

APPENDIX

A

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.



NORWICH
City Council

APPENDIX
B

NORWICH CITY COUNCIL

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

THE CITY COUNCIL OF NORWICH (hereinafter called "the Council") in exercise of the provisions of Section 115E of the Highways Act, 1980, hereby grant **Mr Philip Cutter** ("the Licensee") permission, subject to the following conditions, to place tables and chairs ("the objects or structures") to accommodate a maximum of 7 tables and 21 chairs on the area of the public highway known as **2-4 Timberhill Norwich Norfolk NR1 3LB** shown coloured red on the attached plan ("the application site") for the purposes of providing refreshment in connection with the premises known as **The Gardeners Arms** ("the premises") from **12th November 2010 to 11th November 2011**.

The conditions of this Licence are:

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

- 10 The Licensee shall ensure that the licensed area is mainly enclosed by a barrier that is in keeping with the visual appearance of the area, not less than 800mm high and with no more than 150mm between the base rail and the ground, or other design as previously agreed in writing by the Council. Neither the barrier nor other furniture should carry strident advertising that goes beyond the purpose of discreetly identifying that the pavement cafe is associated with a particular business.
- 11 The Licensee undertakes to ensure that the licensed area is closely monitored and kept clean and tidy at all times.
- 12 No alteration to the highway surface shall be permitted to be carried out by the Licensee in implementing this Licence.
- 13 The Council may, by service of a notice in writing on the Licensee or owner of the premises, withdraw the Licence forthwith:-
 - (a) in an emergency or in the event that the Council considers the exercise of the Licence causes a substantial and unreasonable obstruction of the right of the public to pass or re-pass on the public highway,
 - (b) if any condition of this permission is broken,
 - (c) if the Council considers it to be necessary in connection with the exercise of any of its functions or the functions of any statutory undertaker or public utility,
 - (d) for any other reasonable cause.
- 14 The Licensee shall inform the Council's Head of Legal and Democratic Services in writing of any change in the owner or occupier of the premises within one month of that change.
- 15 This permission is for tables and chairs and barriers only. No other items, for example space heaters, are permitted by this licence.
- 16 The licensee shall take all reasonable and necessary steps to ensure that customers of The Gardeners Arms using the licensed area do not cause a nuisance and annoyance to neighbouring occupiers and that as far as possible those customers are enjoined not to use parts of the highway other than the licensed area.
- 17 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.
- 18 All persons drinking beverages in the area marked on the plan attached to the licence shall be seated.

DATED 21 February 2011



Head of Democratic & Regulatory Services

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

[illegible]

- (a) 150cm (over Path).
- (b) Table 70cm
Chair 42cm.
- (c) 'Gardens Arms' 11m 75cm.
- (d) 'Cafe Bar'. 8m 30cm
- (e) opposite Path 1m 38cm
- (f) Road (excluding Paths) 2... 20m



NORWICH
City Council

APPENDIX C (50m)



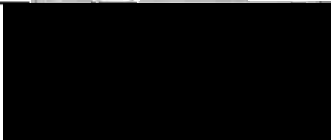
APPLICATION FOR LICENCE TO PLACE
TABLES AND CHAIRS ON THE HIGHWAY

Part One

Name and Address of Premises to be Licensed	THE GARDENERS ARMS & MURDERERS CAFE BAR 2/8, TIMBERHILL NORWICH NORFOLK Post Code NR1 3LB.		
Name of Applicant	MR PHILIP CUTLER 12, KINGHORN ROAD NORWICH Post Code NR2 3QP		
	Tel. No.		
	Email		
	Address (if different from above)	N/A	
Name and Home Address of Licensee	MR PHILIP CUTLER 12, KINGHORN ROAD NORWICH Post Code NR2 3QP		
	Tel. No.		
	Email		

Part Two

Please provide a plan showing the exact location and dimensions of the area to be licensed and where furniture to be placed within area.

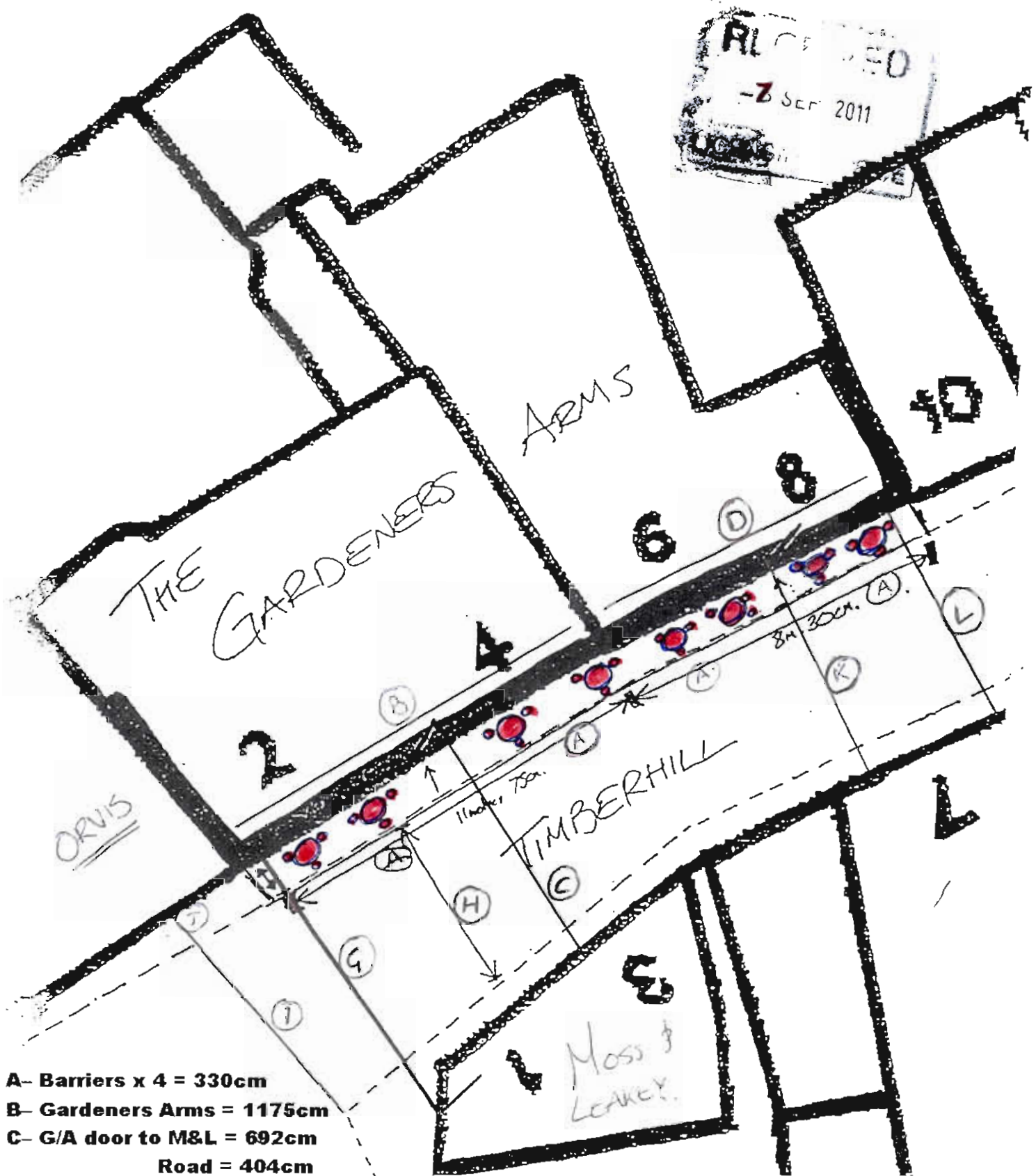
No of Chairs	24 (TWENTY - FOUR)		
No of Tables	8 (EIGHT)		
Times/Dates Required	DAILY BETWEEN 0800 - 2330		
Description of Street Furniture & Barriers (please enclose photo/drawing/brochure) Any other furniture (e.g. umbrellas etc)	(SEE ATTACHED PHOTOGRAPH). FOUR PAINT BLACK BARRIERS ROUND STAINLESS STEEL & ALUMINUM TABLES.		
Purpose of Tables and Chairs	TO FACILITATE CUSTOMERS REQUIREMENTS, THE EATING / DINING / SMOKING		
Signed		Date	4/9/2011

Please include a copy of your public liability insurance showing a minimum limit of indemnity of £5,000,000 and a completed copy of the Norwich City Council's Public/Employer's Insurance Questionnaire.

Please return this form and attachments to:

Licensing Officer
Licensing Department
City Hall
NORWICH
NR2 1NH

Telephone: (01603) 212761
Email: licensing@norwich.gov.uk



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

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





Rich's oldest pubs

SPORTS HERE 3D
IN PARTNERSHIP WITH
BRING IT TO LIFE
GUINNESS

RUGBY
WORLD CUP
STARTS HERE!
ENGLAND v
ARGENTINA
LIVE FROM THE
STADIUM 12.30pm
Full Broadcast
More Announcements

Woodforde's Norfolk Ales

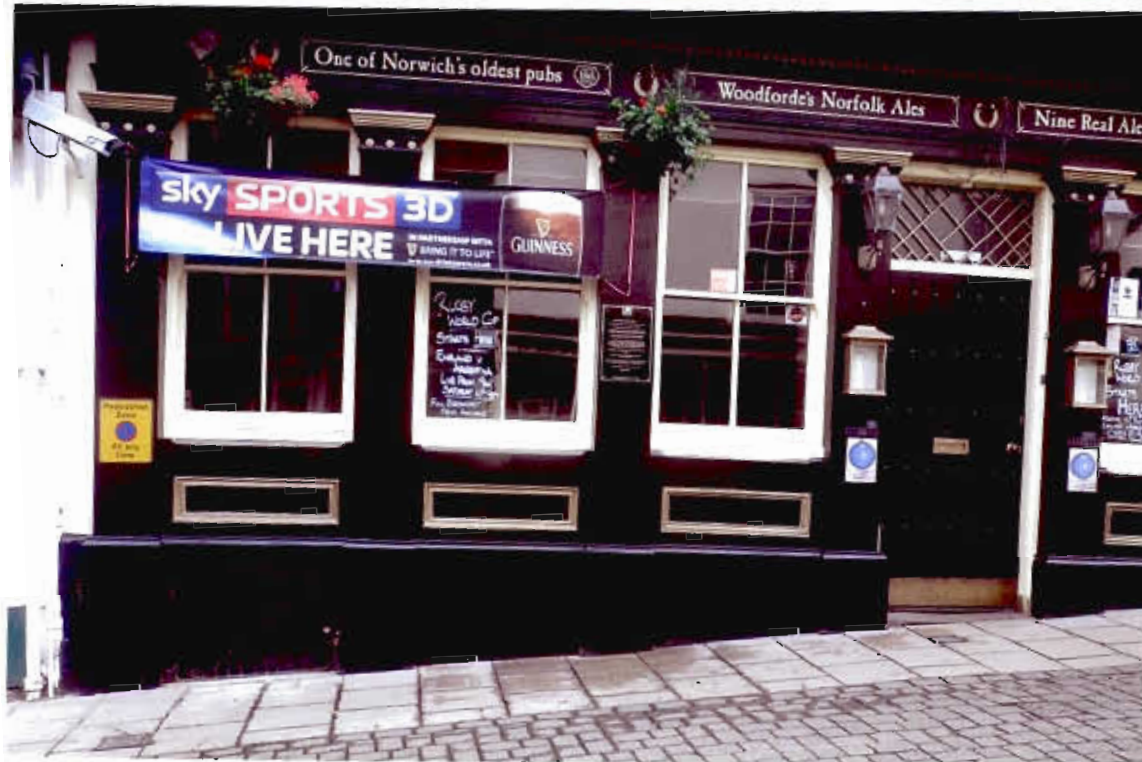
Nine Real Ales always available

The Gardeners Arms
FREE HOUSE
THE GARDENERS ARMS
17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Shop To Let
Call 01223 311111







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



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

Telephone 01603-621447

Fax 01603-812475

E-mail enquires@:themurderers.co.uk

Web Site. www.themurderers.co.uk

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

**Date:-
30 September 2011**



Dear Mr Askerer

I am writing in regard to my tables and chairs application which was recently submitted. It goes without saying that, along with the majority of adjoining neighbours of my business, I fully support a successful outcome for additional furniture.

I am unsure what to write to support this application. I'm aware that the many traders on TimberHill actively have, and hopefully will continue to, support this application. The Police and Local authority have no objections, and even the principal transportation officer, Mr Bruce Bentley, explained at the last meeting that, the pubs furniture fulfilled every requirement to meet the licence. There continues to be just one, very vocal, very passionate objector. This licence has endured an unprecedented amount of scrutiny, along with my business credibility and professionalism as well as my premises, and customers. We have been positioned to both justify and quantify the operation of my business, through the Regulatory committee process, nobody else's motives or agendas have been considered, and I think this is unfair, and makes the decision making, much less transparent, as it doesn't give the opportunity to show 'both sides of the coin'. I fully accept, and appreciate the responsibility I have as a publican, I have many - To my business, my partner, my family, the general public I serve, the licensing authorities, as well as my trading neighbours, I am answerable to them all. However, after 25 years of experience, I refuse to be TOLD how to run my business by an optician - We remain the most legislated industry in this country, with more legislation due in January 2012, we are already answerable to responsible bodies...who have no issue with the way I run my business. Quite simply, we have been made the scapegoat for poor trading figures of the opticians, since the start of the recession. (This also coincides with the start of the smoking ban). I am sure that the closure of Mr Foskett's Hunstanton branch cannot be attributed to this furniture licence, and calls into doubt the ascertain at a previous hearing that 'losses at TimberHill were inconsistent with other branches'

I am acutely aware that the burden of evidence seems to be for me to disprove the allegations as inaccurate, vexatious, or fabricated. Allegations by Mr Foskett of drug dealing door staff, under-age sales of alcohol, drug taking customers, customers laughing to loudly, feral mobs, vomiting dogs and there 'unsavoury owners', turning TimberHill into a no-go zone, dis-regarding the Disability Discriminations act, and describing to SGT Sharples, 'that some of his customers have even got tattoo's' and more recently that our 'Doormen were thugs, who never wore there SIA licences' WERE ALL PROVEN TO BE UNTRUE, (except the tattoo's!). So why am I expected to justify these totally unreasonable allegations? There has been a concerted attempt at a character assassination of me over the

past 4 years. As recently as August, I was compelled to write to Mr Foscett, (APPENDIX A), after me/my premises were subjected to further unsubstantiated allegations to other local traders, in an attempt to undermine my credibility to them.

I received shortly after the Regulatory Committee meeting of February 2009, a 'poisoned pen letter' which mentions this on-going dispute. (APPENDIX B) Police investigated this, and is held on record. I would not suggest that there is sufficient evidence to prove where this letter came from, however, I am sure that if this letter had fallen through the door of the opticians, that the pub would have held fully accountable for it. People are of free will, and, as is evident from this 'correspondence', the writer has obvious sympathies towards the opticians. It would be unfair for me to suggest that the opticians either instigated or encouraged the sending of this letter, and I am not suggesting that this is the case. It is apparent from this letter, that, unfortunately, people like to get involved. This does highlight that myself, and my family life have been brought into this forum through events.

I believe that Mr Foscett has wilfully misled, and attempted to bully this Council into submission with his continued and often obsessive behaviour against this licence. He has threatened this committee previously with the Local Authority ombudsman on the grounds of maladministration, as well as seeking a judicial review, threatened my own legal representative, Mr Hardie, with action from the Law Society, has previously tried to divert the Regulatory Committee process, by approaching supporters of this application, and asking them to withdraw their submissions. At one committee hearing Mr Foscett even complained that his Human Rights were being breached, before walking out. This is a man who seems almost obsessional, in his attempts to get things done his own way. The Moss & Leakey CCTV camera was erected, with evidence produced at the NCC Planning Applications meeting of February 2009. The Council minutes describe that this was to protect the optician's premises, and not to spy on the operation of the pub, or collect evidence against licensing objectives. Again this is simply untrue. As you may recall, a list of times/dates were produced as evidence of breaches of the licence, EVERY DAY for a year. (APPENDIX C) Indicates specifically that, 'The Opticians' tells the Information Commissioners Office, (ICO) that the 'focus of the system is on the frontage of the Moss and Leakey premises.....and not the licensed premises itself' This is again untrue. Between, March 10 – August 10th 2011, the focus of this camera was permanently fixed on the front door of the pub....Why? SGT Sharples, PC Jeremy Brown, Michelle Bartram, and other enforcement officers witnessed this camera's fixed position. This is massively disproportionate, and entirely unwarranted, when crime figures are historically very low for Timberhill, this is simply snooping to try and 'catch us out'. This is just a small selection of the totally unreasonable behaviour that we at the pub have encountered in the past. Yet we have no Regulatory body, or committee to object to.

So when a case of serious nuisance, (APPENDIX D) erupted inside the Moss and Leakey premises, disturbing, and upsetting my patrons, we had no recourse, nor body to complain to. This type of occurrence is thankfully very rare, but proves that they can happen at any time. We continue to try and be neighbourly. We have taken in, and looked after the Moss & Leakey 'A' board when it was left outside. We have regularly taken deliveries on their behalf, prior to their staff being on site. And when a large window was seen open during the summer, my staff contacted the police to ensure that the premise was safe and secured. In return, both myself, and senior staff, have been regularly berated in the street by Mr Foscett. Most reprehensibly, when I was clearly with my thirteen year old daughter, I was shouted at by Mr Foscett. On this occasion, my daughter was left distressed, and I was embarrassed. My wife, on this occasion wrote to the Optician. (APPENDIX E)

I am proud of my own hard work, and commitment to the pub industry during these difficult economic times. I have been described as selfish and irresponsible by the complainant, however, I continue to work tirelessly to promote my premises, the street and Norwich as a destination. I sit on the prestigious City Centre Partnership, I am co-chair of Norwich city of Ale, a celebration of Norwich pubs brewing and brewing heritage, described as the most innovative celebration of beer. Our 2012 City of Ale event we hope will bring large amounts of visitors into Norwich for the ten day event. This will benefit all traders across the entire city. We have again been included in the national search by Famous Grouse, as one of the 100 most historic pubs. We are also one of just 16 pubs in Norwich to be included in the Good Beer Guide, again, and more recently was selected as the second best Sports pub in the country, at the Great British Pub Awards. These accolades do not occur by simple luck, I consider the time spent promoting my own business essential. This time is continually compromised, yet I believe that I have my priorities

right, and this should be considered by Mr Foscett in the operation of his own business in order to make it more successful.

On the suggestion of Martin Drake, from Viking Optical Centre, I recently helped organise an event to celebrate Norwich City's promotion to the Premier League. Balloons were delivered to add colour and help decorate the street...Every trader along the street took part. Regrettably, Moss and Leakey decided not to participate. The street received a double page editorial in the Evening News, which benefited all traders, and saw increased footfall. Mr Foscett argued that I was trying to promote my business alone. Why would this be the case?

Following the last Regulatory committee hearing, the management here at the Gardeners arms, again believed that it was pertinent to try and negotiate a resolution. Not for fear of losing the licence, but to try and understand Mr Foscetts perceptions. In 2009, we tried to arrange a similar meeting with the police licensing Sergeant Eric Bradley, NCC Enforcement officers, and the licensing manager, Mr Foscett refused to attend. We decided to try and initiate dialogue between my business partner, (Ivan Brown) and Mr Foscetts business partner Dr Sasithararn. Two registered letters were sent to the Moss & Leakey practice in Kings Lynn, (APPENDIX F & G), neither letter received either recognition, nor response. It seems entirely clear, that there is no interest in trying to resolve this situation, without the expense, time and distress, (to all parties). The only response was further letters from the complainant, alleging more unfounded allegations. On delivery of his last letter to him I explained to Mr Foscett it was a pity about these letters. Attempts to resolve issues have been described as 'dis-ingenuous', and our cycle of Restorative Justice, which was initially dismissed by Mr Foscett, and was branded a 'waste of time' by him. We feel now, backed into a corner, having explored every reasonable angle.

So, why do we meet again?

It is regrettable that this whole farce, seems to have become more of a matter of principal, and personal swipes against me, than a concerted 'business decision'. In the 196 pages of evidence, produced to the last regulatory committee, Mr Foscett wrote in an e-mail to Sgt Peter Sharples, 'I guess you know that intellectually I (Foscett), really do find him, (me) hard work.'(06/07/09) I presume that I am simply a stupid publican, and not a respected business man? Yet, despite my abject lack of intelligence, my intergretity, and that of my business, remains entirely vindicated.

The objections being made at previous hearings, are not about a loss of trade,(since we are in the longest and most difficult recession which has affected all but a few business', since the 1920's) Mr Foscett has closed one of his practice's in Hunstanton, why? I ask the committee, how many people in these austere times can afford £600 for a pair of spectacles, when Specsavers over 2 pairs of glasses for £75?

This, as you, and the majority of the committee, will be fully aware, is the 6th time that this set of furniture has been subjected to the consideration of the Regulatory committee of Norwich City Council. Whilst I wholly appreciate that the council has a responsibility to investigate, and decide on such matters, it remains entirely unreasonable that the in such austere times, council tax payers, continue to pay for the inconsistent, and inaccurate claims made against, me, my business and my customers. Claims, opinions and perceptions are not facts, or often reality.

Kind Regards



Philip Cutter. MBII

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



Date:-
5th August 2011

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

Telephone 01603-621447

Fax 01603-812475

E-mail enquires@themurderers.co.uk

Web Site, www.themurderers.co.uk

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

Dear Sir,

It has been brought to my attention by a number of local traders, that allegations about both myself, and my premises have been made, by you, in regards to the recently vacated premises along TimberHill. These allegations seem to suggest that either myself, or my premises are in some way to be blamed for the reason that they have left TimberHill. These, in all cases are entirely malicious, and entirely unwarranted, given the recent attempts to reform a traders association for this locality. This simply a blatant attempt to undermine, my own operation, and my professionalism, in order to alienate me to other traders.

I should not have to substantiate such damaging accusations , however I have it on good authority from each of the 3 local business that ceased trading recently, that the reasons were not connected to our own business IN ANY WAY. Indeed, one of the units which closed has already been re-let. And having been in contact with the new lessee, her decision to move onto TimberHill was as a direct result of the 'perfect trading position' close to The Murderers.

The forming of a Traders association, will only work by looking forward, and not by you using meetings as an opportunity to divert proceedings, and apportion blame against the success of my operation. Your opinions continue to lack in credibility, consistency, integrity or any facts. These traders meetings may be the opportunity to provide a united stand to the benefit of all traders, but I refuse for them to turned into a platform for your personal animosity so obviously sited against me.

I am willing to draw a 'line in the sand'. But refuse to allow this kind of behaviour, from you, to continue. Therefore respectfully request that you keep a dignified silence to other traders in regard to your wildly inaccurate opinions of my business' impact on the TimberHill. Should you wish to share such accusations, air them within the public forum of the meetings, for me to be allowed a right to reply. I believe, regrettably, that should you continue with your vexatious accusations to other local traders, this will seriously undermine, and jeopardise the very future of this traders association at such an early stage.

Yours,

Philip Cutter
Owner

APPENDIX A

THE SEVENTH... request passes a test of 'disclosure in the public interest'.

LOVELY ARTICLE ABOUT YOUR WORKING DAY IN THE EVENING NEWS. NO MENTION OF FINDING TIME TO VISIT DEVILS THOUGH?? NOR YOUR PISS TAKING THERE WHICH IS HARDLY CONDUCIVE TO CALMING RELATIONS IN NORWICH. SHOULD CHERIE KNOW?

tain the
has been

Head Office



McOTTEN
Murderers P-house
Timberhill
Norwich

APPENDIX B

Our assessment decision

The opticians responded on 7 July and again on 8 August. On the basis of all of the information provided by you and the opticians, we have decided it is likely that they have complied with the requirements of the DPA in this case. This is because the opticians have provided the Commissioner with written assurances that the focus of the system is on the frontage of the Moss and Leahey premises abutting a narrow public highway of some 6 metres in width and not the licensed premises itself. *The system has since inception incorporated an electronic screening system so that private/sensitive areas within its envelope are protected (meeting with Planning Consent conditions as advised approved at 2009).*

There is no facility to record private conversations at normal volume, the system can only record excessive, general noise. Put another way, the audio facility only records when there is a sufficient volume of noise and can not deliver a transcript of conversations. Therefore any recordings made are not personal data because they can not identify and do not relate to an individual. Neither are the recordings being made for that purpose, they are being made to recognise excessive noise levels. As you are aware the DPA legislation is only concerned with personal data and the opticians are not processing personal data in their audio recordings.

As we have made our assessment, the case is now closed. Thank you for bringing it to our attention.

Yours sincerely

Zoë Barker
Case Officer
Complaints Resolution
Direct dial number: 01625 545742

Enclosed: *Important information for our customers*

APPENDIX C

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



Date:-
2nd April 2011

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

Telephone 01603-621447

Fax 01603-812475

E-mail enquires@themurderers.co.uk

Web Site, www.themurderers.co.uk

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

Date:- 1st April 2011 @10 am
Type of incident:- Serious Nuisance

Dear Sir,

I wish to draw your attention to an incident of serious nuisance, which erupted inside your premises, and could be heard on the street outside. This event left at least one of your staff, visibly shaken and very upset. Whilst this drawn out incident unfolded, it seemed entirely apparent your staff were either unable, or, unwilling to intervene, which exacerbated events longer. Therefore, my own patrons described to me, how they felt threatened by the unfolding incident inside your premises, which could be heard outside on TimberHill, as they entered my premises. Such disorder, is detrimental to all traders along the street.

As described at the recent Regulatory Committee meeting, Timberhill, is a safe, and extremely low crime area, this is in no small part due to the responsible management practices, incorporated by us at the Gardeners Arms. This cannot be allowed to be undermined by incidents inside other premises.

We have no recourse, or relevant body in order to complain to about this unwarranted nuisance, and demand at your reasonable steps be taken to ensure that unacceptable events, such as those which occurred on Friday do, are no allowed to blight our street.

Yours,

Philip Cutter
Owner

CC. anthony.shearman@norwich.gov.uk
ian.streeter@norwich.gov.uk
sharplesp@norfolk.pnn.police.uk

APPENDIX D

Mrs Sherie Cutter,
C/O The Gardeners Arms,
TimberHill
Norwich,
NR1 3LB

Wednesday, 13th July 2011.

Dear Sir,

I am the wife of Philip Cutter, Landlord of the premises opposite your practice.

I am obviously fully aware of your on-going dispute with husband, and the operation of his business. This in itself is, in my opinion, is entirely not necessary. However, your irrational, and obsessional behaviour over stepped the realms of any normal adult behaviour, last Saturday, 9th July 2011, when you shouted at my husband in the street. It was quite clear, and entirely obvious that he was neither at, or about to be going into the pub. Our young daughter was with him at the time, and she was left frightened and upset by your irresponsible rant, and for this you should be thoroughly ashamed. I am outraged at the lack of any integrity, or humanity from you, and once again highlight's your ignorance.

My husband too, was left extremely embarrassed, angry and distressed by your outburst made from the doorway of your premises. Indeed this was the second time in a week that you have shouted at my husband in the street. I don't understand how you can accuse him of being intimidating when you are so quick to behave like this yourself. My husband is in a position with you, so he doesn't want to antagonise the situation further, however, you appear more than happy to try and continually make this situation worse with your constant outbursts.

Presumably, you will try and rationalise this argument, by suggesting that you have encountered the same treatment from the hands of my husband, however, I know this to be entirely untrue. I know that my husband and his business partner have tried to arrange to meet with both you and your own business partner, on separate occasions, without any common decency of even a response from you. It is simply your perception of the operation of the pub, and now the principal, and arrogance of you. The pub has been there for years, you purchased your practice there knowing that the pub was there. The operation has not changed, only your perception, and the fact that you can no longer get your own way. Things only changed after Philip and Ivan stopped bowing to your childish rants.

I would appreciate If you could refrain from any contact with my husband in the and deal with any grievances that you have in an adult manner. I feel that at some point you will not be in our lives anymore and for that I will be thankful, but David you will always be you and for that I feel sorry for you.

Sherie Cutter

APPENDIX E

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



Date:-
17th April 2011

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

Telephone 01603-621447

Fax 01603-812475

E-mail enquires@themurderers.co.uk

Web Site. www.themurderers.co.uk

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

Dear Sir,

My I take this opportunity to introduce myself. I am Ivan Brown, and have been the majority partner of the Gardeners Arms/Murderers Public House for 27 years, operating directly opposite your ophthalmic practice on TimberHill, Norwich.

My business partner, Philip Cutter, has kept me informed of developments, during my four month winter break abroad. However, I feel that events have transpired, that the position we all find ourselves in presently, severe enough, to return 4 weeks early, in order to try and resolve matters personally. Mr Cutter feels that he has tried, unsuccessfully, to alleviate the concerns, of Mr Foscett, and has reached this impasse. I feel that the current stalemate, is unlikely to be resolved, with my understanding being that a great deal of time, distress, and money has been spent, on both sides. Issues raised historically by Mr Foscett, remain entirely unsubstantiated, and accusations of trade at your premises on TimberHill being impacted by our furniture, are both inconsistent with national retail figures throughout period of the recession, and with the all of traders along TimberHill. It seems that all reasonable options are now exhausted, between Mr Cutter with Mr Foscett, for negotiating some form of agreement

Despite suggestions made otherwise, it was Mr Cutter, who instigated a period of Restorative Justice involving the Local Constabulary, and Local Authority. (Mr Foscett initially refused to participate) It is regrettable that the hard work, time and effort Mr Cutter made to alleviate the perceptions Mr Foscett had about our business, and Mr Cutter personally, were considered 'disingenuous' and 'lies' - it must be highlighted that both Police and Local Authority have absolutely no issue with the operation we run, neither do the majority of traders of TimberHill.

The permanent monitoring of the front of the pub by the CCTV camera, is an obvious manifestation of the irrational fear and distrust which now surrounds our premises. The monitoring, is both unhealthy and unwarranted, but more concerning is entirely disproportionate.

I believe that it is time to take a reasonable, and more pragmatic view of affairs surrounding our premises. To move forward, and in an attempt to resolve, some of the allegations made, and hopefully find some 'common ground' I suggest that we meet. I will extend this invitation to the City Centre Sergeant, Peter Sharples, who facilitated the Restorative Justice process in 2009, Ian Streeter, Licensing Manager and Anthony Shearman from the Enforcement Team of Norwich City Council.

I look forward to hearing from you in the near future.
Kind regards,

Ivan Brown

APPENDIX F

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



Date:-
9th May 2011

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

Telephone 01603-621447

Fax 01603-812475

E-mail enquires@themurderers.co.uk

Web Site. www.themurderers.co.uk

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

Dear Sir,

I write to you, once again, following my correspondence dated 17th April 2011.

Having been dispatched by recorded delivery, we are aware of it's receipt, and are aware that we have yet to receive any form of response from you.

I believe that we have an unprecedented opportunity to discuss, frankly, the issues which surround our respective business'. It seems entirely obvious to suggest, that nothing will , or, can be resolved on the matters that have been raised, without rational communication between us.

I entirely understand any apprehension that you may have. However, we have never met, and I respectfully ask that you form your own opinion of both me personally, and my nature.

I enclose a copy of the letter dated 17th April for your reference, and urge you to consider this meeting, as merely a matter of sincere 'goodwill'

I look forward to hearing from you in the near future.
Kind regards,

Ivan Brown
Owner

APPENDIX G



REGULATORY COMMITTEE

2.10 pm – 5.50 pm

21 February 2011

Present: Councillors Driver (Chair), Dylan, Gihawi, Jeraj and Thomas

1. APPLICATION FOR RENEWAL OF LICENCE TO PLACE TABLES AND CHAIRS ON THE HIGHWAY – GARDENERS ARMS PH TIMBERHILL, NORWICH

(The applicant and members of the public attended the meeting for this item).

The council's solicitor presented the report and informed members that a letter had been received from the Norfolk Constabulary confirming that they had no objections to renewal of the licence, subject to positive feedback from the football unit. A copy of the letter was circulated at the meeting. The applicant commented on the background to the application.

A representative of a member of the public, addressed the committee drawing their attention to the definition of use under the section 115E Highways Act 1980 Licence and outlining their objections to the application. A copy of various photos showing the use of the licensed area was circulated at the meeting.

(Councillor Gihawi retired from the meeting at this point).

(The applicant and members of the public left the meeting at this point).

Following discussion it was:-

RESOLVED, with 3 members voting in favour (Councillors Dylan, Jeraj and Thomas) and 1 member voting in favour without amendment (Councillor Driver), to:

- (1) approve the application for renewal of the licence to place tables and chairs on the highway submitted in respect of Gardeners Arms PH, Timberhill, subject to:-

- (a) the standard conditions;

- (b) 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
 - (c) all persons drinking beverages in the area marked on the plan attached to the licence shall be seated.
- (2) refuse the applicant's request to amend the wording to condition 10 of the licence.

(The applicant and members of the public were re-admitted to the meeting and informed of the decision minuted above before leaving the meeting.)

EXCLUSION OF PUBLIC
RESOLVED to exclude the public from the meeting during consideration of item *3 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972.

(Councillor Dylan retired from the meeting at this point)

***3. SUSPENSION/REVOCATION OF NORWICH CITY COUNCIL DRIVERS
LICENCE NO. 10/01708/HACKD - CASE NO. 16/31/3/755 (PARAGRAPHS 1
AND 3)**

(The licence holder attended the meeting for this item. He confirmed that he had been informed of his right to be legally represented at the meeting but had chosen not to be. He produced his DVLA licence for inspection by the committee).

The council's solicitor presented the report. In reply to a question the applicant said that he had not received any further convictions or formal cautions and was not aware of any pending prosecutions since his conviction. He then answered detailed questions about the circumstances of his convictions on 22 August 2010 for failing to comply with traffic light signals and 21 May 2010 for driving without due care and attention.

(The licence holder left the meeting at this point).

Following a discussion it was -

RESOLVED, unanimously, to take no action to suspend or revoke the Norwich City Council driver's licence.

(The licence holder was re-admitted to the meeting and informed of the decision minuted above. The Chair advised that the committee had the power to revoke, suspend or refuse to renew the licence in the future if his conduct was not up to the



APPENDIX E

NORFOLK

CONSTABULARY

Our Priority is You

Mr Ian Streeter
Licensing Manager
St Peters Street
Norwich
NR2 1NH

The Licensing Team

Bethel Street Police Station
Norwich
Norfolk
NR2 1NN

Tel: 01603 276020

Fax: 01603 276025

Email: licensingteam@norfolk.pnn.police.uk

www.norfolk.police.uk

Non-Emergency Tel: 0845 456 4567

Date: 4th October 2011

Dear Mr Streeter

Application for a tables and chairs licence for Murderers, 2-8 Timberhill

I can confirm Norfolk Constabulary has received a new application for a tables and chairs licence from The Murderers, 2-8 Timberhill Norwich. The application is to allow for 8 tables and 24 chairs to be placed outside the premises.

In accordance with the Licensing Objectives under the Licensing Act 2003, I can confirm Norfolk Constabulary has no objections to this application. As a responsible authority we can only object when there is evidence to suggest one of the Licensing Objectives has been undermined. At present there is **no evidence to suggest that this application would cause an impact to crime and disorder at and in the vicinity of the premises**. This is based on the fact a number of tables and chairs have been placed outside the premises for some time with little impact on crime and disorder.

I am aware that there is a current licence in place with specific conditions attached including the positioning of the tables and chairs and that patrons should be seated at all times when consuming alcohol. These conditions were imposed on the licence by the licensing committee due to representations made by an interested party, Mr Foskett. This new application gives the Licensing Committee the opportunity to establish whether the current conditions imposed on this licence are manageable, enforceable and necessary.

Norfolk Constabulary is aware that there are outstanding issues between both parties and evidence highlighting breaches of the current tables and chairs licence has been submitted to both Norfolk Constabulary and the Licensing Authority. Our understanding is the Licensing Authority is taking the lead on any enforcement action in accordance with the Licensing Concordat and we will of course continue to assist both parties to achieve an amicable solution.

However in summary, the tables and chairs have been in place for some time and there has been no evidence of incidents of crime or disorderly behaviour reported to Norfolk Constabulary and accordingly do not place any objections to the application made before the Licensing Committee.

Yours faithfully,

Michelle Bartram
Licensing Officer



NORFOLK FIRE & RESCUE SERVICE
Group Manager Central
Carrow Fire Station
Bracondale
NORWICH, NR1 2EE

Tel: (01603) 621461

Fax: (01603) 229034

Website: www.norfolkfireservice.gov.uk



MR I Streeter
Public Protection (licensing)
Citywide services
Norwich City Council
City Hall
St Peters Street
Norwich. NR1 2EE

Please ask for: Brian Armer
Direct Dial: 01603 229001
Email: brian.armer@fire.norfolk.gov.uk
My Ref: 00012178
Your Ref:



14 September 2011

Dear Sir,

The Regulatory Reform (Fire Safety) Order 2005

With Reference to –Application

Table and Chair Licence

Premises: The Gardeners Arms & Murderers Cafe Bar

Plan No: an A4 sketch

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

Norfolk Fire and Rescue Service have no objection to the grant of a Table and Chair Licence, as shown with application A4 sketch and clearances.

Should you require any further assistance please do not hesitate to contact me on the number shown above.

Yours faithfully,

for Chief Officer

APPENDIX F

Note for Ian Streeter

Gardeners Arms PH – Timberhill

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

Guidance

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

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

3 Footways, Footpaths and Pedestrian Areas

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

3.1 Widths

A clear width of **2000mm** allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal circumstances. Where this is not possible because of physical constraints **1500mm** could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. The absolute minimum, where there is an obstacle, should be **1000mm** clear space. The maximum length of restricted width should be **6 metres** (see also Section 8.3). If there are local restrictions or obstacles causing this sort of reduction in width they should be grouped in a logical and regular pattern to assist visually impaired people. It is also recommended that there should be minimum widths of **3000mm** at bus stops and **3500mm** to **4500mm** by shops though it is recognized that available space will not always be sufficient to achieve these dimensions.

Comments on most recent objections

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

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

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

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

Designing everything to a minimum creates potentially hazardous situations.

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

Issues were not previously addressed

Concern about shared surfaces deterring pedestrians

Timberhill is a pedestrianised street with access allowed solely for the servicing of adjacent businesses. This is typical of pedestrianised streets in the city (although some are time limited), and every time we have undertaken work of this nature, pedestrian flows have increased substantially. The design actively encourages pedestrian activity rather than deterring it

The issue of the gradient was not addressed

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

Vehicular swept paths were not considered

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

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

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

Conclusion

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

Bruce Bentley

Tuesday, 08 February 2011

Note for Ian Streeter

Gardeners Arms PH – Timberhill

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

Guidance

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

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

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

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

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

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

Context

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

Comments on objections

'Existing footway is as low as 1.2m'

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

'Existing vehicular carriageway width is 3.6m'

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

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

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

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

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

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

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

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

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

Photographs

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

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

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