



NORWICH
City Council

Regulatory sub committee

Date: **Monday, 13 May 2019**
Time: **10:15**
Venue: **Council chamber, City Hall, St Peters Street, Norwich, NR2 1NH**

Pre-meeting:

There will be a briefing for members of the committee at 10:00

Committee members:

Councillors:

Ackroyd*
Malik*
Stewart*
Thomas (Va)*
TBC

*subject to re-election

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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)

3 Highways Act 1980 application for licence to place tables and chairs on the highway - Gardeners Arms, 2-8 Timberhill, Norwich NR1 3LB (Not before 10.15)

21 - 52

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

4 Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) Act 1976 - application to licence as a hackney carriage a Ford ProCab fitted with 8 passenger seats (Not before 14.15)

53 - 68

Purpose - To ask members to consider an application to licence as a hackney carriage a Ford ProCab with an 8 passenger seat configuration.

5 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.

*6 Suspension or revocation of Norwich City Council hackney carriage drivers licence No 16 01887 HACKD (Not before 10.45)

- This report is not for publication because it would disclose information relating to any individual as in para 1 of Schedule 12A to the Local Government Act 1972.
- This report is not for publication because it would disclose information relating to the financial or business affairs of any particular person (including the authority holding that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

***7 Application for renewal of a hackney carriage drivers licence No 19 00123 HACKD (Not before 11.00)**

- 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.

***8 Application for grant private hire drivers licence – application ref 19 00241 PHDRIV (Not before 11.30)**

- 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.

***9 Application for grant private hire drivers licence application ref 18 01776 PHDRIV (Not before 14.00)**

- 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: **Wednesday, 01 May 2019**



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.

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 commission of 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. 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.

10. 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

11. 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.

12. 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

13. 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.

14. 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.rosipa.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, and 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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

21. 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.

Report to	Regulatory sub-committee 13 May 2019	Item
Report of	Public Protection Manager	3
Subject	Highways Act 1980: application for licence to place tables and chairs on the highway - Gardeners Arms, 2-8 Timberhill, Norwich NR1 3LB	

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 Gardeners Arms, 2-8 Timberhill, Norwich, NR1 3LB.

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

Tony Shearman
Environmental protection, licensing and markets manager

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 the Gardeners Arms, 2-8 Timberhill, Norwich NR1 3LB seeking to place 10 tables and 30 chairs on the highway between the hours of 08:00 and 21:00 Monday to Sunday during the months March to October only.
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, 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:
 - Kieran Yates – Transport Planner for Norwich City Council
 - Lara Hall – Principle Landscape Architect for Norwich City Council
 - Michelle Bartram – Norfolk Constabulary (applicant has agreed to the conditions suggested by the Police)
 - Jack Askew – Norfolk Constabulary, Force Traffic Management Officer
 - Norfolk Fire & Rescue Service
 - P. King, Practice Manager for Moss and Leakey, a local business
 - Mr Brad Baxter of Bermuda Bob's Rumshack, a local business

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.



**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:-
2nd March 2019**

T&C's Application

To Whom It May Concern,

My name is Philip Cutter, and I am the licensee, of the Gardeners Arms/Murderers Pub on Timberhill, in Norwich.

We have successfully held a table and chairs licence for over 20 years, and have witnessed first hand over the past few years, the improvements made to the open area, made by Norwich City Council, to the area near Red Lion street. Regrettably, since these improvements were made, it remains largely unused, and in our opinion, under-utilised. In the summer months, the area is frequently used by groups of 'street drinkers' and the few people who brave to use the benches are, all too often approached by beggars.

We have worked closely with the local city centre sergeant, planning and highways, and believe that this unique opportunity (I believe it is the first of its type in Norwich) will make this new venture a gateway to promote TimberHill, and the diverse businesses we have.

Whilst I appreciate, it may appear that this space is being 'lost' to the wider general public, largely during the summer months, it is often un-used. Our proposal, keeps access to all of the benches and cycle racks, and will add vibrancy to the area.

Our plan certainly is not to make this an 'extension to the bar' and will be designated for dining patrons. We extended our food operation in October 2018, and now offer a full menu until 9.00pm on a daily basis. We are hoping eventually to make this a reservation space only, staffed on a permanent basis by at least 2 members of staff offering table service.

My commitment is to ensure a minimum impact to surrounding businesses, and to keep the area clean and tidy. Many traders have approached me, and told me what 'a fantastic idea this is!' I agree! However, I am acutely aware that there may be some concerns about this, from SOME local traders. It benefits my business, or long standing reputation, to make this area uncontrolled, or a nuisance to the wider general public. If this, 'experiment' does not work, I will have no hesitation to withdraw from using the licence (if granted).

I have considered many aspects of the operation of this area, and can see few negatives of our intended use—but am conscious that until we encounter teething issues, these are unlikely to be resolved until after they arise, and this regards, we can only re-act, to such problems

Kind regards, Philip Cutter MBII



NORWICH
City Council

RECEIVED

- 5 FEB 2019

LICENSING OFFICE

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) 2/8, TIMBERHILL NORWICH Post Code NR1 3CB.		
Name of Applicant	MR PHILIP COTTER [Redacted] Post Code [Redacted]		
Norwich City Council - 5 FEB 2019 Cheque No. 467.00 Amount VAT 012588 Amount No VAT Account Holder: Garden Arms	Tel. No.	[Redacted]	
	Email	[Redacted]	
	Address (if different from above)	[Redacted]	
			M
Name and Home Address of Licensee	AS PER NAME OF APPLICANT. Post Code 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

30 (THIRTY)

No of Tables

10 (TEN)

Times/Dates Required

DAILY FROM MARCH - OCTOBER
FROM 0800 - 2100

Description of Street Furniture & Barriers
(please enclose photo/drawing/brochure)
Any other furniture (e.g. umbrellas etc)

RUSTIC WOODEN POSTS & ROPE

Purpose of Tables and Chairs

ADDITIONAL SEATING FOR DINING -
OVERFLOW SEATING - WILL NOT BE
USED AS AN EXTENSION OF BAR, BUT
AS A RESTAURANT / CAFE BAR

Signed

Date

24/1/2019

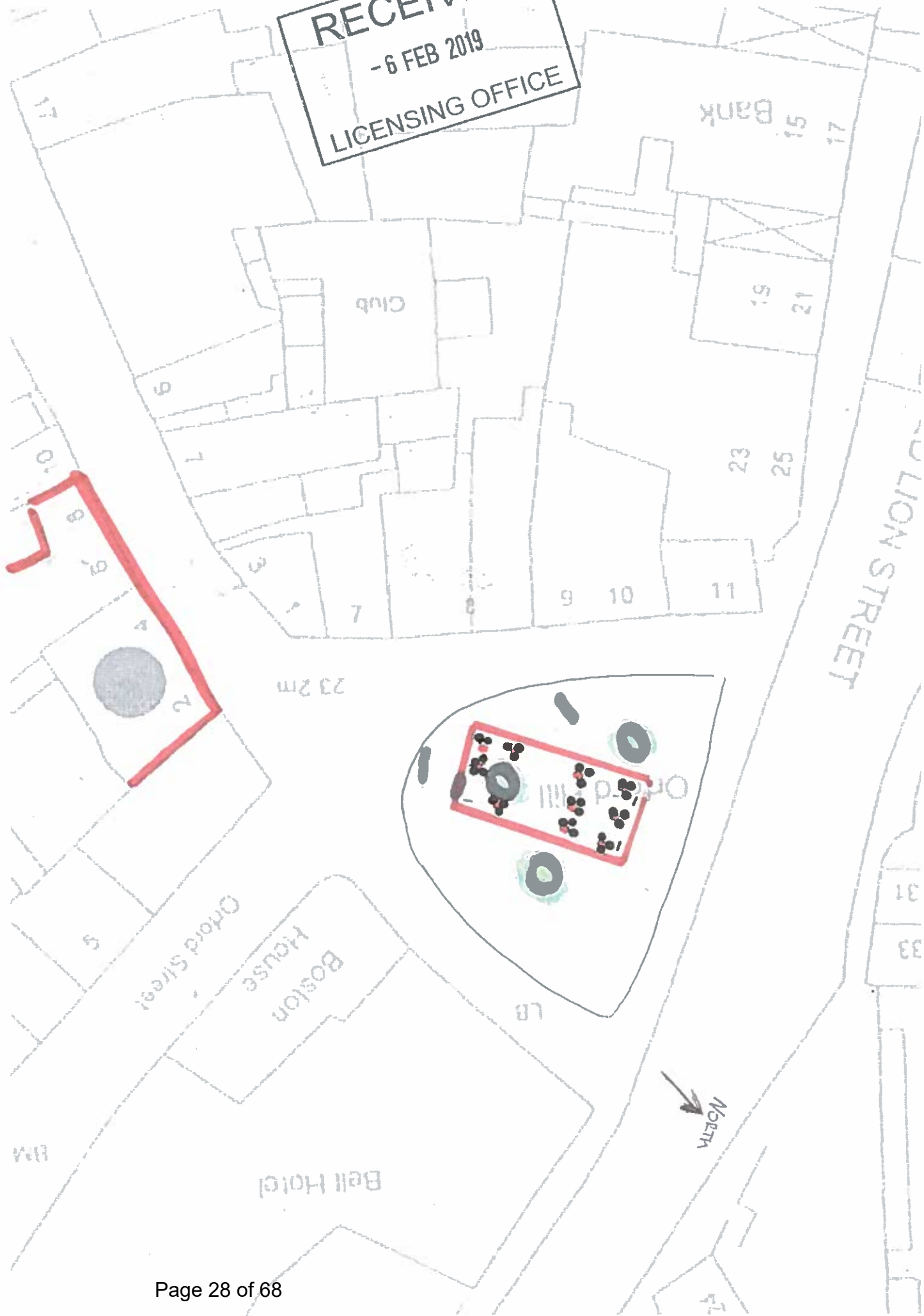
Please include a copy of your public liability insurance showing a minimum limit of indemnity of £5,000,000 and a completed copy of the Norwich City Council's Public/Employer's Insurance Questionnaire.

Please return this form and attachments to:

Licensing Officer
Licensing Department
City Hall
NORWICH
NR2 1NH

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

RECEIVED
- 6 FEB 2019
LICENSING OFFICE



↑
MUSEUM

RECEIVED
13 FEB 2019
LICENSING OFFICE

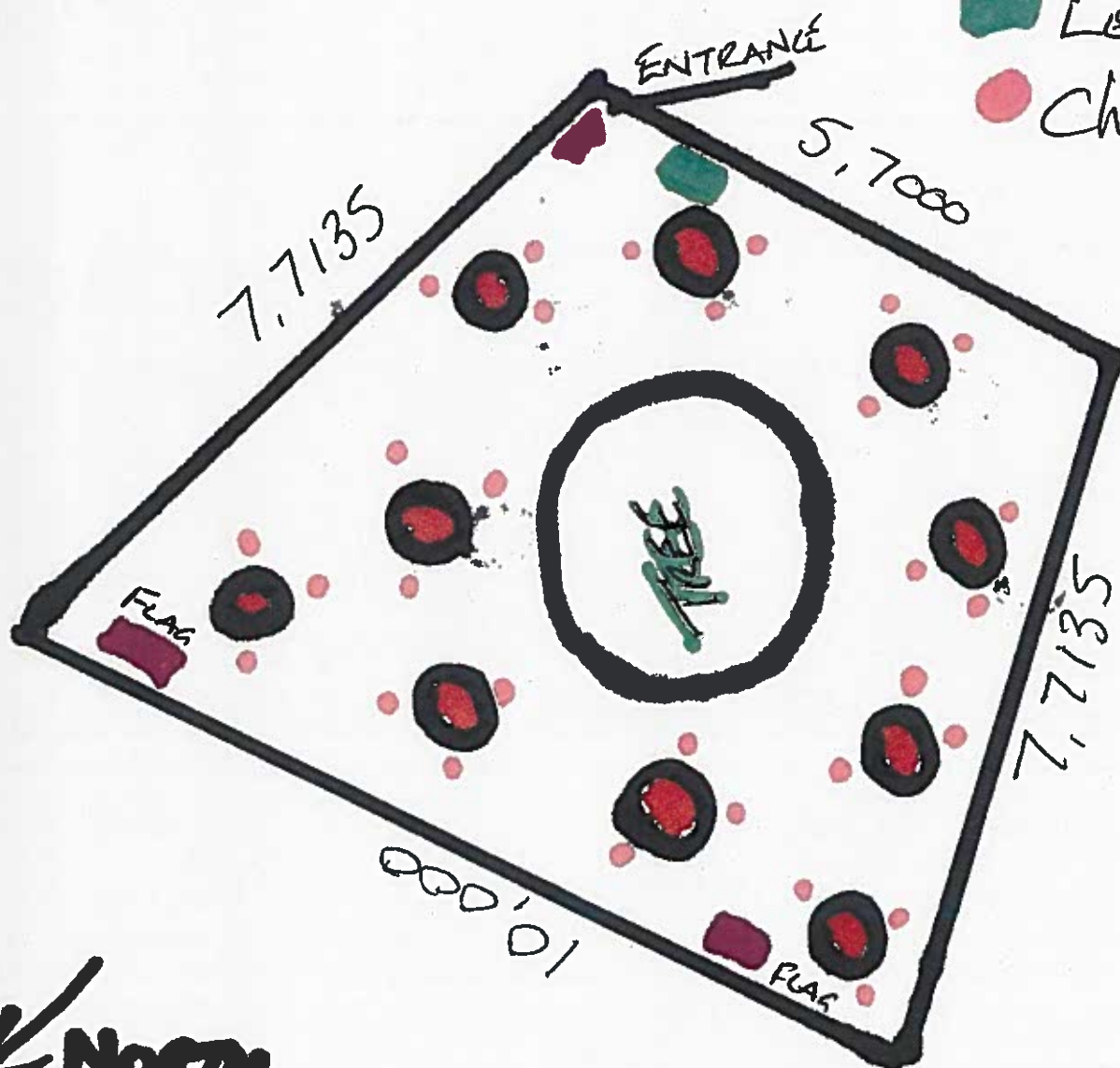
TABLE XII

— ROPED OFF
PERIMETER

FLAG

LECTURN

Chairs x 30



RECEIVED

- 6 FEB 2019

ENGINEERING OFFICE

RECEIVED

- 6 FEB 2019



RECEIVED

- 6 FEB 2019

LICENSING OFFICE





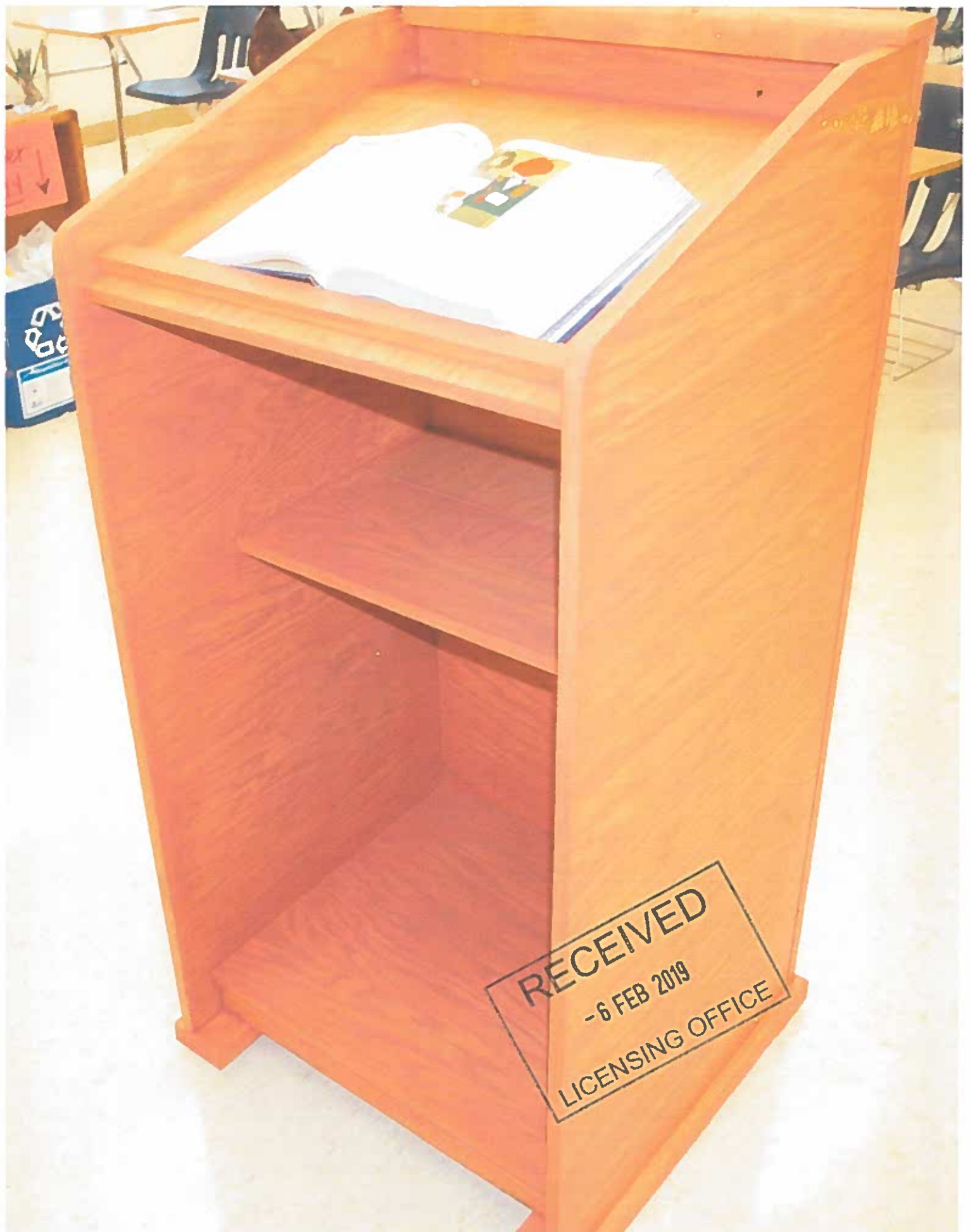




BRANDED
WITH
'The Murderers'

340cm





LECTURN



NORFOLK

CONSTABULARY

Our Priority is You

Licensing Officer
Norwich City Council
St Peters Street
Norwich
NR2 1NN

Date 4th March 2019

Dear Sir/Madam



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

Police have received a copy of the application to permit tables and chairs on the highway at the bottom of Timberhill, Norwich from 8am until 2100 hrs from March-October.

The applicant, Philip Cutter is the DPS/Manager of the Gardeners Arms/Murderers Public House on Timberhill and currently manages tables and chairs immediately located outside this premises.

This application is unique to other tables and chairs applications due to the site being located away from the pub and within an area located which has adopted a PSPO (Public Space Protection Order) which restricts alcohol consumption.

I have met with Mr Cutter and discussed the application in detail. I have been informed that the plan is for this area to be used for predominately dining with alcohol consumption being ancillary with hours applied for in line with the times offered on the dining menu of the pub.

Police believe that this area needs close supervision by staff to ensure behaviour of customers are managed at all times. I have been reassured that it is their intention to have 2 dedicated members of staff to manage this area when it is in use. It would be unfair to stipulate this specific number of staff as a licence condition however by restricting the licence to table service, this will ensure that there is a continued staff presence.

To prevent numerous patrons leaving the pub with drinks within a PSPO area to walk to the seating area, the area will be predominately table service so staff will be bringing food and drink on trays with regular glass collections by staff.

The issue of Norwich City Home match games was discussed and I have been reassured that there is no plan for the tables and chairs to be used on these days however should this happen, restrictions should be put on the licence that the table and chairs are not in use during the match time and 2 hours before and after the game.

In order to minimise the risk of crime and disorder as a result of the tables and chairs, I request that the following conditions are added to the licence:

- Substantial Table meals will be served at all times when the licence is in use.
- The area will be used for table service only and there will be signage on display informing patrons of this.

- **Customers are not to use this area unless seated.**
- **The table and chairs will not be in use on Lord Mayor's Procession day and during any Norwich City Football Home match and for two hours prior and after the game.**

I would like to add these conditions to be added to the standard restrictions on the tables and chairs licence. With these added, there will be no Police objections.

Yours faithfully,

Michelle Bartram
Licensing Officer

Mr. Tony Shearman,
Public Protection (Licensing),
Citywide Services,
Norwich City Council
St. Peters St,
Norwich.
NR2 1NH



Roads and Armed Policing Team,
OCC Wymondham
Room 2.1.2a,
Falconers Chase,
WYMONDHAM,
Norfolk.
NR18 0WW

Tel: 01953 424825
Fax: 01953 424898
Email: TMONorfolk@norfolk.pnn.police.uk

Date: 19th February 2019

Reference: JA/19.02.2019/The Gardeners Arms.

www.norfolk.police.uk
Non-Emergency Tel: 101

Dear Mr. Shearman,

Re: Application for a Tables and Chairs Licence – The Gardeners Arms (The Murderers)

Thank you for your letter dated 6th Feb 2019, which referred to the above application for a licence to place 10 x tables and 30 x chairs in the vicinity of The Gardeners Arms (The Murderers), 2-8 Timberhill, Norwich, between 08:00hrs and 21:00hrs Monday to Sunday from March to October. I note these tables and chairs will be in a seating area off Red Lion St. Norwich.

Having paid a site visit to the area, I can confirm that Norfolk Constabulary has no objections to this application. This is providing there is no obstruction to pedestrian movement to pass this area, and no trip hazard to members of the public who may be blind or partially sighted.

Minimum width allowances for pedestrian movement should also take into account other street furniture, wheelchair and motorised scooter users.

If in the meantime, I can be of any further assistance, please do not hesitate to contact me.

Yours sincerely



Mr. Jack Askew,
Norfolk Constabulary,
Force Traffic Management Officer.





NORFOLK FIRE & RESCUE SERVICE
Group Manager Central
Diamond Jubilee Fire & Rescue Station
Carrow
63 Bracondale
NORWICH, NR1 2EE
Tel: 0300 1231248

Website: www.norfolkfireservice.gov.uk

Mr T Shearman
Public Protection (Licensing)
Citywide Services
Norwich City Council
City Hall
St Peters Street
Norwich NR2 1NH

Please ask for: Kerry Larcombe
Direct Dial: 0300 123 1418
Email: kerry.larcombe@fire.norfolk.gov.uk
My Ref: 00012178
Your Ref:

14 February 2019

Dear Sir

The Regulatory Reform (Fire Safety) Order 2005

Premises: Gardeners Arms & Murderers Café, 2-8 Timberhill, Norwich, NR1 3LB

I acknowledge receipt of the application for the above premises.

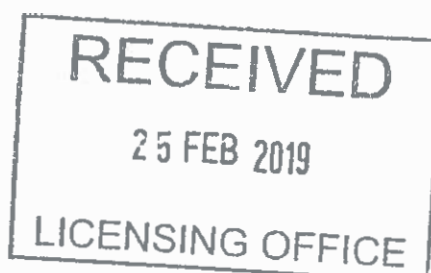
The authority has no objection to the placement of the tables and chairs in this location.

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

Yours faithfully



Kerry Larcombe
Fire Safety Advisor



Fuller, Maxine

From: Yates, Kieran
Sent: 18 February 2019 11:32
To: Fuller, Maxine
Subject: FW: The Gardeners Arms (Murderers) application
Attachments: Orford hill Murderer's street licence overlay.pdf

Maxine

The applicant has resubmitted their plan using the dimensions that myself and Lara provided, see attached plan .

The inset map below shows the proposed extent of the tables and chairs area on Orford Hill in relation to other features.

Orford Hill is public highway, but its purpose is primarily for pedestrians as vehicles are confined to the roadway adjacent to shop frontages.

I have no objection on highway grounds.

There is ample space for pedestrians to navigate the area around the enclosed area, and tables and chairs in this location will help to enliven the area.

There are planting opportunities in beds and tree rings in the area that would benefit from adoption by local businesses such as this licensed premises we would be happy to discuss.

We understand that events have occurred on Orford Hill in the recent past, but that more events are taking place at All Saints Green since the public realm was improved.



regards

K

Kieran Yates
Transport Planner
kieran.yates@norwich.gov.uk
01603 212471
0344 980 3333

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

Page 44 of 68



Finalist in the 'Housing initiative' category for the LGC Awards 2019

From: Yates, Kieran
Sent: 11 February 2019 17:05
To: 'Philip Cutter'
Subject: The Gardeners Arms (Murderers) application

Hi Phil

Based on our meeting on site we have put together the attached plan which shows the dimensions as measured along with an arrangement of 10 tables with a 600mm dia which is fairly standard.

This allows for through movement across the space and ensures that the three existing benches, cycle stands and two trees closest to the road are kept clear.

If you can get the barriers with a subtle branding from a sponsor to help you fund it, that would be welcome too rather than the rope barrier that can be a hazard to visually impaired pedestrians.

Best

Lara

Lara Hall CMLI
Principal Landscape Architect
Norwich City Council
Design, Conservation and Landscape
City Hall
Norwich
NR2 1NH

Tel: 01603 212189

*email: larahall@norwich.gov.uk

Normal Office days Monday, Tuesday, Wednesday, Term time only.

regards


Kieran Yates
Transport Planner
kieran.yates@norwich.gov.uk
01603 212471
0344 980 3333

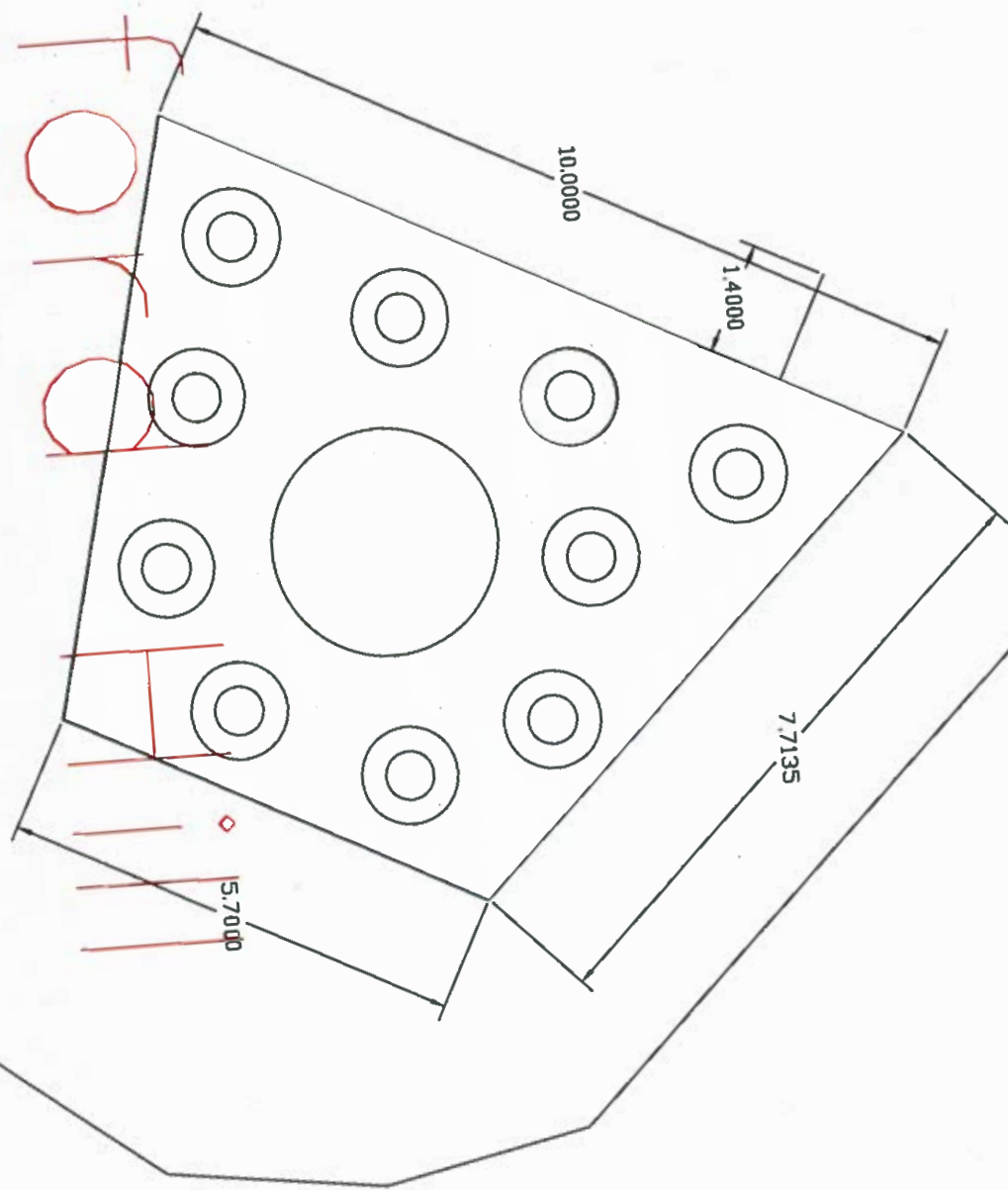
Norwich City Council
Transportation
City Hall, Norwich, NR2 1NH



Finalist in the 'Housing initiative' category for the LGC Awards 2019



OK for



To Adrian Akester,

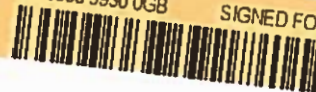
With reference to the Gardeners Arms t&cs application: Moss & Leahey object in the strongest possible terms and on the grounds of the proven historical nuisance and damage to its business interest. Please advise when we might attend a formal licence hearing to support our objection in person."

Signed for and on behalf of the Directors

P. King, Norwich Practice Manager

NJ 6969 9930 0GB

SIGNED FOR



CORPORATE RESOURCES

25 FEB 2019

POST ROOM

Partners Dr. N. Sasitharan & D. Foskett

Head Office

1 Timberhill
Norwich
NR1 3JZ

Tel 01603 661001

Fax 01603 661008

david@mossandleahey.wanadoo.co.uk

Also at 16 Norfolk Street
Kings Lynn PE30 1AN
Tel 01553 765 27029 Market Place
Dereham NR19 2AP
Tel 01362 69979815 High Street
Hunstanton PE36 5AB
Tel 01485 535800

Brad Baxter
7 St Edmunds Wharf
Norwich
NR3 1GU

This letter offers my FULL support of the Murderers pub application for Norwich City Councils approval of a tables and chairs license. I believe this would without a doubt be beneficial not only for the business but to the city and its citizens as well.

Obviously with online shopping increasing at a steady rate and Amazon taking over the world the decline and closure of many retail shops cities are going to need to look at how to keep attracting footfall on the high street to keep a city "bustling". Independent bars that offers more than just alcohol to the consumer (be it football on T.V. or some beers and burgers in the sun) should be given the opportunity to offer just that. The Murders is in no doubt a busy popular place and what would be better than to enjoy their outdoor patio?! Walking around London you see that every square inch of the city is utilised by bars and restaurants, Norwich will one day be no different.

It should also be noted how many more staff they would need to employ. Having been granted a license for a rooftop bar last summer at Gonzo's I needed to employ an extra 7 full time staff which led us to open another location which further benefited the economy adding another 9 full time employees.

The effect an outdoor seating area for a bar/ restaurant is EXTREMELY beneficial to not only to the business but the local economy as a whole. As a neighbour I feel this outdoor area will bring more footfall to the LEISURE area of Timber Hill where people come to be entertained and enjoy themselves.

Obviously the application falls directly in line with the Norwich 2040 vision and I believe the application should be approved.

Thanks for your consideration,

Brad Baxter

Gonzo's Tea Room and Bermuda Bob's Rumshack

Report to	Regulatory sub-committee 13 May 2019	Item
Report of	Public Protection Manager	4
Subject	Town Police Clauses Act 1847/ Local Government (Miscellaneous Provisions) Act 1976: application to licence as a hackney carriage a Ford ProCab fitted with 8 passenger seats.	

Purpose

To ask members to consider an application to licence as a hackney carriage a Ford ProCab with an 8 passenger seat configuration.

Recommendation

That members determine the application to licence a Ford ProCab as a hackney carriage fitted with 8 passenger seats in accordance with:-

- The Town Police Clauses Act 1847
- The Local Government (Miscellaneous Provisions) Act 1976
- The current Norwich City Council Hackney Carriage Specification

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: N/A

Cabinet member: : Councillor Macguire - Safe city environment

Contact officers

Tony Shearman
Environmental protection, licensing and markets manager

01603 212761

Background documents

None

Report

Background

1. The City Council's power to licence hackney carriages is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
2. Section 47 (1) of the Local Government (Miscellaneous Provisions) Act 1976 states:-

“A district council may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary”.
3. The Council has adopted conditions to be attached to the grant of a licence of a hackney carriage, one of which states:-

“Only vehicles which conform to the standard specifications for hackney carriages as adopted on 24th November 2009 may be used as a hackney carriage. ...”
4. A copy of the adopted specification for hackney carriages is attached at Appendix A.
5. The sub-committee's attention is drawn to paragraph 13(iii) which relates to the provision of a passenger seat in the nearside front of a hackney carriage and states:-

“A seat of an approved type may be provided in the nearside forward position of the vehicle, subject to the approval of Norwich City Council.”
6. Most current Norwich licensed hackney carriages will have seating for 5 or 6 passengers in the rear of the vehicle, consisting of space for 3 on the traditional back seat, supplemented by a further 2 or 3 rearward facing, fold down seats attached to the bulkhead between the passenger and driver compartments.
7. Additionally some will be fitted with a single seat in the nearside front compartment, which is available to passengers and authorised in accordance with para. 13(iii) of the hackney carriage specification as set out above, giving a maximum of 6 or 7 passenger seats available, depending on the rear seating layout.
8. Many of the modern van based hackney carriage conversions currently licensed in Norwich, such as the Peugeot E7 or Ford ProCab, also offer version with a double passenger seat in the nearside front area, which could give a total of 8 passenger seats.
9. Informal enquiries have been made to the Licensing office in the past regarding the suitability of the 8 seater versions, however upon inspection by the Licensing manager these have been deemed unsuitable for use as a hackney carriage due to the restricted amount of space available in the front compartment for 2 passengers.
10. Previously no formal applications have been made to permanently licence any hackney carriage with a double front passenger seat. However within the last year (exact date unknown) a temporary licence was issued for a vehicle with a double front passenger seat. This vehicle could have had a maximum passenger capacity of 8 if both front passenger seats were utilised, but the licence was only issued for 7 persons, so that only one customer could be seated in the front compartment. This

was due to an emergency replacement vehicle being supplied to a driver, from an insurance company, for a few days whilst his vehicle was being repaired, and was done to ensure that he could continue working.

11. The 'Norwich City Council Byelaws With Respect to Hackney Carriage Proprietors and Drivers' contains the following condition 11, which specifically restricts more than one passenger being conveyed in the front of a hackney carriage:-

- 11. (a) A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage, any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage, provided however that for this purpose two children below the age of ten years may be counted as one person insofar as the rear seating only is concerned.
- (b) The driver shall not allow there to be conveyed in the front of a hackney carriage vehicle:-
 - (i) any child below the age of ten years; or
 - (ii) more than one person above that age.

12. Although the above is really aimed at hackney carriages with only one front passenger seat, any licensed vehicle with 2 front passenger seats, that were both occupied, would fall foul of the requirement set out in 11(b)(ii) above unless the byelaws were altered.

The application

13. An application has now been received, made on the 4th February 2019, to permanently licence as a hackney carriage a Ford ProCab with an 8 passenger seat configuration, consisting of 6 seats in the rear and a double passenger seat in the front nearside position.

14. The vehicle was inspected for suitability to licence as a hackney carriage by the Licensing manager on the 6th February and it was the officers' opinion that the space available in the nearside front area was not sufficient to accommodate 2 passengers, only a maximum of 1. A copy of the relevant correspondence is attached at Appendix B.

15. At the request of the applicant this matter is now brought for further consideration by the Regulatory sub-committee.

16. As this type of vehicle has already been approved for use as a hackney carriage in Norwich in the 7 passenger seat configuration, consisting of 6 in the rear compartment and 1 in the front nearside, the sub-committee may consider the following options:-

- i) Grant a hackney carriage vehicle licence for a maximum of 8 passengers with the current 8 seat configuration. However this would require an undertaking that no enforcement action would be considered under byelaw 11(b)(ii) above, until the byelaws could be altered.
- ii) Grant a hackney carriage vehicle licence for a maximum of 7 passengers but retaining the current 8 seat configuration, requiring that the 2nd front passenger seat must not be used.

iii) Refuse to grant a licence until the current double front passenger seat can be removed and replaced with a single seat, or the current 2nd seat rendered unusable in some way.

17. Given the expense to the applicant of having this new vehicle sat idle whilst this matter is determined, and also that the version of the same vehicle fitted with only 1 front passenger seat has been previously considered acceptable, the applicant has been issued with a temporary licence for the vehicle, enabling it to be used for a maximum of 7 passengers in the interim period.
18. The applicant has been invited to attend the meeting and requested to bring the vehicle for assessment by the sub-committee.
19. If aggrieved by the decision of the council, the applicant may appeal to the Magistrates Court within 21 days.



NORWICH
City Council

SPECIFICATION

Relating to the

CONSTRUCTION AND LICENSING

Of

HACKNEY CARRIAGES IN NORWICH.

Adopted 24 November 2009

Part 1 – Conditions of Fitness

Part 2 – Directions

NOTES

- (i) the word approved in the Conditions of Fitness refers to approval by Norwich City Council

PART 1

CONDITIONS OF FITNESS

General Construction

1. (i) Every vehicle must comply in all respects with the requirements of The Motor Vehicle (Type Approval) Regulations 1980 and The Motor Vehicle (Type Approval) Regulations (Great Britain) 1984, and in use must comply with the Road Vehicles (Construction and Use) Regulations 1986 (C & U). These Regulations are amended from time to time and from 1st January 1993 cover the requirements for EC Whole Vehicle Type Approval (ECWVTA)
- (ii) Vehicles must be so constructed as to facilitate the carriage of disabled persons and must be capable of accommodating a disabled person in a wheelchair in the passenger compartment, provided the wheelchair fits within the dimensions specified in paragraph 12.
- (iii) No fittings, other than those approved, may be attached to or carried on the inside or outside of the vehicle.

Steering

2. (i) The steering wheel must be on the offside of the vehicle.
- (ii) The steering mechanism must comply with the requirements of C & U Regulation 29.

Turning Circle

3. (i) The vehicle must be capable of being turned on either lock so as to proceed in the opposite direction without reversing between two vertical parallel planes not more than 12.6 metres apart.
- (ii) The wheel turning circle, kerb to kerb, on either lock must not be less than 11.9 metres in diameter.

Tyres

4. (i) All tyres must comply with the requirement of C & U Regulation 24-27. Retread tyres must also comply with the British Standards Institution requirements BS.AU144C.
- (ii) All tyres must have an effective circumference of not less than the size marked on the taximeter and will undergo rolling circumference tests to determine their compatibility.

Brakes

5. All braking systems must comply with the requirement of C & U Regulation 15 – 18.

Interior Lighting

6. Adequate lighting must be provided for the driver and passengers. Separate lighting controls for both passenger and driver must be provided. In the case of the passenger compartment, an illuminated control switch must be fitted in an approved position. Lighting must also be provided at floor level to each passenger door and be actuated by the opening of the doors.

Electrical Equipment

7. An additional electrical installation to the original equipment must be adequately insulated and be protected by suitable fuses.

Fire Appliances

8. An appliance for extinguishing fire must be carried in such a position as to be readily available for use and such appliances must be independently certified that they are manufactured to meet the requirements of BS EN3 1996 and have a minimum fire rating of 5a and 34b. Any Norwich City Council approved appliance which meets BS 5423 1987 may continue to be carried until its expiry date has elapsed.

Fuel Systems

9. A device must be provided whereby the supply of fuel to the engine may be immediately cut off. Its situation, together with the means of operation and "OFF" position must be clearly marked on the outside of the vehicle. In the case of an engine powered by LPG or petrol the device must be visible and readily accessible at all times from outside the vehicle.

Exhaust Systems

10. All exhaust systems must comply with the requirements of C & U Regulation 54.

Body

11. The body must be of the fixed head type with a partially glazed partition separating the passenger from the driver.

The overall width of the vehicle exclusive of driving mirrors must not exceed 1.986 metres.

The overall length must not exceed 5.135 metres.

Wheelchair facilities

12. (1) Approved anchorages must be provided for the wheelchair and chairborn disabled person. These anchorages must be either chassis or floor linked and be capable of withstanding stresses to a dynamic deceleration test of 15g peak at 20 mph. Restraints for wheelchair and occupant must be independent of each other. Anchorages must also be provided for the safe storage of a wheelchair when not in use, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.

(ii) The door and doorway must be so constructed as to permit an unrestricted opening across the doorway of at least 75 centimetres. The minimum angle of the door, when opened, must be 90 degrees.

(iii) The clear height of the doorway must not be less than 120 centimetres.

(iv) Grab handles must be placed at door entrances to assist the elderly and disabled.

(v) The top of the tread for any entrance must be at floor level of the passenger compartment and must not exceed 38 centimetres above ground level

when the vehicle is unladen. The outer edge of the floor at each entrance must be fitted with non-slip treads. Where the top tread for the entrance exceeds 38 centimetres then a moveable intermediate step must be provided. The intermediate step must be encased beneath the vehicle when not in use. The step must be covered with a suitable non-slip surface with the edges of the step highlighted in yellow.

(vi) The vertical distance between the highest part of the floor and the roof in the passenger compartment must not be less than 1.3 metres.

(vii) Where seats are placed facing each other there must be a minimum space of 42.5 centimetres between any part of the front of a seat and any part of any other seat which faces it provided adequate foot room is maintained at floor level. Where all seats are placed facing to the front of the vehicle there must be a clear space of at least 66 centimetres in front of every part of each seat squab.

(viii) A ramp or ramps for the loading of a wheelchair and occupant must be available at all times for use at the rear nearside passenger door. An adequate locating device must be fitted to ensure that the ramp/ramps do not slip or tilt when in use. Provision must be made for the ramps to be stowed safely when not in use.

Passenger capacity

13. (i) The occasional seats must be at least 40cm in width and the minimum distance from the back of the upholstery to the front edge of the seat must be 35.5cm.
- (ii) The occasional seats must be so arranged as to rise automatically when not in use. They must be symmetrically placed and at least 4 cm apart. When not in use, front seats must not obstruct doorways.
- (iii) A seat of an approved type may be provided in the nearside forward position of the vehicle, subject to the approval of Norwich City Council.
- (iv) The rear seat dimensions must be adequate to carry two or three adult passengers comfortably
- (v) Suitable means must be provided to assist persons to rise from the rear seats with particular attention to the needs of the disabled.

Driver's compartment

14. (i) The driver's compartment must be so designed that the driver has adequate room, can easily reach and quickly operate the controls and give hand signals on the offside of the vehicle.
- (ii) The controls must be so placed as to allow reasonable access to the driver's seat and, when centrally placed, must be properly protected from contact with luggage.
- (iii) A serviceable device for demisting the windscreen must be fitted.
- (iv) Every vehicle must be provided with an approved means of communication between the passenger and driver. When a sliding window is fitted on the glazed partition, the maximum width of the opening must not exceed 11.5 cm.

Windows

15. (I) Windows must be provided at the sides and rear.

- (ii) Passenger door windows must be capable of being opened easily by passengers when seated. The control for opening a door window must be clearly identified to prevent being mistaken for any other control.

Heating and Ventilation

16. An adequate heating and ventilation system must be provided for the driver and passengers and means provided for independent control by the drivers and passengers.

Door fittings

17. An approved type of automatic door locking device must be fitted to passenger doors. When the vehicle is stationary, the passenger doors must be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism. The interior door handle must be clearly identified to prevent being mistaken for any other control

Fare table and number plate

18. A frame must be provided for the fare table and interior numberplate and fitted in an approved position. The words "The number of this cab is" are to be shown above the position of the plate.

Floor covering

19. The flooring of the passengers' compartment must be covered in non-slip material which can easily be cleaned.

Luggage

20. Provision must be made for the carrying of luggage.

Taximeter

21. A taximeter of an approved type must be fitted in an approved position.

"Taxi" signs

22. A "Taxi" sign of approved pattern, clearly visible both by day and night when the cab is available for hire, must be fitted.

Radio apparatus

23. (1) Where apparatus for the operation of a two-way radio system is fitted to a cab, no part of the apparatus may be fixed in the passengers' compartment or in the rear boot compartment if LPG tanks or equipment are situated therein.
- (2) Any other radio equipment, either in the passenger or driver compartment must be approved.

Maintenance

24. Vehicles, including all fittings, advertisements etc. must be well maintained, clean and in good working order. Vehicles will at all times be subject to test and inspection and should it be found that the vehicle is not being properly maintained or that any part or fitting is not in good working order, a notice will be served on the owner prohibiting him from using the vehicle until the defect has been remedied

PART 2

DIRECTIONS

25. (i) Suitable advertisements may be allowed on the exterior or interior of the cab subject to the approval of the Norwich City Council. [See paragraph 25 (vi) below]

(ii) Exterior Advertising

Advertising on the exterior of the cab can be either full livery i.e. use of the complete exterior body shell, except the boot lid, as the advertising medium; or the lower panels of the front and rear doors only; or on the bottom of the rear screen; on the upper most part of the front screen but no wider than 3"; or on the lower half of the rear quarter passenger compartment windows only.

(iii) Interior Advertising

Advertisements may only be displayed within the passenger compartment on the base of the occasional seats and on the bulkhead above the passenger/driver partition.

Occasional seat advertisements must be encapsulated in clear non-flammable plastic and bulkhead advertisements must be manufactured in an approved material. [see paragraph 25 (iv)].

No material may be placed on the passenger/driver partition other than notices which may be approved from time to time. [see paragraph 25 (vi)].

(iv) Advertisements must be of a form that does not become easily soiled or detached.

(v) All materials used in the manufacture of, and for the purposes of affixing, advertisements to the cab must be approved (see note (i) on page 1).

(vi) Applications for approval of advertisements must be made, in writing, to the Director of Support Services, Norwich City Council, City Hall, Norwich.

Badges/Emblems

26. (i) In addition to advertisements displayed in accordance with paragraph 25 above, the official badge or emblem of a motoring organisation which provides genuine round the clock emergency vehicle and recovery services may be affixed to the radiator grill. Only one such badge or emblem may be so displayed.

(ii) No advertisement, badge or emblem, including the stick on type, is to be exhibited, other than is provided for in the direction contained in this paragraph or paragraph 25.

Dear Morrison,

Further to your request for a second opinion, I will be happy to defer the final decision to the Regulatory Sub-committee.

The sub-committee sits once a month on the afternoon second Monday. With my current work schedule it is unlikely that the relevant reports will be written in order to present it to the next one on the 11th March, but I will attempt to arrange for it to be heard on the next one, on the 8th April.

It will be for the sub-committee to look at the points raised for/against the appropriateness of the vehicle, so I will not respond further to the below, save for one point.

Please accept my apologies if you felt that any reference to potential for future unlawful use was aimed at yourself or was in detriment to your character. The reference to any potential unlawful use was generalist in nature, bearing in mind that if a vehicle is accepted to be appropriate for use as a hackney carriage, then the assumption is that that vehicle specification would be available to all proprietors. Therefore any decision regarding the appropriateness for use will be based upon its future availability to all, not restricted to the person presenting it initially.

Kind regards,

Tony Shearman
Environmental protection, licensing and markets manager
Norwich City Council
01603 212278
anthonyshearman@norwich.gov.uk

Finalist in the Council of the Year category – LGC Awards 2016

From: Giles Morrison [REDACTED]
Sent: 11 February 2019 14:51
To: Shearman, Anthony
Cc: Akester, Adrian; simon.guilliatt@alliedvehicles.co.uk
Subject: Ford Pro Cab 8 Seater Hackney Carriage refusal

Dear Mr Shearman

Thank you for meeting with me last week and for your subsequent email. However, I do not feel that I have been treated fairly and would like to ask for a second opinion regarding the refusal to licence my 8 seater hackney carriage. I would like the following points to be looked at again:

In your email you state that *“The 2 passenger seats were found to be unacceptable in general terms, due to the size of the seats, available space for movement and placing of one of the passengers in very close proximity to the driver.”* You measured the seats as 39.5cm wide, however, Ford have confirmed that 40cm is the legal pitch requirement for all seats and they can confirm that the seats will meet this requirement.

You also mention that *“There is limited distance between the front of the passengers seat squab and the dashboard of the vehicle, giving little room for passengers to move their feet/legs.”* I have measured this as 25cm and compared this with a Norwich City Council licensed Hackney Peugeot E7 which only measures 17cm.

Another concern you mentioned was that *“ The console that houses the gear knob, between the passenger and driver, encroaching into the leg space for the passenger by approx 7.5cm, thus reducing the available space even further, meaning their legs are effectively trapped between the other passengers legs and the gear console.”* I have measured this and the distance between the seat squab and the gear knob housing unit reduces the available space to 13cm, compared to the E7 at 12cm.

I would also like to address the concern you raised regarding my demeanour. I am considered a fit and proper person, in order to hold a taxi licence, yet you state that when i asked if you would consider plating the taxi as a 7-seater, similar to the licensed 5-seater TXs which have 6 passenger seats you felt *“There could be a greater temptation for the seat to used, albeit it unlawfully”*

You also make reference to my character again when you require *“In these circumstances we would require the seat to be removed and the fixings welded over to make it **impossible** for the seat to be re-fitted”*

I have spoken to John Percs and Craig Dimpleby from Norwich Hackney Trade Association and have informed me that last year you plated an 8-seater Ford Pro Cab which was from a company named Voyager for a Norwich Hackney driver, Jamie Steward. Voyager have said that the driver was authorised to carry 8 passengers but that Norwich City Council only had 7 seater plates made up, and could therefore only issue a plate for 7 seats. However, it was MOT'd at Delmonte Garages with 8 passenger seats.

The vehicle, as I brought it to you, has been approved as a Hackney Carriage with 8 passenger seats by the following Councils:

Babergh
Brighton
Bristol
Canterbury
Bedfordshire
Chester
Chichester
Cheshire
Doncaster
East Lindsay
East Loathian
Ellesmere
Exeter
Fife
Gravesham
Great Yarmouth
Guildford

Hastings
Hertsmere
Hull
Huntingdon
Ipswich
Kettering
Knowsley
Leeds
Leicester
Lincoln
Newcastle under Lyme
Newport
Northampton
Nottingham
Plymouth
Poole
Portsmouth
Powys
Rockford
Rushmore
Salford
Slough
Solihull
South Hams
St Albans
Stratford upon Avon
Swansea
Taunton
Thurrock
Torafen
Trafford
Walsall
Warwick
Waverley
Wellingborough
West Somerset
Winchester
Wolverhampton
Worcester
Wyre

Could you please inform me what the next stage is in order for me to challenge the decision to refuse licensing my Hackney carriage?

I look forward to hearing from you

Kind regards

Giles Morrison

From: "Shearman, Anthony" <AnthonyShearman@norwich.gov.uk>
Date: 7 February 2019 at 12:56:09 GMT
To: 'Airport Taxi' <airporttaxiexpress81@gmail.com>
Cc: LICENSING <LICENSING@norwich.gov.uk>
Subject: RE: Ford Pro Cab 8 Seater Hackney Carriage

Giles,

Thank you for bringing the 8 seater Ford ProCab for assessment yesterday.

The vehicle was assessed for compliance with the hackney carriage specification adopted by the City Council (a copy of this document is attached for reference) with regard to the use of the vehicle as an 8 seater hackney carriage, with a double passenger seat in the front 'cab' area.

The six passenger seats in the rear of the vehicle were found to be acceptable in terms of operation, size, space and general comfort of the passengers. However the 2 passenger seats were found to be unacceptable in general terms, due to the size of the seats, available space for movement and placing of one of the passengers in very close proximity to the driver, creating an unacceptable invasion of personal space for both driver and passenger.

The hackney carriage specification (para. 13.iii) allows for a nearside front passenger seat to be provided in the vehicle, but requires that this must be approved by Norwich City Council. This would indicate that the provision of such a seat would not be the 'norm', and that any seat provided must be of a standard considered acceptable for use as a hackney carriage. The criteria that would be applied in this circumstance would be different from the criteria applied for general vehicle safety testing. It is accepted that the current vehicle seating layout will have met the relevant safety rating requirements, and although safety is a significant factor in deciding whether a vehicle is suitable for use as a hackney carriage, Norwich City Council will place significant weight on passenger comfort, particularly for hackney carriages, where the vehicle could be immediately hailed or hired at any time, and the vehicle must be capable of comfortably accommodating the number of passengers it is plated to carry, for the length of journey that the customer desires.

Although there is no specific set criteria for the dimensions of any front passenger seat fitted, some guidance can be taken from the specification for the occasional fold down seats provided in the rear of the vehicle. Para. 13(i and ii) of the HC specifications require these seats to be at least 40cm in width and at least 4cm apart, giving a total of at least 44cm, per passenger, possibly more for those using the outside seats where there may be a larger gap between the edge of the seat and the adjacent rear doors.

The front passenger seats provided in the vehicle inspected were 39.5cm wide with no gap between. This was measured at the seats widest point from the seam where the material of the top of the seat meets the material forming the side covering. In practical terms this meant that with 2 passengers sitting in the front seats, the one closest to the driver was forced to adopt a position leaning towards the driver and overhanging the armrest attached to the driver's seat, bringing that passenger to almost be touching the driver at all times, an effect that would be increased when

driving around left hand bends where the passenger would be forced even closer to the driver.

Additionally, there is limited distance between the front of the passenger seat squab and the dashboard of the vehicle, giving little room for passengers to move their feet/legs. This is less of a problem where a single front passenger seat is fitted, as the passenger has the ability to move their legs from side to side or open their legs wider to create more comfortable sitting position. This is not possible where there is a second front passenger, as there is insufficient room to move the legs without interfering with the adjacent passenger. This is compounded for the passenger closest to the driver due to the console that houses the gear knob, between the passenger and driver, encroaching into the leg space for the passenger by approx. 7.5cm, thus reducing the available space even further, meaning that their legs are effectively trapped between the other passengers legs and the gear console.

Taking into consideration the above, I do not feel that the vehicle, as presented, is suitable for licensing as a hackney carriage for the carrying of 8 persons. You raised a question as to whether the vehicle could be plated to carry 7 passengers, and just not use the passenger seat closest to the driver. I do not feel that this is acceptable as with the seat being in place there could be a greater temptation for the seat to be used, albeit it unlawfully. This is similar to the decisions made with regard to private hire vehicles, where the seating layout is not considered appropriate. In these circumstances we would require the seat to be removed and the fixings welded over to make it impossible for the seat to be re-fitted.

For the vehicle to be plated for use as a Norwich hackney carriage the front seat should be replaced with a single seat item of an acceptable size/design, which would then enable it to be plated for carrying of 7 passengers.

Kind regards,

Tony Shearman
Environmental protection, licensing and markets manager
Norwich City Council
01603 212278
anthony.shearman@norwich.gov.uk

Finalist in the Council of the Year category – LGC Awards 2016

From: Airport Taxi [<mailto:airporttaxiexpress81@gmail.com>]
Sent: 04 February 2019 13:25
To: Shearman, Anthony <AnthonyShearman@norwich.gov.uk>
Subject: Re: Ford Pro Cab 8 Seater Hackney Carriage

Dear Anthony

Please could I arrange with you a time for you to view and re-assess the new ford pro cab. I have now mot'd the taxi and paid for the plate online. I have just had a conversation with Maxene and she is unable to issue a plate until you have assessed it. I understand that I cannot use this as a Hackney taxi until a meeting with you so please consider this as a matter of urgency.

Please find attached the new reposition of the control panel and the upgraded two individual front seats which have replaced the bench seat.

I look forward to hearing from you.

Kind Regards
Giles Morrison.

> On 30 Oct 2018, at 09:50, Shearman, Anthony <AnthonyShearman@norwich.gov.uk> wrote:
>
> Dear Mr Morrison,
>
> Thank you for the below enquiry.
>
> I can confirm that one of the reasons that the old specification Pro Cab was refused as an 8 seater was due to the location of the control panel.
>
> If this has now been moved to an alternative location then this is an improvement. However, at the time of assessing the old model, concerns were also raised regarding the width of the 2 front passenger seats, and the general comfort of passengers were both seats occupied. Therefore unless this has changed significantly, it is unlikely that the new model would be acceptable as an 8 seater hackney carriage.
>
> If it has altered significantly then I would be happy to re-assess it.
>
> Kind regards,
>
> Tony Shearman
> Environmental protection, licensing and markets manager
> 01603 212278
> anthonyhearman@norwich.gov.uk

> -----Original Message-----
> From: Airport Taxi Express [<mailto:airporttaxiexpress@icloud.com>]
> Sent: 25 October 2018 15:33
> To: Shearman, Anthony <AnthonyShearman@norwich.gov.uk>
> Subject: Ford Pro Cab 8 Seater Hackney Carriage
>
> Dear Mr Shearman
>
> I have purchased a ford pro Cab hackney carriage from Cab direct which has 8 passenger seats. I understand that you refused the old specification due to the control panel being in the leg area. However, this is a new shape model and the control panel is now built in to the roof.
>
> I had a meeting with Maxine today and i asked her about plating this as an 8 seater Hackney Carriage and she suggested I speak to you.
>
> I look forward to hear from you.
>
> Kind Regards
> Giles Morrison.