditioned such that if the area was to be occupied at all it must have the whole extent of the street furniture erected, to meet with the Highways Act

(as agreed and confirmed in writing by Licensing and communicated to the Licensee). The Licensee persistently removes tables and chairs and leaves barriers only erected for extended periods at the site in breach of condition, customers are then left with no option but to stand drinking in the public highway. If accepting that this is unlawful under the Highways Act how do you intend 'prosecuting' the offending individual?

At the last hearing the Licensee was severely rebuked by the legal officer David Lowens for breaching the licensed hours and warned how seriously Committee took this breach. There have now been four breaches in the last eight days, would you describe that as acceptable?

Finally, whilst not directly an enforcement issue the deliberate and cynical attempt to blind our CCTV system with the high-powered spotlight directed at it from a first floor window of the PH is of grave concern to us. Patently it is aimed at frustrating our efforts to provide your authority and Committee with photographic evidence as it has requested but it is also denying us the right to protect our property. The CCTV system is installed with the primary purpose that it should prevent and detect crime as our premise became targeted by vandals following our objection to the Tables & Chairs licence. How the Licensee believes these actions will be seen by Committee other than as a demonstration of his malevolence towards us remains a mystery but we wonder whether you can direct us in this matter. The Police have advised us that there is no criminal offence that they can deal with and suggested we contact your authority, can you help?

Yours sincerely

David Foskett

Managing Partner

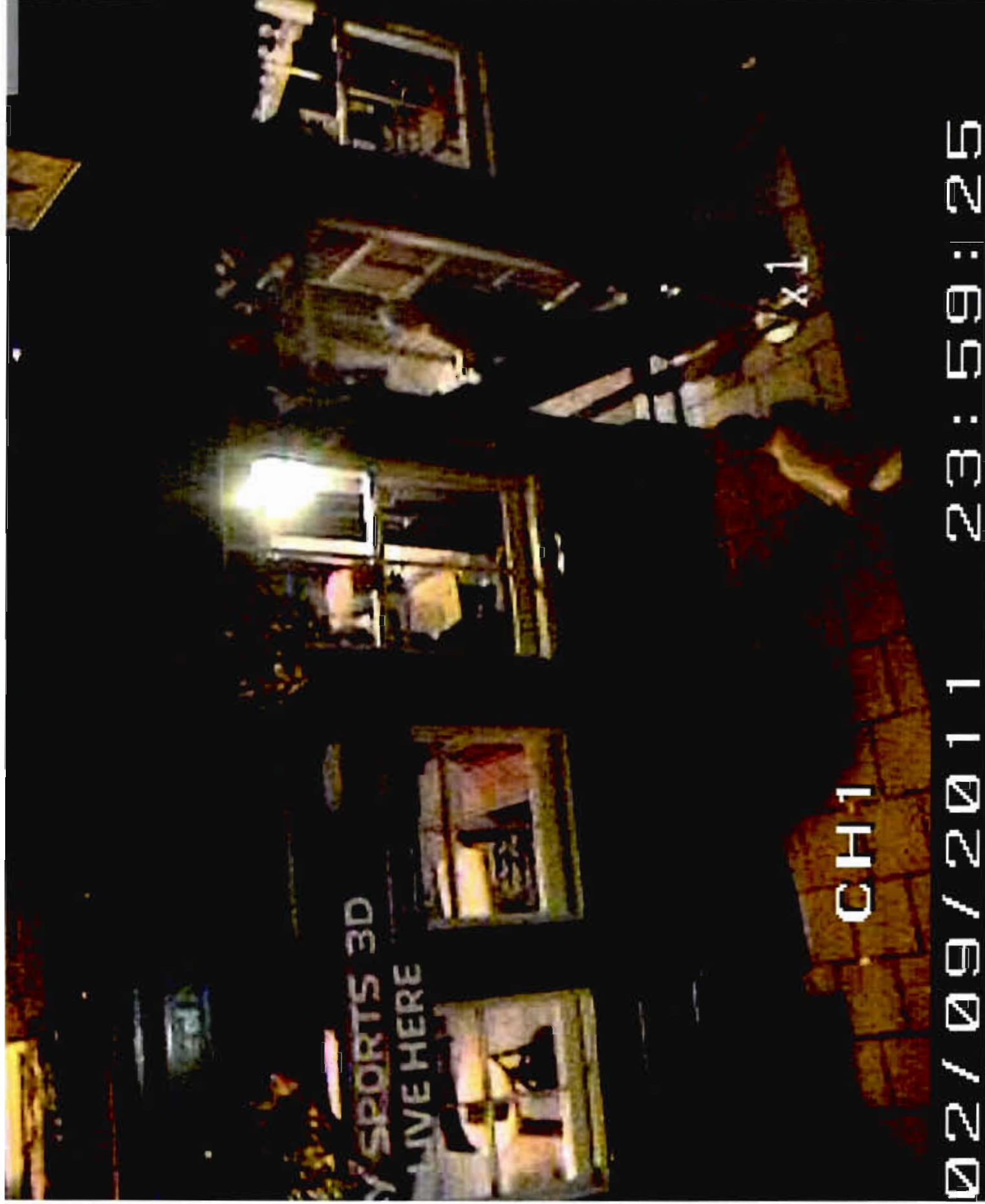
- Attachments:
- (1) 02 09 11 BARRIERS ONLY ST DR.JPG(85 B)
 - (2) 02 09 11 OUT OF HOURS.JPG(95 B)
 - (3) 03 09 11 OUT OF HOURS.JPG(83 B)
 - (4) 03 09 11 OUT OF HOURS ST DR HIGH END.JPG(83 B)
 - (5) 03 09 11 OUT OF HOURS ST DR LOW END.JPG(92 B)
 - (6) 03 09 11 OVERSPILL ST DR.JPG(97 B)
 - (7) 03 09 11 SPOTLIGHT.JPG(1 KB)
 - (8) 04 09 11 BARRIERS ONLY.JPG(86 B)
 - (9) moss lh.GIF(6 B)



x1

CH1

02/09/2011 23:30:45



02/09/2011 23:59:25



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CH1

23:54:08

03/09/2011



CH1

03/09/2011 23:48:47



CH1

03/09/2011 23:48:39



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CH1

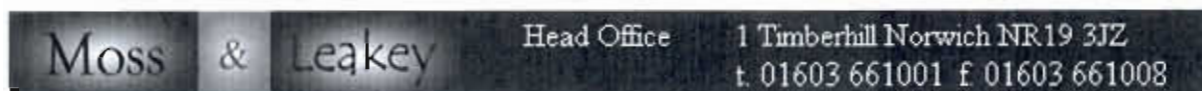
03/09/2011 16:42:19



Platten, Jamie

From: David Foskett [REDACTED]
Sent: 09 September 2011 15:57
To: Massey, Jerry
Subject: Moss & Leakey Enforcement Complaint

Attachments: 05 09 11 STAND DRINK.JPG; 05 09 11 T&C FINAL DISMANTLE.JPG; 05 09 11 T&C PART DISMANTLE.JPG; 05 09 11 T&C PART DISMANTLE STAND DRINK.JPG; 06 09 11 STAND DRINK A.JPG; 06 09 11 STAND DRINK B.JPG; 06 09 11 T&C FINAL DISMANTLE.JPG; 06 09 11 T&C PART DISMANTLE.JPG; 06 09 11 T&C PART DISMANTLE GROUP STAND DRINK.JPG; 07 09 11 GROUP STAND DRINK A.JPG; 07 09 11 GROUP STAND DRINK B.JPG; 07 09 11 GROUP STAND DRINK C.JPG; 07 09 11 GROUP STAND DRINK D.JPG; 07 09 11 GROUP STAND DRINK E.JPG; 07 09 11 GROUP STAND DRINK F.JPG; 07 09 11 GROUP STAND DRINK G.JPG; 07 09 11 GROUP STAND DRINK H.JPG; 07 09 11 GROUP STAND DRINK J.JPG; 07 09 11 GROUP STAND DRINK K.JPG; 07 09 11 GROUP STAND DRINK L.JPG; 07 09 11 GROUP STAND DRINK M.JPG; 07 09 11 T&C FINAL DISMANTLE.JPG; 07 09 11 T&C PART DISMANTLE.JPG; 07 09 11 V ROWDY GROUP.JPG



Dear Mr Massey

Gardeners Arms - Breach of Licence Condition

Event Log - Monday 5th, Tuesday 6th, Wednesday 7th September

General continual instances of disturbance noise nuisance emanating from the site that remains completely ignored and uncontrolled by the Licensee as conditioned

Continual instances of PH customers standing and drinking both in the licensed area and public highway, several instances are caught on CCTV for your inspection (seven day loop)

Continual instances of furniture out of position throughout the whole site which is not repositioned by PH staff, some caught on still images and CCTV for your inspection (seven day loop)

Monday 05 09 11

18:40:40 standing drinkers
18:48:20 return inside, unchallenged by PH staff throughout
Attached herewith is photographic snapshot evidence

22:19:42 tables & chairs removed from site leaving barriers only
22:45:08 standing drinker within the site has no table or chairs to use
23:00:22 furniture removed from site
Attached herewith is photographic snapshot evidence (three)

Tuesday 06 09 11

13:47:55 standing drinker, smokes cigarette (approx. 5 minutes), unchallenged by PH staff throughout
Attached herewith is photographic snapshot evidence
17:00:50 standing drinker
17:05:40 still stands drinking, unchallenged by PH staff throughout
Attached herewith is photographic snapshot evidence

22:12:57 tables & chairs part dismantled, large group standing drinking
22:50:03 barriers only in place
23:10:43 furniture removed from site
Attached herewith is photographic snapshot evidence (three)

Wednesday 07 09 11

14:15:00 group of four begin to congregate, make various visits between PH and site, very rowdy from outset
17:07:23 as afternoon wears on noise nuisance becoming ever worse, foul and abusive language at high volume, absolutely no effort by PH staff to mitigate noise nuisance
Attached herewith is photographic snapshot evidence

07/11/2011

Immediately after this image was taken one male from group spends ten minutes on mobile phone in front of M&L premise literally screaming down his phone with foul and abusive language threatening to kill the person on the other end of it, returns inside PH at 17:18:25

Wednesday 07 09 11

In late afternoon a party of five collect (one appears pregnant?), from the outset they stand (individually and/or grouped) drinking at the tables & chairs whilst they smoked. Following is an array of images of this group;

17:51:09	image A
18:35:53	B
19:13:11	C
19:17:27	D
19:26:16	E
19:27:23	F
19:45:45	G
19:53:49	H
20:06:10	J
20:29:59	K
20:33:17	L
20:52:18	M

This event spanned a period of over three hours, the average time to smoke their cigarettes was approx. Six minutes amounting to the licence being breached by this one group alone (others doing likewise) for approx. An hour and fifteen minutes during their stay, not once were they challenged by PH staff over this whole period

Attached herewith is photographic snapshot evidence (twelve)

Wednesday 07 09 11

22:06:58	tables & chairs part dismantled
23:25:58	furniture removed from site

Attached herewith is photographic snapshot evidence (two)

Above are further instances demonstrating 'routine' breaches of licence condition over extended periods on consecutive days, available for your inspection via CCTV footage, and are sample incidents only not exhaustive for the days.

The licence is conditioned such that if it is to be exercised there must be the whole extent of the street furniture erected, confirmed again in correspondence from Bridget Buttinger at 2nd September. Given the extent of these persistent breaches how do you intend to act?

The condition, 'persons drinking beverages in the designated area to be seated', was confirmed agreed again in correspondence from Bridget Buttinger at 2nd September. Given the extent of these persistent breaches how do you intend to act?

We have seen no improvement in the Licensees failure to act to mitigate noise nuisance emanating from the site and bothering our premise. Given the extent of these persistent breaches how do you intend to act?

Would you please advise us how long you wish us to provide our event logs? It is a matter of concern that our business interest is greatly compromised in having to devote so much effort in providing these and only the more so when they are so repetitive in nature, and for reasons beyond our control. Your Enforcement Dept purports to ensure compliance but our event logs are substantial evidence that this has not come about at any time. How do you intend to act?

It should not go unnoticed either that in obliging us to provide such substantial evidence Moss & Leakey staff are put at some considerable risk of personal harm if this procurement offends the PH customers and they react to it, indeed Police Officers have met with us to express their concern for our well-being in this regard. Do you think your failure to act meaningfully to stop these persistent breaches, which would thereby relieve us of the onerous duty of gathering evidence, is acceptable given the obvious and real risks to our staff?

We would be obliged if you would reply separately and directly to this correspondence given matters herein that urgently require your attention.

Yours sincerely

David Foscett
Managing Partner

07/11/2011



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CH1

05/09/2011 18:48:11

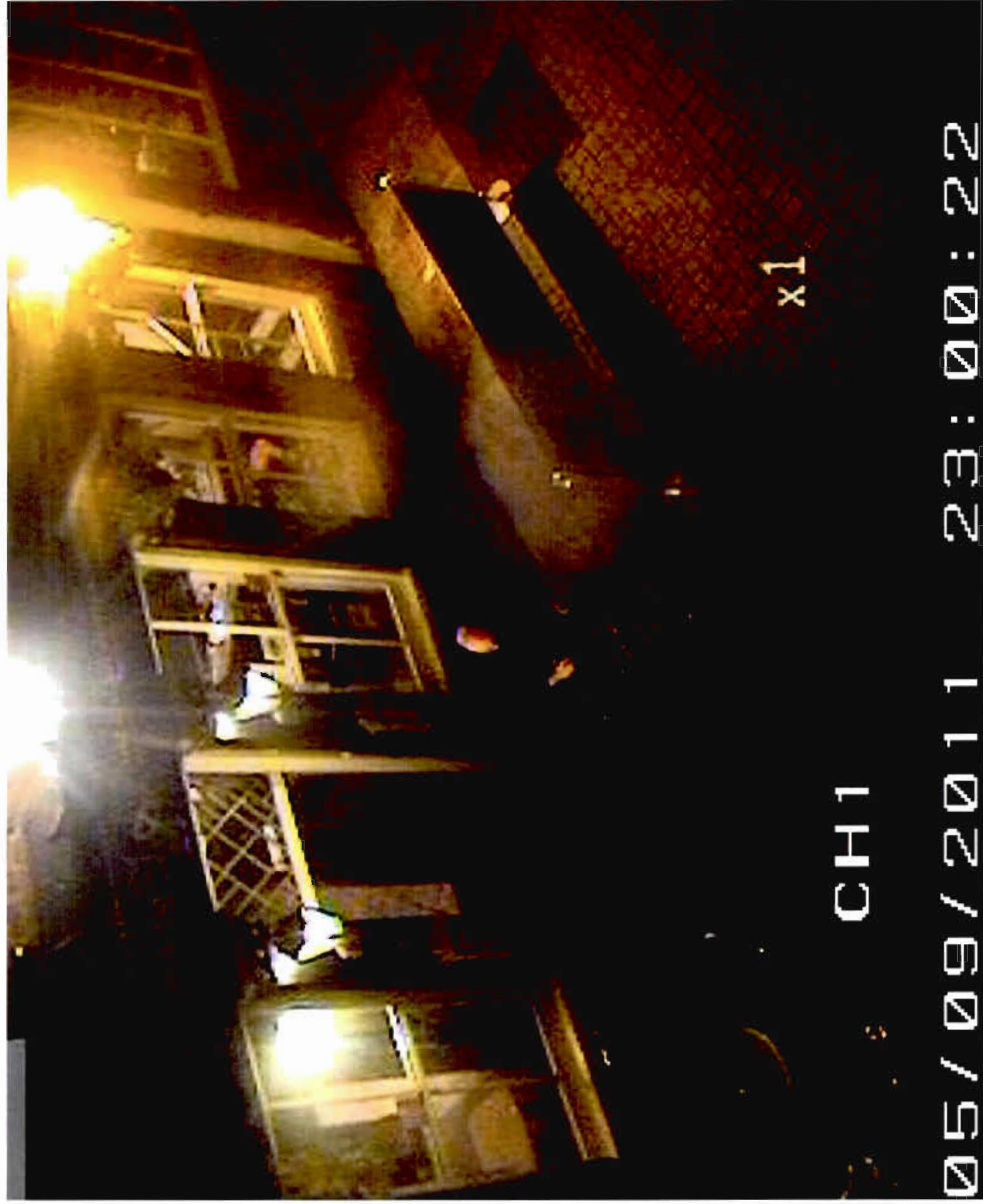


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CH1

05/09/2011 22:19:42





CH1

x1

05/09/2011 23:00:22



CH1

06/09/2011 13:47:55



06/09/2011 17:05:40





CH1

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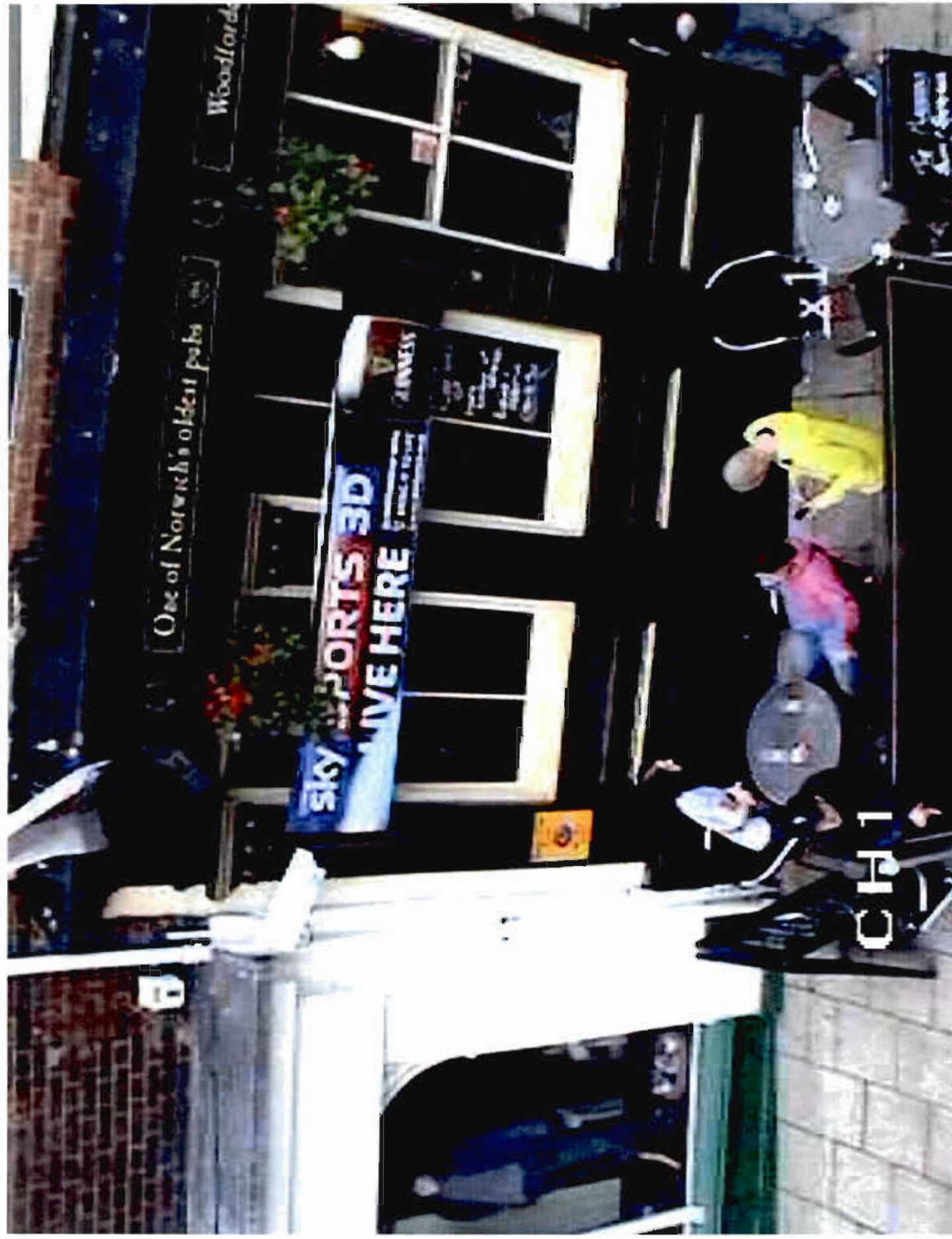
06/09/2011 22:50:03



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CH1

06/09/2011 23:10:43



07/09/2011 17:07:23