On 18 June last, Mr Leon attended a ‘Brandy and Battlefield Trivia’ evening at his friend Josephine’s house at Waterloo Close in the town of Wellington. At the end of the evening he got into his car to drive home. As Mr Leon drove towards the exit, an Audi driven by another resident of the Close, Mr Blucher, drove into the Close and carelessly collided with Mr Leon’s Renault. Mr Blucher had in fact been due to arrive some hours earlier but had been delayed en route, and mentioned this apologetically. The police were called.

PC Robespierre of the Public Safety team arrived and breathalysed both drivers. Mr Blucher tested negative whereas Mr Leon tested positive, so was arrested and taken to the police station where further testing showed him to be three times the legal breath-alcohol limit. Mr Leon was charged with an offence under section 5(1)(a) of the Road Traffic Act 1988, the particulars alleging that he *‘drove a motor vehicle in a public place, namely Waterloo Close, Wellington’* whilst being over the prescribed limit. He is due for trial before District Judge Wellesley at Uxbridge Magistrates’ Court next week.

Your instructing solicitors, Ney and Co, brief you to advise Mr Leon, who stands to lose his licence if convicted. You agree there is no basis for challenging the breath sample, and Mr Leon accepts he had been drinking. The solicitors have taken a statement from Josephine who states she has lived in the Close for 20 years, the general public do not use the Close, and in her experience the only people who go there are residents and residents’ visitors. Photographs show the Close has all the appearance of a normal urban residential area, and is a cul-de-sac leading off a main road without any gate, barrier or signage restricting entry.

Your solicitors seek your advice on whether the Close can be regarded as a ‘public place’ as charged. They also note the accident was caused by Mr Blucher’s carelessness, would not have happened if Mr Blucher had not been running late, and in any event Mr Leon had only intended to drive a very short distance home a few streets away, albeit via public roads, and ask whether any of those points give Mr Leon an arguable defence to the charge.