



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



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

Telepho

Date:-  
22nd November 2012

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

Dear Ian,

I have discovered, somewhat with regret, that once again our tables and chair licence, is to be reviewed by the Regulatory Committee. This the seventh, (7th) time in 5 years, at the cost to ourselves, the complainant, Mr David Foskett, (DF) and more regrettably in these austere times, Norwich City Council (NCC), funded by the Council Tax payers, of Norwich.

2012 has been a successful year for us at here at the Gardeners Arms (TGA). Three awards at the 25th Norwich in Bloom event, Regional Winners in two separate categories at The Great British Pub Awards, (Best Cask Ale Pub and Best Sports Pub) and inclusion in the CAMRA Good Beer Guide 2013, for a third consecutive year.

I have co-chaired the second highly successful Norwich City of Ale, (CoA), an endeavour to promote the heritage of Norwich's pubs and brewing, incorporating a showcase, of current pubs, breweries and beers to a national audience. Over 40 pubs, 35 Norfolk Brewers and 240 Norfolk cask ales were showcased in a 10 day event, leading the Chairman of the British Guild of Beer writers, Tim Hampson, to declare 'Norwich-the UK's City of Ale'. I also have been involved in the introduction of the Business Improvement District, (BID), which will hopefully bring much needed investments, initiatives and a stronger voice for every business in the city, no matter what size or sector. I have invested my own time into both of these ventures, for the benefit of others. I have spoken to many traders, in my capacity of Chair of CoA, and as an Ambassador for the BID, who tell me how difficult trading conditions continue to be, have been since 2007, and undoubtedly will continue to be. I am sure that neither NCC nor Moss & Leakey, (M&L) are immune to these difficult times.

My sincere hope, had been, that with **NO** complaints made to NCC regarding this licence throughout 2012, (until November) believing that our interventions with both David Foskett, (DF) and his Clinical Director, Dr. Nadarajah Sasitharan, (DNS), prior to the last hearing in November 2011, and directly afterwards; had addressed the mis-judged perceptions they had about TGA. On my visit to the Kings Lynn branch of M&L in October 2011, I was told that DNS had 'nothing to do with' the operation of the Norwich branch, and all decisions were made by DF. At this meeting, I personally assured DNS that I worked on behalf of all traders on TimberHill, including M&L, and that any claims made about incidents which were alleged by DF being detrimental to his business, would also detrimental to mine, so it would be in our 'mutual' interest to be able to resolve these together. Directly after the November hearing in 2011, my business partner, Ivan Brown, (IB), spent two full mornings speaking to DF, re-affirming my comments in Kings Lynn, encouraging DF to inform **US** when he believed that nuisance or ASB was occurring outside our premises, as this would be 'helping us' if we were unaware of this occurring, and could be resolved immediately....From this opportunity offered, we **NEVER** received any contact from M&L staff. Our 'olive branch' gave DF an open door to work with us, rather than against us. Lines of communication have regularly been opened by us at TGA. For example, staff at M&L called twice in one day, in April 2009, asking that 'our' customer, remove their bicycle chained to the lamppost outside the M&L premises. My staff made a great deal of effort to find the owner, without success. The owner was eventually found at a nearby premise by DF - However, this highlights that we can, and have been approached, to resolve issues.

I garner absolutely no pleasure, from these encounters with the Regulatory Committee, and places undue stress onto my staff, IB, myself, and, as was evident at last year's hearing my wife, who was visibly distressed, and left the midway through the hearing. We have kept respectful silence over five years, with widely exaggerated, unsubstantiated claims made about myself personally, my customers as well as my premises. We are ultimately positioned to justify each and every claim; however, this latest submission seems to have shifted position. Phrases such as, '*a patent bias and favour toward the Applicant*', seems directed towards the committee, and NCC officers, underlining that, yet again, in DF opinion can make unsubstantiated accusations, without ANY factual basis.

Ultimately, I believe that TGA remains the scapegoat for DF perception that the tables and chairs licence, held since 1996, has had, such a detrimental effect to his business, and that during the longest, most damaging recession for several generations, DF has spent tens of thousands of pounds on reviews, in an attempt to revoke this licence. A licence that has been constantly supported by many other traders, and residents, on, and in the surrounds, of TimberHill, since the first objections in 2007. So much so, at the November 2011 hearing, **FOUR** local traders, appeared to support the current application now up for review, with a significant amount of support received by letter. All those attending, told the committee that they had no issue with the furniture nor the premises. For DF to write that other traders were 'not bothered like us by noise nuisance', is misleading. Furthermore to say '*NCC had failed first to adequately investigate any complaint of nuisance*' is entirely unfair, when these traders, address committee to tell them clearly, **THERE IS NO NUISANCE!**

We at TGA were described in November 2008, to Committee, '*Police believe that the premises is well run*'. In February 2009, "*Members considered the level of nuisance arising from the use of the tables and chairs to be minimal .....and noted the report of the Principal Transportation Planner....considered this use to be an appropriate use of the highway*". (Regulatory Committee minutes)  
Each failure to satisfy this committee, has led to additional emphasis being placed on TGA having to quantify or justify every action, or statement, each laugh, shout, dropped glass, argument, barking dog, screaming child. We have our premises licence, T&C licence, gaming licence, personal licences, music licence etc. We have to satisfy the Police, and Local Authority, whilst we have a wider, often moral, responsibility to local traders, and the general public....we are ultimately responsible, and answerable already for all our actions. Previous, 'additional' conditions placed upon the licence by committee, were described as '*neither practical to enforce or proportionate to the problems being caused*' and that 'no evidence has been produced of any significant nuisance caused by the use of the area' (3rd October 2011).

Vast amounts of data, was collected via a CCTV camera which is positioned upon the M&L building, over a full two year period. Exclusively, to collect 'breaches of licence conditions' The Information Commissioner assessed August 2011 '*....information provided by the optician....have provided written assurances that the focus of the system is on the frontage of the Moss and Leakey premises.....and not the licensed premises*' This is contrary to the reason DF gave to the Planning Committee of NCC in February 2009. The minutes from this meeting show my objection to the camera, with '*concerns that the camera was only being used to collect evidence to object to licensing applications for tables and chairs*'. DF denied this saying "*that the reason for the camera was to deter vandalism of the premises at 1-3 Timberhill*" – Over 150 photographs, (including, reprehensibly, images taken directly into the bedroom of the residents of the pubs flat), were included with DF's submission to the regulatory committee in November 2011, and a daily record from 2010, indicates that the M&L staff reviewed there CCTV daily, watching the operation on the pub, on what can only be described as a permanent basis. This makes a mockery of assertion's made by DF, to both the ICO as well as the planning Committee of NCC. Fundamentally, at best, he misled them, at worst, DF lied.

Furthermore, in relation to previous regulatory committee meetings, my own legal representative, Brian Hardie, was threatened by DF, with action by the Law Society. Unsubstantiated allegations were made by DF about a previous chair of this Committee, Cllr. Keith Driver, who was suspended from his council duties, whilst a full investigation took place. (These allegations were later found untrue) NCC has even been taken to the Local Authority Ombudsman, by DF, on the grounds of maladministration – And subsequently dismissed. A supporter of this application has been contacted by DF, writing that they '*....found it (DF letter) somewhat threatening. The hectoring tenure of the note is unpleasant and in part libellous*'. DF even walked out of one committee hearing claiming that his 'human rights' were being breached!

Despite being described by DF, in an e-mail to SGT. Pete Sharples, '*I guess you know that intellectually I (DF) really do find him, (me) hard work*' (06/07/09) I have also been subjected to a number of DF accusations and historic, claims of 'bullying', 'intimidation', and

'orchestrating a campaign of hate' – which were all unsubstantiated, and subsequently discredited. However, my wife felt compelled to write to DF following my daughter feeling very intimidated, and fearful, when DF berated me in the street, in July 2011, prior to The Lord Mayors procession. But it was DF who accepted an official Police caution, following an incident in October 2011, where he verbally abused me, in the middle of TimberHill, on a busy Saturday morning, directly outside his premises. This is the very kind of behaviour that he has suggested 'blights' his life. – Something which is conspicuous, by its absence throughout DF submission to this committee. Yet, the Police had been positioned previously, to warn DF of his behaviour. I know of at least 2 other local businesses, who have encountered the same verbal tirade from DF, as well as a warning by Police following a member of the public making a complaint about him taking unsolicited photographs of her outside TGA. In February, 2012, residents of the flat above the pub, visited the M&L premises to inform them that their intruder alarm was faulty, and had been sounding over 3 nights. Whilst we contacted the constabulary, and their alarm company, no-body from M&L was registered as a key-holder, (this remains the case), meaning that over the entire weekend, the alarm was not reset. Despite the approach to M&L, informing them that the alarm was faulty, the alarm re-activated, leading residents to relocate to a hotel. (NCC Environmental Services dealt with this) DF describes himself as '*victims of serious nuisance*', however; there remains absolutely no substantive evidence to quantify this allegation – However, both myself, and residents have been subjected to **ACTUAL** nuisance. Whilst, those who either disagree, or oppose the M&L view, (Myself, Brian Hardie, Cllr. Keith Driver, NCC, etc) have been pilloried by DF.

Rebecca George-Hewitt, proprietor of TALC, on TimberHill, addressed committee in November 2011, explaining how she had spent her life savings on her premises. A new Steak house, (Middletons) is being opened in December 2012, with an investment of £120,000-£160,000... Our street currently only has just ONE empty unit, with over 6 new businesses opening in 2012. Given the on-going accusations being made, and the high media attention of the matters raised, the question has to be asked... Why would anyone want to trade on TimberHill? Police and NCC records, support our claim at TGA, that we are a busy, well run, well respected establishment. Crime levels on Timberhill are historically low. The majority of traders on TimberHill support this application; some have even addressed this committee. Only ONE person has constantly objected to this, and despite various claims, has failed to satisfy this committee that his own PERCEPTION of nuisance is supported by any other trader. Over two years, with 24 hour surveillance of this licensed site, DF has failed to substantiate any of the claims raised. I re-iterate, that serious nuisance, on such a suggested, permanent basis, would be as detrimental to my own business, and to all traders on TimberHill – This simply is not the case. The best intentions of Committee to 'compromise' with M&L led to conditions gradually imposed on this licence, which your own officers described as '*neither practical to enforce or proportionate to the problems being caused*'. – As Bert Lance said '*If it ain't broke, don't fix it!*'

With regards,

Philip Cytter MBII

07 DEC 2012

The gardeners arms/murderers café bar

2-8 timberhill

Norwich

Norfolk

Nr1 3lb

RECEIVED  
- 7 DEC 2012  
LICENSING OFFICE

R.E. the gardeners arms tables and chairs license

To Ian,

I am a resident living above the Gardeners arms; I am a 25 year old female. I have lived above the pub for nearly 3 years now, and worked in it for 5 years. I have never felt uncomfortable coming into work or walking past to go up to the flat. We do have a wide range of customers and none of these customers ever make me feel so uncomfortable that I don't want to entre the premises or walk past it. I have been the assistant manager for nearly 2 years now, so on several occasions I have had to ask people to leave, these normally have come into the premises after drinking some where else and are too inebriated to serve, in the event of asking them to leave I have never felt threatened or that my personal safety was at risk. I would like to point out that I'm 5'5 and weigh 8 stones.

I have read one of the letters of complaint from one of the proprietors at Moss and Leakey that had reference of how the noise coming from outside the pub is a nuisance and prohibits their working environment. I would like to point out that my bedroom is directly above the main door opposite Moss and Leakey. I have never had a problem with not being able to sleep from the so called 'nuisance noise' coming from outside and I have any potential noise from inside the pub beneath me to contend with as well.

I would like to mention that the only time I have had an issue with noise is when Moss and Leakey's alarm had sounded every night for 3 nights solid on the 25<sup>th</sup> February. I tried every avenue to try and get the issue sorted by phoning the police, the council, and the alarm company, to no avail. After 2 nights of the persistent noise Philip cutter had to put me up in a hotel at his own expense. The next day I tried to inform Mr Foscett of his alarm, as he wasn't there I asked a member of his staff to pass on the message and that I would like to speak to him about the issue. Mr foscett never came back to me about this so I sent him a letter to explain my problem, on which he still never contacted me. ( I have included this letter) As far as I could see , he didn't care at all that his alarm had been sounding for 3 days or that it had affected me, and my sleep.

I am also still not pleased with the fact that MR Foscett has a camera facing into my bedroom. I often have to keep my curtains closed during the day when I'm on a night shift as I feel he is watching me or could be recording my movements, as a young female this is quite worrying an intimidating. I Would like to think what I did in my own bedroom was personal to myself and I do worry what footage he could potentially have of me, especially the times that my boyfriend has been there.( as you often forget when

your in your own personal space about the outside world and that I should close the curtains because a camera might be filming me) I feel very vulnerable and intimidated at times because of this issue and I worry that he might have shown his staff this footage, and that they might gossip or be laughing at me when I pass their shop in the street. As they could have seen personal and private situations that go on in my bedroom. I don't feel like this would be an issue to others that live in the city, most people would have overlooking building but not ones that are filming into their personal spaces. We know from the pictures that he provided at the last meeting that his camera films inside of the building. This was bought up but nothing was done about it. So I have lived another year in this situation. Why he feels he needs to have a camera partially aimed into my bedroom also concerns me about his motives for having it in the first place.

I would like to offer the opportunity for any one to come and look at how the camera is positioned from my bedroom so that they can see the problem for themselves

Many thanks,

Sophie lowe

07 DEC 2012

Dear Mr Foskett,

I am writing to inform you of the events involving your security alarm from the 25<sup>th</sup> -27<sup>th</sup> February 2012.

On the Saturday 25<sup>th</sup> feb, a member of bar staff mentioned that your security alarm was going off at approximately 11 pm, this member of staff went outside to investigate this situation to see if any sort of break in had occurred, he was satisfied that it must have been a fault so left it; as we assumed you would be alerted to the fact your alarm had been triggered. As well were still in trading hours I'm unaware of how long the alarm was sounding. But had stopped by 12:30 when we had finished.

Later that night I was awoken by the sound of the alarm at approximately 4 am Sunday 26<sup>th</sup>, (as I live above the murderess and my bedroom is situated directed opposite your premises) the alarm sounded for about 1 hour. In which it was impossible to return to sleep as the alarm is so loud. I concluded someone had come to turn it off until at 7:15 it sounded again for a further 30 minutes. As we have had an incredibly busy weekend I wasn't pleased being awoken twice in the morning of the 26<sup>th</sup>.

Last night Monday 27<sup>th</sup> I noticed the alarm had once again began to sound at approximately 6 pm, once again as we were trading I'm unaware of how often the alarm started and stopped. By 8 pm I decided to ring the police as it had become apparent that for some reason you were obviously unaware of the fact the alarm had been triggered. And for all I knew someone may have been repeatedly trying to enter the premises. The police informed me they did not have a key holder listed on their database. Which I felt could be extremely detrimental to your business as if there had of been a break in the police would not have been able to inform you. I also rang the company who supplied your alarm, but they also informed me there wasn't anything they could do. So as you can see I was left at quite a loss, and by 11:30 pm the alarm had been going on and off for the previous 5 and a half hours; with the disruptions from the night of 25<sup>th</sup> and with the frequency of the alarm that evening I concluded that I wasn't going to get a great deal of sleep which I found the prospect of particularly distressing, I decided the only way forward was to spend the night in a Travelodge to obtain a good nights sleep, which I was extremely displeased with but felt was the only option.

I do think it would be fair to say you owe me an apology for all the trouble your alarm has caused me and for all the trouble I went to try sort the situation for you. At the murderess we are always looking out for neighbouring businesses. And wouldn't ignore a situation in which we felt could damage a business. I also think it would be a kind gesture of good will if you offered to pay for the night I had to spend at the central Travelodge on Queen's road, so I have included the bill.

Yours sincerely

Sophie Lowe.

Assistant manager at the murderess/gardeners arms

12 Timber Hill, Norwich NR1 3LB.  
CO.UK



# London Camera Exchange Group

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05/12/2012

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

Hannah Press

Manager, London Camera Exchange Norwich.

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