

NORWICH CITY COUNCIL

Report for Resolution

Report To Regulatory Sub-Committee
31 July 2012

Report of Head of Citywide Services

Subject Highways Act 1980: Application for licence to
place tables and chairs on the highway –
Warings Furniture 24 Cattle Market Street NR1 3DX

ITEM

5

Purpose

To ask members to consider an application to place tables and chairs on the highway.

Recommendation

That members determine the application to place tables and chairs on the highway submitted in respect of Warings Furniture 24 Cattle Market Street NR1 3DX

Financial Consequences

The financial consequences of this report are nil.

Corporate objective/service plan priority

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

Contact officers

Ian Streeter	Phone No
Michael Stephenson	01603 212439
	01603 212283

Background documents

Background

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

The Application

4. An application to place 8 tables and 24 chairs on the highway at Warings Furniture 24 Cattle Market Street NR1 3DX has been received from Warings Furniture Ltd The Furniture Station Watton Road Larling Norfolk NR16 2RA in June 2011.

However, due to the granting of planning permission for the development this application has only now come before committee for determination.

The application before committee today has been slightly varied and is now to place 6 tables and 18 chairs to the right of the main entrance to the premises. A location plan and accompanying photographs are attached at appendix 2 to the report.

5. The requested days and times of use are Monday, Tuesday and Wednesday 7:30 hrs to 18:30 hrs, Thursdays 07:30 hrs to 20:00hrs, Friday and Saturday 07:30 hrs to 18:30 hrs and Sunday 10:00 hrs to 16:00 hrs.

Consultation

6. In accordance with The Act, occupiers of nearby premises have been consulted and appropriate notices have been placed on the street and in Chatterbox. The Norwich Access Group has also been notified of the application.
7. Details of the application have also been forwarded to the Norfolk Constabulary, Norfolk Fire Service and the City Council's Planning, Transportation and Landscape, Health and Safety and Pollution Control sections for comment.

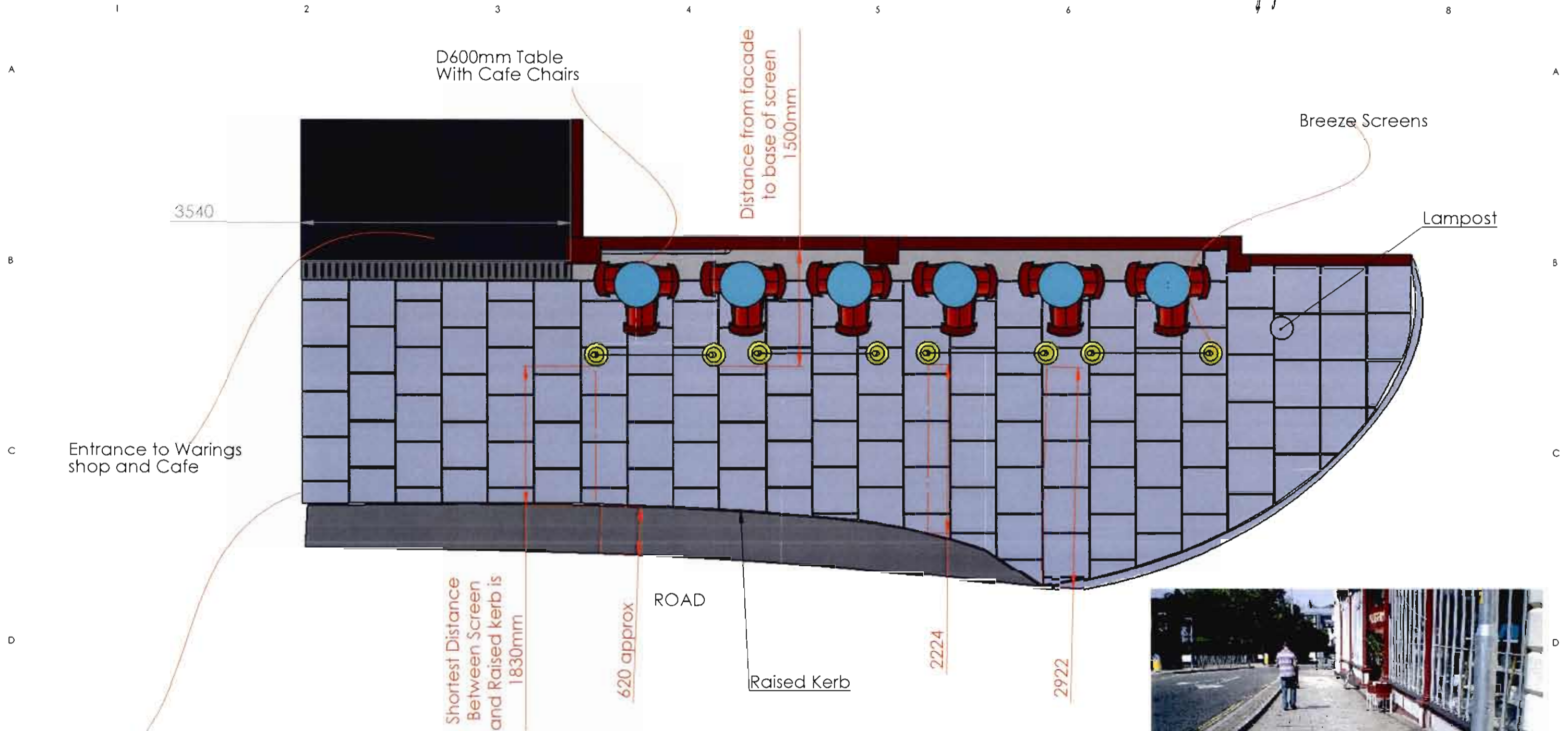
Comments / Objections / Support

8. Representations have been received from two local businesses objecting to the application and these are attached at appendix 3 and 4 to the report.
9. A representation has been received from a resident objecting to the application and this is attached at appendix 5 to the report.
8. Representations have been received from the council's design, conservation and landscape manager, the senior planner and the transport planner. Copies of these are attached at appendix 6, 7 and 8.

Tables and chairs licence – standard conditions

- 1 The council's reasonable expenses in connection with the granting of this permission shall have been paid and the annual fee starting with the date of this permission shall have been paid before the permission is first exercised.
- 2 The licensee shall indemnify the council against any claim whatsoever, in respect of injury, damage or loss arising out of the grant of this permission other than injury, damage or loss which is attributable to the negligence of the council.
- 3 The objects or structures shall be placed only on the licensed area and on no other part of the public highway.
- 4 The objects or structures shall be used only for the purposes stated above and only in connection with the premises.
- 5 The objects or structures shall be removed from the public highway forthwith upon the direction of a police constable in uniform or a traffic warden.
- 6 The objects or structures shall be removed from the public highway forthwith to enable the passage of any emergency service vehicles or any vehicle engaged on the repair or maintenance of the public highway or apparatus within the public highway or any other vehicle authorised by the council to proceed on the public highway.
- 7 Permission for the tables and chairs is granted from **(time of day/month of year)** to **(time of day/month of year)** (subject to earlier termination under clause 13).
- 8 No amplified music or live music shall take place on the licensed area.
- 9 The tables and chairs, the subject of this licence, shall be removed from the licensed area each day outside of the licence period.
- 10 The licensee shall ensure that the licensed area is mainly enclosed by a barrier that is in keeping with the visual appearance of the area, not less than 800mm high and with no more than 150mm between the base rail and the ground, or other design as previously agreed in writing by the council. Neither the barrier nor other furniture should carry strident advertising that goes beyond the purpose of discreetly identifying that the pavement cafe is associated with a particular business.
- 11 The licensee undertakes to ensure that the licensed area is closely monitored and kept clean and tidy at all times.
- 12 No alteration to the highway surface shall be permitted to be carried out by the licensee in implementing this licence.

- 13 The council may, by service of a notice in writing on the licensee or owner of the premises, withdraw the licence forthwith:-
 - (a) in an emergency or in the event that the council considers the exercise of the Licence causes a substantial and unreasonable obstruction of the right of the public to pass or re-pass on the public highway,
 - (b) if any condition of this permission is broken,
 - (c) if the council considers it to be necessary in connection with the exercise of any of its functions or the functions of any statutory undertaker or public utility,
 - (d) for any other reasonable cause.
- 14 The licensee shall inform the council's head of legal and democratic services in writing of any change in the owner or occupier of the premises within one month of that change.
- 15 This permission is for tables and chairs and barriers only. No other items, for example space heaters, are permitted by this licence.



Crystal House-Outside Seating Area for Coffee Shop



Photo showing view looking down Cattle Market Street



Photo taken from entrance of Waring's showing distance of public in relation to exterior furniture

UNLESS OTHERWISE SPECIFIED: FINISH
 DIMENSIONS ARE IN MILLIMETERS
 SURFACE FINISH:
 TOLERANCES:
 LINEAR:
 ANGULAR:

	NAME	SIGNATURE	DATE
DRAWN	MW		
CHKD			
APPVD			
MFG			
Q.A			

MATERIAL

WEIGHT:

DEBRIS AND
 BREAK SHARP
 EDGES

DO NOT SCALE DRAWING

REVISION 01

Waring's Furniture

TITLE: Waring Furniture
 The Furniture Station, Watton Road
 Larling, Norfolk NR16 2RA
 01953 499949

DWG NO External Plan for shop A3

SCALE 1:1

SHEET 1 OF 1

20 JUL 2011

POST ROOM

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



19 July 2011

Dear Sir/Madam,

APPLICATION FOR LICENSE TO PLACE TABLES AND CHAIRS ON THE HIGHWAY
(Your Ref: 11/01209/TABCHA)

Reference the above application, to place tables and chairs immediately to the front of the premises at Crystal House, 24 Cattle Market Street.

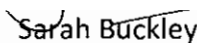
I wish to object to this application for the following reasons:

- There really is insufficient room for tables and chairs to be placed immediately in front of the premises. Although the pavement is slightly wider here, I doubt there would be sufficient room for a wheelchair user to get by comfortably. There is also a raised kerb at the edge of the pavement which would further impede movement.
- There is often quite an amount of pedestrian traffic on the pavement – it could be dangerous for pedestrians having to avoid the tables and chairs, and then getting too near the edge of the pavement, especially as traffic sometimes passes by at speeds above the limit when the nearby traffic lights are at red.
- Does the occupier have planning permission to use these premises as a café? I understand that the occupier's main trade is selling furniture. There are many small café and food businesses in the city centre that are at present struggling to stay viable in the present economic climate, so do we really need yet another coffee shop in this area?

Thank you for considering the above.

Yours sincerely




Sarah Buckley
Director
Globe Travel Health Centre

Appendix 4.



Your Choice
27 Cattlemarket Street
NORWICH
NR1 3DY

5th July 2011

Dear Mr Streeter

We have a sandwich takeaway at 27 Cattlemarket Street and have written to the Planning Enforcement Officer regarding the fact that Warings Furniture has a café without an A3 license. The reason that it does not have an A3 license is because the café is only meant to be for furniture customers only – having tables and chairs outside on the pavement is surely advertising it as a café, which it is not its intended function.

In our opinion, until this is resolved, the license to have tables and chairs should not be allowed. Incidentally, we also believe the pavement to be too narrow for tables and chairs.

In order to find out more about this situation, please contact the Planning Enforcement Officer.

Yours sincerely

Lisa Wood

Richard Price



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

Appendix 5



167 Shakespeare Way
Taverham
Norwich
NR8 6TZ

3rd July 2011

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

Ref: 11/01209/TABCHA

Dear Mr Streeter

I have been meaning to write a letter to express my disappointment that Norwich City Council has allowed a new coffee shop to open at the Crystal House and the final straw was to find out that there is now an application for tables and chairs on the pavement.

I am mystified why you should allow Warings to masquerade as a furniture shop when it is clearly a coffee shop?

There is a lot of evidence of Warings being a coffee shop and scant evidence that it has anything to do with furniture sales.

They advertise separate opening hours for the coffee shop. There is so little evidence of furniture for sale at street level you would be hard pushed to say it is a furniture shop. The billboard out on the pavement only advertises the coffee shop.

I also enclose a recent advertising flyer which they issued locally which mentions nothing about the sale of furniture. Basically, it promotes this as an internet cafe offering free wifi, newspapers etc.

This all goes to reinforce the impression that this is just a coffee shop. How long before they start selling light lunches, snacks and sandwiches? I am very surprised if you have allowed this since we are well catered for in this area. We have already had the table and chairs placed outside so they have a history of simply doing things without the correct planning permission.

As for the application it should be noted that this is a very busy road and I think that forcing people to walk near to the edge of the pavement is an inherent danger particularly when you manoeuvre around a mother with young children or a pram.

So I would like to raise these objections to the latest planning application.

Yours sincerely



Michael G Clements

CaféWaring

at the WARINGS FURNITURE store

24 Cattle Market Street, opposite entrance to Castle Mall



Open Weekdays - 7.30am 'til 6.30pm
(8.00pm on Thursday)

Open Sunday - 10.00am 'til 4.00pm

Great coffee served by skilled Baristas

Free Wi Fi • Newspapers

Great atmosphere

Superb window to sit and watch the world go by

40% DISCOUNT on coffee, on presentation of this leaflet

Fuller, Maxine

From: Webster, Ben
Sent: 04 July 2011 12:31
To: Fuller, Maxine
Subject: Tables and Chairs License Application - 24 Cattle Market Street

Dear Maxine

Thank you for consulting me on the application for a tables and chairs license submitted by 24 Cattlemarket Street.

The plans represent an unrealistic arrangement of tables, chairs and barriers by squeezing everything together so that patrons could not get to some of the chairs because the space between seats and the gap to the barrier is too small.

I have inspected the site and concluded that the quantity and position of the furniture would leave an unacceptably small amount of pavement left and form an obstruction to pedestrian movement, especially at the north end where the pavement is narrower.

Probably the most that could be accommodated here is four tables and eight chairs positioned south of the entrance doorway.

Regards.

Ben

Ben Webster
Design, Conservation and Landscape Manager
Norwich City Council
(01603) 212518
benwebster@norwich.gov.uk

Streeter, Ian

From: Parkinson, Rob
Sent: 26 July 2011 17:00
To: Fuller, Maxine; Streeter, Ian; Divey, Richard
Subject: Response to Tables and Chairs application - 24 Cattle Market Street

Date: 26th July 2011

Enquiry App No: 11/01177/I

Location: 24 Cattle Market Street Norwich NR1 3DY

Enquiry: The Provision Of Outside Seating - 8 Tables And 24 Chairs.

Valid date of enquiry: 07/07/2011

Target date for reply: 04/08/2011

Fee received (if applicable): £ 0

Thank you for your licensing Tables and Chairs consultation concerning the above premises.

The planning department wishes to object to the proposal for tables and chairs being positioned outside the premises on Cattle Market Street. The pavement here is very narrow, made even more so by the presence of a wide raised curb along the length of the roadside / pavement edge. When people are sat at the tables and the cordon barriers are in place there is very little room left for pedestrians to pass, and inadequate room for double-pushchairs or wheelchairs or mobility scooters.

In the interests of pedestrian safety, to stop members of the public being pushed into the street or tripping over the curb, and to avoid the safe and free flow of traffic being impeded by pavement furniture, the proposal should be refused.

You may also wish to note that the premises is currently the subject of a planning enforcement investigation as the ground floor does not have planning permission to operate as a cafe to the extent that it appears to be doing so.

PLANNING PERMISSION GRANTED
JUNE 2012

Kind regards

Rob Parkinson
Senior Planner (Major Developments)
Development management
Directorate of regeneration and development Norwich City Council City Hall, Norwich
Tel. 01603 21 2765
Email: RobParkinson@norwich.gov.uk

Fuller, Maxine

From: Yates, Kieran
Sent: 04 July 2011 14:39
To: Fuller, Maxine
Subject: 24 cattlemarket St

Maxine

24 Cattlemarket Street; Warings Furniture

Whilst there is general support for tables and chairs in the city centre, this has to be balanced with the needs of pedestrian traffic including disabled and those with buggies. The location is also near a pedestrian crossing from The Castle Mall onto Cattlemarket Street, this is an important city centre thoroughfare, although pedestrian flows are not as great as in the pedestrianised area, there is a need to ensure that 2 way pedestrian traffic is facilitated.

The pavement on this part of Cattlemarket Street varies in width across the frontage of 24 Cattlemarket Street (min approx 1.4m to max 3.6m)

The applicant has sought to respond to this by sensibly limiting the extent of tables and chairs, this is acceptable.

However I would only accept this proposal if at least 2 metres clearance can be achieved between the outside of the barrier and the inner kerb edge (the kerb is built up at this point and steps back from the outer gutter edge). I would appreciate if the applicant can resubmit or clarify their plan showing the configuration of their tables, chairs and barrier, one solution would be is to have the tables and chairs set back, but the barrier broken so that there is not a need to have clearance between the tables and chairs and the barrier; customers could walk on the pavement to reach their seating, this is up to the applicant to resolve in discussion with licensing. .

regards

Kieran

Kieran Yates
Transport Planner
kieran.yates@norwich.gov.uk
01603 212471

Norwich City Council
Transportation
City Hall, Norwich, NR2 1NH