

Report to the Licensing Committee

Report reference: LSC-005-2010/11.

Date of meeting: 13 October 2010.



**Epping Forest
District Council**

Portfolio: Safer & Greener.

Subject: Pavement Licences.

Responsible Officer: Kim Tuckey (01992 564034).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required

- (1) To note that Licensing Service will undertake the issue of consents under S115E of the Highways Act 1980 with immediate effect; and**
- (2) That the Committee recommends to the Council that:**
 - (a) the delegations set out in the report are adopted;**
 - (b) the Council agree the standard conditions be attached to the consents issued; and**
 - (c) the fees set out in the report are agreed.**

Executive Summary:

There has been an increase in the number of tables and chairs being placed on the pavements in the District. The Highways Act 1980 gives the District Council the power to give permission to allow objects and obstructions to be placed on the public highway. If the Council is asked for a permission it will have to make a decision as to whether to grant the consent.

The Committee is asked to recommend that the Council adopts the scheme of delegations, standard conditions to be imposed on consents and fees to be charged when issuing a consent.

Reasons for Proposed Decision:

The District Council is under an obligation to make a decision, if requested, as to whether to permit objects being placed on the highway. Essex County Council's Highways Department has asked the District Council to issue consents in respect of the increasing number of tables and chairs being placed on the pavements. This report asks the Committee to recommend to the Council that procedures are put in place to regulate the issue of these consents.

Other Options for Action:

None.

Report:

1. The Highways Act 1980 allows applications to be made to this Authority for permission to place tables, chairs, portable advertising boards and similar objects on the pavements which are adopted as highways. .
2. Once an application is made the licensing officer must undertake consultations, prepare a notice and place this outside the premises and serve notice on neighbouring properties that are affected. The consent of the owner of any property adjoining the area of pavement must be obtained. The Council can impose reasonable conditions and the consents must be renewed annually.
3. The suggested fee in respect of a consent of £125 per annum for 5 or more tables (and associated chairs) and £75 per annum for 5 and under. If only chairs, boards or other items are placed on the footpath a fee of £75 will be applicable
4. A list of suggested delegations is set out below.

DELEGATION OF FUNCTIONS

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for permission to place objects on the highway		If an objection	If no objection made
All policy matters except the formulation of the policy relating to these permits	All cases		

5. Attached to this report below are the proposed conditions of the consent recommended by the Senior Licensing Officer.

Resource Implications:

None.

Legal and Governance Implications:

Section 115E of the Highways Act 1980 gives local authorities the power to grant permission to erect and use a facility on the highway (e.g. tables and chairs and portable advertising board).

Section 115F of the Highways 1980 Act gives the local Authority power to require a payment of such reasonable charges for the grant of a permission issued under section 115E of the 1980 Act and, section 115F gives the authority power to impose conditions.

Safer, Cleaner and Greener Implications:

The Council Plan 2006 – 2010 – A Safe Community.

Consultation Undertaken:

None.

Background Papers:

None.

Impact Assessments:

Risk Management

N/A.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?
No.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?
None.

Standard Consent Conditions – Highways Act 1980

1. Except with the previous written consent of the Council, only the amenities detailed on the consent are to be placed on the public highway, and the amenities are only to be placed on the public highway between the times detailed on the consent on the permitted area specified in the consent.
2. Any heaters must be to BS Standards (BS EN 60529:1992 (Electric heaters) and BS EN 14543:2005 (Gas heaters)). Access to the controls/pipe/cylinder on the heaters must be restricted to authorised employees of the premises only. .
3. The Council may require the boundary of the permitted area to be defined by shall be a fixed barrier system that is suitably stable not to be easily blown or knocked over.
4. Clear access to the entrance of the adjoining premises must be maintained at all times.
5. The permit holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval of the Council.
6. The permit holder is not permitted to erect the amenities other than in accordance with the provisions of the permit.
7. The permit holder is not to make or cause to be made any claim against the Council in the event of any property of the permit holders becoming lost or damaged in any way from whatever cause.
8. The permit holder is to indemnify and keep indemnified the Council from and against all actions, costs, claims, proceedings, demands and liability, which may at any time arise or be incurred in consequence of the placing and maintaining the amenities on the highway or their removal from the highway.
9. The permit holder will hold a Public Liability Insurance indemnity policy throughout the term of the permit up to the value of £5 million against any liability, loss or damage, claim of proceeding whatsoever arising under Statute or Common Law in respect of the placing and maintaining the Street Furniture on the highway or their removal. The applicant is required to submit proof of this insurance prior to the licence being issued.
10. At the instruction of the Council to remove the Street Furniture during the permit period for the purpose of:
 - (a) Works in or under or over the highway or for using it in connection with works in, under or over land adjacent to or adjoining it as may be required by Epping Forest District Council, the local highways authority or any statutory undertaker or other person authorized by the Council.
 - (b) Use by emergency services.

(c) Any other reasonable cause.

11. Not to cause a nuisance to persons using the highway or any adjacent land or premises. The permit holder is responsible for the keeping of good order within the boundary of the permitted area.
12. To remove the amenities immediately at the end of the permit period or on any sooner revocation of the licence.
13. To reinstate the highway in the event of a breach of the permit. To reimburse Epping Forest District Council if, as a result of a breach of the permit conditions, it is required to carry out any reinstatement works itself.
14. To keep the permitted area free of litter and rubbish, including staining from food and drink spillages.
15. The permitted area must be washed down thoroughly, at the end of every day, using a method sufficient to remove food debris, grease and other spillages that may occur.
16. To make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the amenities, for a distance of up to 10 metres from the boundary of the permitted area.
17. The footway must not be obstructed by patrons standing between tables and between tables and chairs and the curb.
18. The amenities must be removed from the public highway at the end of the permitted period each day and in any event they must be removed when the business is not trading.

Note: Permission to place tables and chairs on the highway does not exempt the applicant from complying with any other legislation applying to the premises. In particular, where the premises are licensed for the sale of alcohol, an extension to the liquor licence must be obtained. Planning permission may also be required.