



**NORWICH**  
City Council

## **Regulatory sub committee**

Date: **Monday, 11 June 2018**

Time: **14:00**

Venue: **Mancroft room, City Hall, St Peters Street, Norwich, NR2 1NH**

### **Pre-meeting:**

There will be a briefing for members of the committee at 13:45

### **Committee members:**

Councillors:

Malik (chair)  
Bradford  
Brociek-Coulton  
Fullman  
Henderson

### **For further information please contact:**

Committee officer: Alex Hand  
t: (01603) 212459  
e: alexhand@norwich.gov.uk

Democratic services  
City Hall  
Norwich  
NR2 1NH

[www.norwich.gov.uk](http://www.norwich.gov.uk)

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## **Agenda**

### **1 Apologies**

To receive apologies for absence

### **2 Declarations of interest**

(Please note that it is the responsibility of individual members to declare an interest prior to the item if they arrive late for the meeting)

**Application for licence to place tables and chairs on the highway - Ivy Collection, 30 London Street & 13 Castle Meadow Norwich NR2 1LD 31 - 52**

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

### **\*4 Exclusion of the public**

Consideration of exclusion of the public.

#### **Exempt items:**

(During consideration of these items the meeting is not likely to be open to the press and the public.)

To consider whether the press and public should be excluded from the meeting during consideration of an agenda item on the grounds that it involves the likely disclosure of exempt information as specified in Part 1 of Schedule 12 A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

In each case, members are asked to decide whether, in all circumstances, the public interest in maintaining the exemption (and discussing the matter in private) outweighs the public interest in disclosing the information.

### **\*5 Suspension revocation of Norwich City Council hackney carriage drivers licence No. 16 01091 HACKD**

- This report is not for publication because it would disclose information relating to any individual as in para 1 of Schedule 12A to the Local Government Act 1972.
- This report is not for publication because it would disclose information relating to the financial or business affairs of any particular person (including the authority holding that information) as in para 3 of

Schedule 12A to the Local Government Act 1972.

**\*6      Suspension revocation of Norwich City Council hackney carriage drivers licence No. 15 01966 HACKD**

- This report is not for publication because it would disclose information relating to any individual as in para 1 of Schedule 12A to the Local Government Act 1972.
- This report is not for publication because it would disclose information relating to the financial or business affairs of any particular person (including the authority holding that information) as in para 3 of Schedule 12A to the Local Government Act 1972.

Date of publication: **Friday, 01 June 2018**



**NORWICH**  
City Council

# **HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES**

**Consideration of criminal conduct, improper  
behaviour and complaints relating to existing  
licence holders and new applicants**

# Taxi and PHV Licensing Criminal Convictions' Policy

## 1. Introduction

The public are entitled to have the utmost confidence in drivers of taxis and private hire vehicles: therefore, the Council must ensure that only fit and proper persons obtain drivers' and operator licences.

The purpose of this policy is to provide guidance on the criteria taken into account by the Licensing Authority when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver or operator licence.

The overriding aim of the Licensing Authority is to protect the safety of the public.

The Licensing Authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safeguarding of children, young people and vulnerable adults.

In this scheme "safeguarding " means the protection of children or vulnerable adults from harm to their health, safety, well-being or development and "safeguarding concern" means grounds to believe that the individual applicant or driver may not be a fit and proper person because grant , retention or renewal of a licence may risk such harm occurring. Vulnerable adult has the meaning as in section 59 of the Safeguarding Vulnerable Groups Act 2006.

This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for drivers' licences
- Existing licensed drivers whose licences are being reviewed
- Councillors
- Licensing officers
- Legal officers
- Magistrates hearing appeals against local authority decisions

For renewal applications and current licence holders the policy will not be applied retrospectively.

However, the Policy will be applied to renewal and current licence holders if any additional convictions, cautions or complaints are incurred or brought to the attention of the Council that along with the historical information would call into question a person's suitability to hold a licence. Page 5 of 52

Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. Whilst officers will have regard to the guidelines contained in the policy, **each case will be considered on**

**its individual merits** and where the circumstances demand, the officer may pass the matter to the Councils Regulatory Sub-Committee.

All licences are issued with a set of Conditions which the licence holder must comply with. By-laws are also in place in relation to Hackney Carriage Drivers and proprietors. Copies are attached to every licence and are available on request. A repeated breach of licensed driver and or licensed vehicle conditions and or by-laws may also lead to a person having his hackney carriage/private hire driver licence suspended or revoked.

## **2. General policy**

There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are exceptional mitigating circumstances or alternatively where there are many or continuous offences or complaints which may show a pattern of offending and unfitness.

A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- Remain free of conviction for an appropriate period; AND show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

Where an applicant has been convicted of a criminal offence, the Licensing Authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].

It is the responsibility of the applicant/licence holder to satisfy the Licensing Authority that they are a 'fit and proper person' to hold a licence. The applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council.

## **3. Appeals**

Any applicant refused a driver's licence on the grounds that the Licensing Authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

## **4. Powers**

Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the Licensing Authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.



The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Licensing Authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

## 5. Consideration of disclosed criminal history

Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a '**fit and proper**' person to hold such a licence.

However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Licensing Authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant's age at the time of conviction
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant

Existing holders of drivers' licenses are required to notify the Licensing Authority in writing **within seven days** of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

Applicants can discuss further what effect a caution/conviction may have on any application by contacting a licensing officer in confidence for advice.

The Licensing Authority conducts enhanced disclosures from the Disclosure & Barring Service (DBS) formerly the Criminal Records Bureau (CRB) of any applicant for a drivers' licence.

Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense.

The licensing authority encourages applicants and licence holders to register for the DBS's update service and to nominate the licensing authority to receive updates. Registration lasts for 1 year and costs £13 per year.

The Licensing Authority is also entitled to use other records and information including any complaints history that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Licensing Authority or other Licensing Authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

DBS disclosures will not include details of any foreign convictions or cautions unless they have been recorded on the UK National Computer. Any applicant who has resided outside the UK for any period longer than 3 months within the preceding 10 years, or since the age of eighteen, whichever is the lesser, will be required to produce a "Certificate of Good Conduct" from the relevant countries which details any cautions or convictions arising against the applicant while resident in that country. It shall be the applicant's responsibility to obtain this documentary evidence and to bear the costs of such. The requirement is in addition to the DBS disclosure.

Where an applicant is unable to obtain the above, a discussion will take place with the licensing manager to ascertain what alternative evidence should be provided. This may include character references from appropriate individuals or other bodies as to the applicant's conduct whilst resident in the other country.

If character references are supplied the referee must have known the person applying for at least 5 years if they are a friend, neighbour or colleague. If the referee is a professional, i.e. teacher, solicitor etc then they must have known the person for at least 2 years.

The referee cannot be closely related to the applicant, in a relationship with or live at the same address as the person applying.

## **Non-conviction information**

If an applicant has, on one or more occasions, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include but is not limited to serious violent offences, offences involving child sexual exploitation and sex offences.

**The Licensing Authority considers cases to the civil burden of proof i.e. a "balance of probabilities" and is able to make a decision on the alleged offences regardless of whether a criminal conviction followed the offence.**

In assessing the action to take, the safety of the travelling public must be the paramount concern.

It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

The following lists are **not exhaustive** and any offences not covered by this Policy will not prevent the Licensing Authority from taking into account those offences. The seriousness of the offence and sentence imposed will be considered in making a determination of the application.

## **6. Sex and indecency offences**

As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will normally be refused.

- Rape
- Assault by penetration
- Offences involving children, young persons or vulnerable adults
- Sexual Assault
- Indecent assault
- Abuse of position of trust
- Familial child sex offences
- Female circumcision
- Female genital mutilation
- Possession of indecent photographs, child pornography etc.
- Any offence involving child sexual exploitation and/or sexual exploitation of vulnerable adults
- Trafficking for sexual exploitation
- Preparatory offences
- Any sexual or indecency offence committed in the course of taxi or private hire work
- Exploitation of prostitution
- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Unless there are truly exceptional circumstances the Licensing Authority will not grant a licence to any applicant who is currently on the Sex Offenders Register.

## **7. Offences against Children**

No period is thought appropriate to have elapsed and an application will normally be refused where the applicant has a conviction for an offence such as:

- Sexual activity with a child
- Causing or inciting a child to engage in sexual activity
- Causing a child to watch a sexual act
- Sexual activity in the presence of a child
- Arranging or facilitating child prostitution or pornography
- Arranging or facilitating communication for a child sexual offence

- Meeting a child following sexual grooming etc.
- Possession of indecent photographs of children

- Grooming of children for sexual exploitation
- Trafficking of children for sexual exploitation
- Supplying or offering to supply Class A drugs to a child
- Voyeurism

A licence will not normally be granted where the applicant has a conviction for an offence of, or for a similar offence(s) which replace the offences below, and the conviction is less than 10 years prior to the date of application:

- Neglect of a child
- Child cruelty
- Abandonment of a child
- Drunk in charge of a child
- Under the influence of drugs in charge of a child
- Exposing a child to risk

## **8. Serious offences involving violence**

Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.

Unless there are truly exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Murder
  - Manslaughter
  - Infanticide
  - Child destruction
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Kidnapping or abduction
  - Or any similar offences (including attempted or conspiracy to commit)
- offences which replace the above

A licence will not normally be granted where the applicant has a conviction for an offence of, or for a similar offence(s) which replace the offences below, and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated

- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent (s18 Offences Against the Person Act 1861)



- Grievous bodily harm (s20 Offences Against the Person Act 1861)
  - Robbery (armed or otherwise)
  - Possession or distribution of prohibited weapon or firearm
  - Riot
  - Common assault with racially aggravated features
  - Violent disorder
  - Threats to kill
  - Any hate motivated crime
  - Or any similar offences (including attempted or conspiracy to commit)
- offences which replace the above

A licence will not normally be granted where the applicant has a conviction for one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
  - Racially-aggravated offences
  - Or any similar offences (including attempted or conspiracy to commit)
- offences which replace the above

A licence will not normally be granted where the applicant has a conviction for one of the offences listed below or for an offence which replaces or is broadly equivalent to the offences listed below and the conviction is less than 3 years prior to the date of application:

- Common assault
  - Assault occasioning actual bodily harm
  - Assaulting a Police Officer
  - Affray
  - S5 Public Order Act 1986 offence (harassment, alarm or distress)
  - S4 Public Order Act 1986 offence (fear of provocation of violence)
  - S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
  - Harassment
  - Obstruction
  - Criminal damage
  - Resisting arrest
  - Or any similar offences (including attempted or conspiracy to commit)
- offences which replace the above

A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

## **10. Possession of a weapon**

If an applicant has been convicted of possession of a weapon or possession of a firearm or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public. Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

## **11. Dishonesty**

A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. All drivers are required to deposit such property with either the Licensing Authority or the police within 24 hours. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc.

Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

In general, a minimum period of 5 years free of conviction or at least 5 years from completion of sentence (whichever is longer) should be required before granting a licence. The more serious the offence the longer the period free of conviction should be. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- deception designed to obtain a pecuniary advantage
- other deception
- taking a vehicle without consent
- or any similar offences (including attempted or conspiracy to commit)
- offences which replace the above.
- perverting the course of justice

## **12. Drugs**

A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of or cultivation of drugs and has not been free of conviction for 10 years.

A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

### **13. Driving offences involving the loss of life**

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

A licence will not normally be granted where the applicant has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving while unlicensed, disqualified or uninsured
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Before a licence is granted, an applicant should be free of conviction for 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:

- Causing death by careless driving

### **14. Drink driving/driving under the influence of drugs**

As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. Provided that a period of 3 years has elapsed since conviction an isolated incident would not necessarily debar an applicant from proceeding with an application but he should be warned as to the significant risk to his licence status in the event of re-offending.

More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 7 years, after the restoration of the driving licence following a second conviction for driving or being in charge of a vehicle whilst under the influence of drink or drugs should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol

or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

## **15. General Traffic Offences**

An isolated conviction for reckless driving or driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last 5 years should merit refusal and no further application should be considered until a period of 3 years free from convictions has elapsed.

Similarly, a first conviction during the period of a hackney carriage or PHV drivers licence will lead to a warning as to future conduct, and may lead to revocation of that licence for subsequent convictions. At least 3 years should elapse (after the restoration of the DVLA licence) before the individual is considered for a licence.

## **Insurance offences**

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.

At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance is likely to have their operators' licence revoked immediately and prevented from holding a licence for three years.

## **Using a mobile phone whilst driving**

Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- are much less aware of what's happening on the road around them
- fail to see road signs
- fail to maintain proper lane position and steady speed
- are more likely to 'tailgate' the vehicle in front
- react more slowly, take longer to brake and longer to stop

- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an

equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

A licence will not normally be granted if an applicant has more than one conviction for an offence of using a mobile phone whilst driving.

## **Minor convictions and penalty points**

Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc. may prevent a person from being granted or keeping a hackney carriage or private hire drivers licence if they have received more than 2 motoring convictions within the last 2 years.

The accumulation of 6 or more penalty points within the last 12 months will cast grave doubts on the suitability of the applicant/licensed driver, and could lead to the refusal of the application or suspension/revocation of a licence.

## **16. Outstanding charges or summonses**

If the individual is the subject of an outstanding charge or summons their application may in some circumstances continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be given to the information in accordance with this policy.

If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused. Existing drivers may have their licence suspended or revoked.

A suspension or revocation of the licence of a driver normally takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

**This section includes applicants or licensees who may be subject to police bail having been arrested for an offence and who is currently under investigation.**

## **17. Cautions**

Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.



If an applicant has received a caution for a traffic offence, given the nature of the offence and the profession of a taxi driver, the applicant may be given a warning as to his/her future conduct.

Cautions for more serious offences could lead to refusal of an application or the suspension or revocation of a licence.

## **18. Licensing offences**

Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons or assistance dogs would normally prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

## **19. Complaints**

We can take action up to and including suspension and revocation of a drivers licence if a complaint is made which suggests a driver's fitness & propriety is undermined. This may be for a number of reasons including but not limited to the following:

- misconduct
- any behaviour, action or negligence impacting on customer safety
- driving standards
- physical or mental ill-health
- lack of the necessary knowledge of English language to be able to perform the role of a licensed driver safely.
- Mischarging
- Inappropriate or aggressive behaviour

The number and type of complaint(s) will be given consideration to and a driver's history will be examined to ascertain whether there have been previous complaints. Except in the most serious of cases, a driver will be given an opportunity to respond to the complaint before any action is taken.

## **20. Licenses issued by other Licensing Authorities**

Applicants who hold a licence with one Licensing Authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

## **21. Suspensions / Revocations**

A licence may be suspended or revoked by an Officer of the Council, of at least Head of Service level, with immediate effect, in the interest of public safety, in the following circumstances:

- a person is charged with a serious offence
- a person is under investigation for serious offences

- a person is deemed by a qualified general practitioner that the individual is unfit to drive taxi or private hire vehicles
- a person after experiencing a change in medical condition fails to provide proof of his/her fitness to drive taxi or private hire vehicles
- a person fails to provide proof of his/her fitness to drive taxi or private hire vehicles when reasonably required to do so, by an officer of the council
- a person fails to provide a valid photo card DVLA driving licence, when reasonably required to do so, by an officer of the council
- a person fails to provide a valid DBS application form when reasonably required to do so, by an officer of the council.

Where a licence is suspended under the above circumstances, the matter will be reported to the Regulatory Sub-Committee at the next available meeting.

A licence will be revoked by the Officer of the Council, who fulfils the duties of the Licensing Manager, with immediate effect in the interest of public safety in the following circumstances:

- a person's ordinary Road Traffic Act Driving licence is revoked or suspended
- a person is disqualified from driving for any period of time

## **22. Summary**

To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered.

However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

While it is possible that an applicant may have a number of convictions that, individually, do not meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Before a decision is made to refuse or revoke a licence, with exception of the circumstances in para. 21 above, a meeting will be held in order to afford an applicant or existing driver an opportunity to put their case.

In the Council's view this statement and the guidelines that follow are compatible with the rights and freedoms under the European Convention on Human Rights.

This policy will be continuously monitored and, if necessary, a review will be undertaken.



<b>Report to</b>	Regulatory sub-committee 11 June 2018	<b>Item</b>
<b>Report of</b>	Head of citywide services	<b>3</b>
<b>Subject</b>	Highways Act 1980: application for licence to place tables and chairs on the highway - Ivy Collection, 30 London Street & 13 Castle Meadow Norwich NR2 1LD	

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### **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 Ivy Collection, 30 London Street & 13 Castle Meadow Norwich NR2 1LD.

### **Corporate and service priorities**

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function. 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.

### **Financial implications**

None.

**Ward/s:** Mancroft

**Cabinet member:** : Councillor Macguire - Safe city environment

### **Contact officers**

Maxine Fuller

01603 212761

### **Background documents**

None

# **Report**

## **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 as appendix A to the report.
3. The Act gives councils a wide discretion to determine such applications and to impose conditions. Each case must be considered on its own merits with due weight being given to relevant considerations only. Existing policies or guidelines should not be applied so rigidly that an exercise of discretion in each individual case is precluded. Accordingly, the adopted standard conditions could be added to or amended depending on the circumstances of each individual application.

## **The application**

4. An application has been submitted in respect of Ivy Collection, 30 London Street & 13 Castle Meadow Norwich NR2 1LD seeking to place 5 tables and 10 chairs on the highway between the hours of 08:00 and 00:30 Monday to Sunday.
5. A copy of the application, accompanying photographs and location plans are attached at appendix B to the report.

## **Consultation**

6. In accordance with The Act, occupiers of nearby premises have been consulted and appropriate notices have been placed on the street. Notification of the application has also been given to Chatterbox (the talking newspaper for the visually impaired) and the Norwich Access Group.
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 in respect of the application from the following and are attached at appendix C to the report:
  - One local resident
  - the Norfolk Constabulary Licensing Team (agreement has been made to amended the hours from 08:00 to 23:00 Monday to Sunday)



## 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 Citywide 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

**Norwich**  
**Application for a permit to place tables and chairs**  
**on the pavement or road**  
**Highways Act 1980, Section 115B /115E**

For help contact  
[licensingapplications@norwich.gov.uk](mailto:licensingapplications@norwich.gov.uk)  
 Telephone: 0344 980 3333

\* required information

**Section 1 of 9**

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

This is the unique reference for this application generated by the system.

Your reference

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

☒ Yes ☐ No

**Applicant Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

☒ Applying as a business or organisation, including as a sole trader

☐ Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

**Applicant Business**

\* Is the applicant's business registered in the UK with Companies House? ☒ Yes ☐ No

\* Registration number

\* Business name

If the applicant's business is registered, use its registered name.

\* VAT number

Put "none" if the applicant is not registered for VAT.

\* Legal status

Continued from previous page...

\* Applicant's position in the business

Private Limited Company

Home country

United Kingdom

The country where the applicant's headquarters are.

**Registered Address**

Address registered with Companies House.

\* Building number or name

26-28

\* Street

Conway Street

District

\* City or town

London

County or administrative area

\* Postcode

W1T 6BQ

\* Country

United Kingdom

**Agent Details**

\* First name

Poppleston Allen

\* Family name

Poppleston Allen

\* E-mail

k.mcgowan@popall.co.uk

Main telephone number

020 3859 7757

Include country code.

Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

☒ An agent that is a business or organisation, including a sole trader

A sole trader is a business owned by one person without any special legal structure.

☐ A private individual acting as an agent

**Agent Business**

\* Is your business registered in the UK with Companies House?

☐ Yes

☒ No

\* Is your business registered outside the UK?

☐ Yes

☒ No

\* Business name

Poppleston Allen

If your business is registered, use its registered name.

\* VAT number

GB

61072862

Put "none" if you are not registered for VAT.

\* Legal status

Partnership

Continued from previous page...

\* Your position in the business

Home country

The country where the headquarters of your business is located.

**Agent Business Address**

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

**Section 2 of 9**

**TYPE OF APPLICATION**

Type of application : ☒ New ☐ Renewal

**Section 3 of 9**

**PREMISES FOR WHICH PERMISSION IS REQUIRED**

\* Name of premises/  
trading name

**Premises Address**

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

☐ Yes ☒ No

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

Continued from previous page...

### Contact Details

Are the contact details the same as (or similar to) those given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

☒ Yes

☐ No

E-mail

k.mcgowan@popall.co.uk

\* Main telephone number

020 3859 7757

Other telephone number

### Further Details

\* Type of business (e.g. pub, restaurant, café)

Licensed Premises

### Section 4 of 9

#### OWNERSHIP OF THE PREMISES

\* In what capacity do you occupy the premises?

☐ Freehold

☒ Leasehold

☐ Tenant

☐ Other

\* Give details of the lease, tenancy or other arrangement

A 25 year full repairing and insuring lease.

#### Give Details Of The (Freehold) Owner Of The Premises

\* Name of owner

Benacre Properties Company

#### Owner's Address

\* Building number or name

The Estate and Farms Office

\* Street

Hall Farm

District

Benacre

\* City or town

Beccles

County or administrative area

Suffolk

\* Postcode

NR34 7LJ

\* Country

United Kingdom

Continued from previous page...

#### Contact Details

E-mail	<input type="text"/>
* Main telephone number	<input type="text"/>
Other telephone number	<input type="text"/>

#### Further Details

\* Has the owner given consent for this application? ☒ Yes ☐ No

#### Section 5 of 9

##### OCCUPATION OF THE PAVEMENT / FOOTWAY

\* Describe the area where you wish to place tables and chairs (a detailed plan must be attached with your application)

Outside the premises on the public highway.

Give the dimensions of the area you wish to occupy in metres

* Length	<input type="text" value="9.655"/>
* Width	<input type="text" value="2"/>
* Give the total width of the pavement or footway at this location	<input type="text" value="10.720"/>

##### OPENING TIMES

State the days and times you propose to place tables and chairs on the pavement

* Day or days	<input type="text" value="Monday to Sunday"/>
* From	<input type="text" value="08:00"/>
* To	<input type="text" value="00:30"/>

\* Do you plan to place tables and chairs on the pavement all year round? ☒ Yes ☐ No

#### Section 6 of 9

##### DETAILS OF FURNITURE

Provide details of all the furniture and other equipment you propose to place on the pavement. Check for local guidance notes and conditions - your responses may have to provide very specific information and you may be required to attach drawings or photographs with your application

##### Tables

* Number	<input type="text" value="5"/>
* Description (e.g. dimensions, type, material, colour supplier/technical details, as appropriate)	

Continued from previous page...

Attached to the application.

**Chairs**

\* Number

10

\* Description (e.g. dimensions, type, material, colour supplier/technical details, as appropriate)

Attached to the application.

**Litter Bins**

Number

**Parasols/Umbrellas**

Number

**Planters**

Number

8

\* Description (e.g. dimensions, type, material, colour supplier/technical details, as appropriate)

Attached to the application.

**Space Heaters**

Number

**Lighting**

Number

**Barriers/Balustrades**

Number

**Other furniture or equipment**

Description (e.g. dimensions, type, material, colour supplier/technical details, as appropriate)

**Further Details**

\* Where will these items be stored when not in use?

The furniture will remain outside the premises but will be locked and therefore will be rendered unusable.

\* Arrangements for clearing and cleaning the pavement at the end of the day

This will be carried out by staff of the premises.

**Section 7 of 9**



Continued from previous page...

## PUBLIC LIABILITY INSURANCE

You must have a suitable level of public liability insurance to cover this activity – check local requirements.

\* Do you have public liability insurance?

☒ Yes

☐ No

Provide details of the policy

\* Insurance company

Allianz Insurance

\* Policy number

40/SZ/24101788/11

\* Period of cover

30th April 2017 to 29th April 2018

\* Amount of cover (£m)

5

## Section 8 of 9

### ADDITIONAL DETAILS

Provide any additional information which is required or relevant to your application (check for local guidance notes and conditions which may provide details of specific requirements in your area)

N/A

## Section 9 of 9

### PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £601

### ATTACHMENTS

### AUTHORITY POSTAL ADDRESS

#### Address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

United Kingdom

### DECLARATION

\* I am aware of the provisions of The Highways Act 1980. The details contained in the application form and any attached documentation are correct to the best of my knowledge and belief.

Continued from previous page...

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

Poppelen Allen

\* Capacity

Signatory on behalf of Applicant

Date (dd/mm/yyyy)

20/04/2018

Add another signatory

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...

2. Go back to <https://www.gov.uk/apply-for-a-licence/ability-to-place-tables-and-chairs-in-the-road/norwich/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.



[illegible][illegible]

18 APR 2018

LICENSING OFFICE



Architectural Consultants

**COMPASSION FOR THE DEMENTED**  
The Demented  
Bedside  
End Support  
7003 004  
Bobbie-Jane@compnet.com  
www.compnet.com/bj004

## PROPOSED MATERIAL

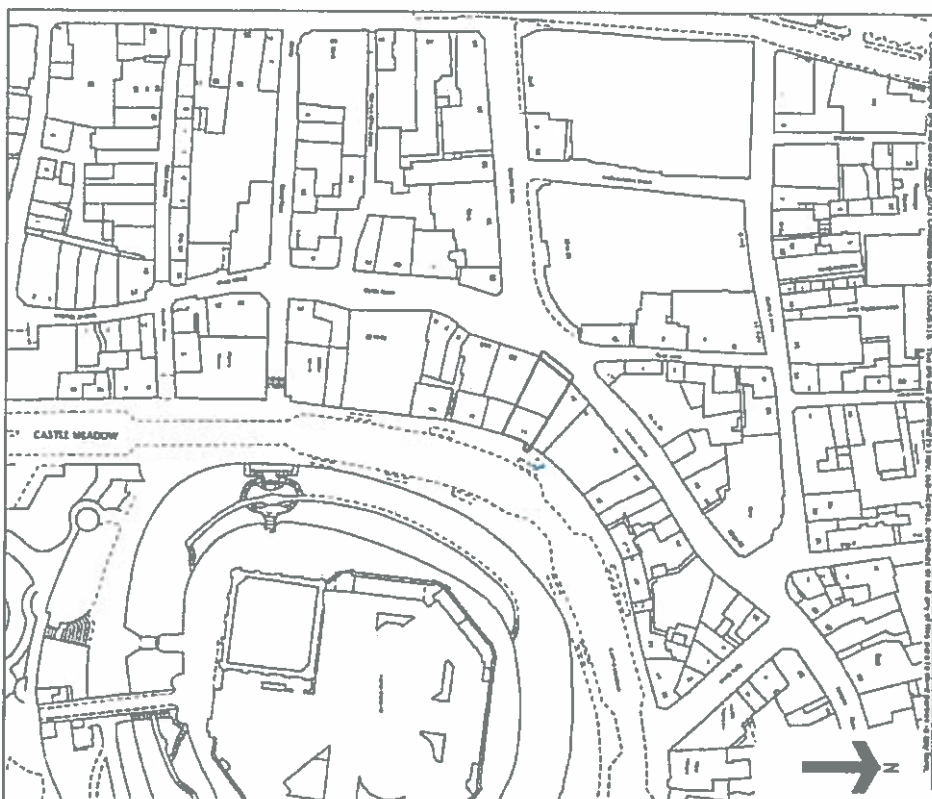
DRAWN BY - A TOWERS  
DATE - APR. 2018  
SCALE - 1:10 @ A2

DRAWING NO. 6770/208



# HM Land Registry Current title plan

Title number **NK420728**  
Ordnance Survey map reference **TC2308NW**  
Scale **1:1250**  
Administrative area **Norfolk : Norwich**

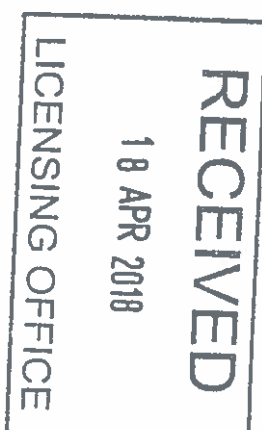


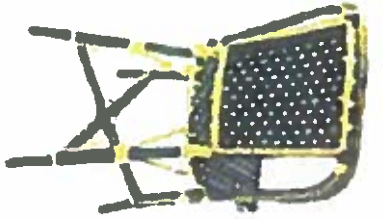
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This title is dealt with by HM Land Registry, Kingston upon Hull Office.





**TERRACE**

**DAVISON DRUCKER CHAIR**  
**WEAVES - CLASSIQUE DAVIER C21**  
**COLOUR - MARINE BLUE, IVORY, RED**  
**REFERENCE - 3013**  
**DIMS - 440mm WIDE X 750mm DEEP X 840mm HIGH**



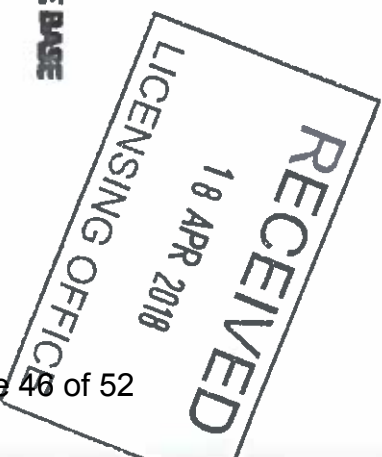
**TERRACE**

**BESPOKE 4 TOP SQUARE TABLE**  
**WHITE MARBLE TOP & JULET TABLE BASE**  
**650mm X 650mm X 750mm HEIGHT TBC**



**TERRACE**

**BESPOKE 4 TOP SQUARE TABLE**  
**WHITE MARBLE TOP & JULET TABLE BASE**  
**600mm X 600mm X 750mm HEIGHT TBC**



Fuller, Maxine

**From:** Norwich [REDACTED]  
**Sent:** 21 April 2018 12:01  
**To:** LICENSING  
**Subject:** RE: Application 18/00541/TABCHA

**Importance:** High

## SHUROPODY

1 Swan Lane  
 Norwich  
 NR2 1HZ

To whom it may concern,

I am writing in regards to application **18/00541/TABCHA** from **Ivy Collection**, 30 London Street, to place 5 sets of tables and chairs outside at the bottom of London Street, that could effectively effect my trade. First of all, I thank you for the letters stating the planned proposal as quite rightly it does have the potential to effect my business and all in the surrounding area of Swan Lane. I regret to inform that I strongly oppose this idea for numerous reasons.

The first being, as part of the public highways and how busy our lanes are, I think it has potential to be a very dangerous idea. Having worked in Swan Lane for over 4 years, I see daily the footfall and number of pedestrians that pass us, not forgetting automated vehicles including disability vehicles, and the Bicycles, Skateboards, Scooters that come past : most often very fast and not showing any consideration for other members of the public: let alone business users. Having Waiters and customers manouvering around tables and chairs outside in a packed area already, I think has the potential to be very hazardous.

I cannot stress how much rubbish and waste we already encounter from some of the surrounding Food outlets: mainly late night Bars and establishments. Not so much general waste but more anti-social behaviour caused by intoxication. I personally have removed Urine, Faeces, Drug Paraphanelia and more commonly Vomit, from outside my store and it is almost daily. This is not my concern from this establishment as I am sure it is an up market venue, of course I am not familiar with the chain but it does not present itself as a late night Bar that would bring more anti-social behaviour to our lanes. My concern being more revenue and leaving businesses such as myself and the Jewellers surrounding, to clean up after revellers. There is a street cleaner most days, I have not encountered weekend shifts, but they only remove litter and items such as that, that can be placed into their carts and removed. The vomit, glasses or bottles, urine etc: that is left behind for us businesses that are unfortunate enough to have open shopfronts and doorways. As my building as I am sure most are around the lanes, is a listed building, I cannot put a hand rail up for health and safety let alone shutters or railings to stop anyone from accessing my shop after I close and causing such disturbances. This is a major inconvenience and one which I have co-ordinated with the local Police department, and still do keep up to date with.

Secondly after being a hazard to pedestrians, is the blatant lack of regard to businesses that are already in existence in London Street but mostly Swan Lane as that's where this seating area would effect most. Everyone occupying Swan Lane including Dipples the Jewellers, Fourth Avenue, Bullens the Jewellers,



Logans Café etc : all very high footfall stores that bring generous business to Norwich city centre and this end of town. As far as I can remember, all occupants of Swan Lane were allowed to advertise their businesses with A Frames, 1 outside of their store but more importantly 1 at the end of Swan Lane in the main square, near the seating area as well. We were told in 2017 to remove these immediately as they were a hazard to people with either visual impairments or disability vehicles. After years of advertising and this being a crucial part of our footfall and sales, this was particularly disheartening. Of course I understand that persons with visual impairments may not be able to see such boards, but all of our shops never positioned them in such a way that they would be a hazard to anyone.

This regulation by yourselves, came almost immediately (within days) of a member of the public coming into my store and several others, shouting and being abusive that we were causing a hazard to others: which wasn't the case. We have since been penalised and forced to remove our advertising boards and only having one outside attached to our shop fronts. At which point, there are no directions or sign posts, no advertising and no maps to point any consumers down our lane and help those that use our services, to locate us. As businesses that pay such high rent and tax and licenses and fees, and generate a huge amount of trade annually to the city centre, it wouldn't be entirely inappropriate to ask for sign posts (much like street signs) that include all of our business names that you cannot see directly from the highway.

I think it is unreasonable to enforce a regulation to existing businesses, and now enforce a new one entirely for such items that could still potentially be a hazard for pedestrians and even more so with tables and chairs and customers exiting tables: pushchairs or wheelchairs perhaps too. I welcome any new business and wish them the best of luck with trade in our community, but I think this is most unfair to us existing as well as it being very hazardous. I know at the end of 2017 into 2018, the council wanted to enforce a regulation that would mean all Bicycles and Scooters wouldn't be ride between certain peak hours of the day for safety and would be pushed through town to avoid incidents, but I can 100% ensure that that hasn't happened even once. Some of the Bikes and Scooters that pass our stores are so fast and could easily cause serious injury to others, let alone motorised Scooters.

It does irridicate one aspect of the area which is positive and that is the noise pollution caused by street performers and the inconvenience they sometimes cause by making very loud, brash "music". My Podiatry services offer private health care sessions, it is a high standard we try to maintain much like Jewellers that surround my store, all of which promote very exclusive products and attract a certain clientel. I hope the council and commity take my counter argument seriously as it does pose as inconvenient to the hundreds of passers by that use the walkways daily. I would hate any incidents to occur as the paths are too narrow or even staff at the restaurant to be knocked over etc. If you have further comments or questions please do not hesitate to contact myself on the lines below.

Kindest Regards

Chantelle Olley  
Practice Manager  
Shuropody Norwich



## Fuller, Maxine

---

**From:** Bartram, Michelle <bartramm@norfolk.pnn.police.uk>  
**Sent:** 14 May 2018 16:40  
**To:** LICENSING  
**Cc:** Woods, Suzanne  
**Subject:** FW: Ivy Tables and chairs

Hello Licensing

Please see an email from Ivy, London Street agreeing for their tables and chairs application to be amended to 2300 hrs.

With this amendment, there are no Police objections

Regards

---

**Michelle Bartram**

Licensing Officer

Licensing  
Norfolk Constabulary  
Bethel Street Police Station  
Norwich, Norfolk, NR2 1NN

Tel: 01603-276020 Fax: 01603-276025

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**From:** Kerry McGowan [mailto:K.McGowan@popall.co.uk]  
**Sent:** 14 May 2018 16:19  
**To:** Bartram, Michelle  
**Cc:** Lisa Inzani  
**Subject:** RE: Ivy Tables and chairs

Dear Michelle,

Further to our conversation on Friday I can confirm that we are agreeable to amend the hours of our pavement licence application to 08:00 hours to 23:00 hours Monday to Sunday.

Please can you confirm that this is agreed so I can inform Licensing.

Kind Regards

Kerry

Kerry McGowan | Paralegal

## Poppleston Allen

E: K.McGowan@popall.co.uk | T: 0203 859 7757 | W: <https://imsva91-clp.trendmicro.com:443/wis/clicktime/v1/query?url=www.popall.co.uk&umid=D575A6A6-6C2C-4D05-9E61-15878FFE9B74&auth=76a36a0301cf7179612a4414203a61368905a968-a1dd4651594a13328189631c564c21c1b08ff011>

London Office: The Stanley Building, 7 Pancras Square, London, N1C 4AG

## Announcement

You can now learn  
common licensing  
free training video

---

**From:** Bartram, Michelle [mailto:bartramm@norfolk.pnn.police.uk]

**Sent:** 08 May 2018 12:41

**To:** Kerry McGowan

**Subject:** Ivy Tables and chairs

Hello Kerry

Hope you are well, I hope I am contacting the correct person.

Police have been notified of an application for Tables and Chairs licence for the Ivy Collection on London Street.

I note that this is until 00.30 daily, I wanted to find out if this was usual timings for the company as it appears very late and no other premises in the area has seating that late.

I have concerns that the timings could cause the restaurant staff problems with intoxicated passer-by's and homeless using them late at night and wondered if they would consider reducing the time to 2130 hrs (or 2200hrs daily)

I will wait to hear back from you

Regards

---

**Michelle Bartram**

Licensing Officer

Licensing

Norfolk Constabulary

Bethel Street Police Station

Norwich, Norfolk, NR2 1NN

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