

LONDON BOROUGH OF NEWHAM

LICENSING COMMITTEE

28 February 2012

Subject: PERMISSIONS FOR OBJECTS (TABLES AND CHAIRS) ON THE PUBLIC HIGHWAY - SECTION 115E OF THE HIGHWAYS ACT 1980 (AS AMENDED)

Source: Community Safety

Wards Affected: All

Purpose of Report:

For members of the Committee to consider and approve a permissions regime for the placing of objects (tables and chairs and ancillary objects) on the public highway and the necessary delegations.

Recommendations:

The recommendations are set out in section 6 of the Report

NAME OF LEAD OFFICER: Nick Bracken

POSITION: Divisional Director –Community Safety

Originator of report: David Grant, Principal Officer (Licensing)

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Local Government (Access to Information) Act 1985

Background papers used in preparing this report:

- Highways Act 1980 (as amended)

List of enclosures / Appendices:

- 'Guidelines To Assist In The Determination Of Applications For Permissions To Place Objects (Tables and Chairs) On The Highway ' - **Appendix A.**
- 'Rules Governing Applications for Permissions for Objects (Tables and Chairs) on the Highway ' – **Appendix B**
- 'Standard Conditions For Permissions For Objects (Tables and Chairs) On The Highway ' – **Appendix C**
- 'Application For Permission To Place Objects (Tables and Chairs) On The Highway' - **Appendix D**

1. Introduction and Background

On 31 January 2012, the Licensing Committee approved in principal a Report on a Permissions regime under section 115E of the Highways Act 1980 and directed that Officers report back to them on certain matters, including delegations.

2. Documents for Licensing Regime

The Committee is asked to consider and approve the following documents with any changes that they think fit. The documents are necessary for a licensing regime to become operational:

- 'Guidelines To Assist In The Determination Of Applications For Permissions To Place Objects (Tables and Chairs) On The Highway ' - **Appendix A**;
- 'Rules Governing Applications for Permissions for Objects (tables and chairs) on the Highway' – **Appendix B**;
- 'Standard Conditions For Permissions For Objects (Tables and Chairs) On The Highway ' – **Appendix C**;
- 'Application For Permission To Place Objects (Tables and Chairs) On The Highway' - **Appendix D**

3. Delegation to Officers

The Committee is asked to consider and agree (with or without amendments) the delegation of the Committee's authority to the Executive Director - Operations in respect of:

- A. The power to grant and refuse applications made under section 115E of the Highways Act 1980 including those which objections/representations have been made against. Subject to the proviso that the Licensing Committee may at any time define an area or areas of the Borough and direct that all applications within that defined area or areas should be referred to the Licensing Committee for determination.
- B. The power to grant unopposed permissions in any areas defined by the Licensing Committee in number 3.A above, when a person has possibly held a permission under either the Highways Act 1980 or a street trading licence under the London Local Authorities Act 1990 for the placing of tables and chairs and associated amenities on the highway under any previous permission/licensing regime operated by the Council. Subject to:
 - The application being identical in all material effect to the existing permission/ licence, and
 - Any consultation not revealing any problems or concerns about the application.
- C. The power to set fees for applications under section 115F of the Act;
- D. The power to withdraw permission under sections 17 and 18 of the 'Standard Conditions'.

- E. The power to set and amend forms and notices (e.g. the format of the licence, the application and renewal form etc) as and when necessary.
- F. The power to make enquiries of, and ask for such documents, from the applicant as they may feel necessary for the assessment of an application.

4. Public Liability Insurance

Officers were unable to obtain specific online quotes regarding Public Liability Insurance in relation to the placing of tables and chairs on the public highway for use by the customers of a business. However, in view of the similarity between permissions for tables and chairs and street trading (stalls), the officer view is that premiums are most probably similar.

For street trading, the cheapest quotes that officers were able to obtain for Public Liability Insurance for £5,000,000 were £162.18 (with £500 excess) and £180.20 (with £200 excess). The dearest quote was £661.74, although this quote also included an element of Employers Liability insurance.

The cheapest quotes that officers were able to obtain for Public Liability Insurance for street trading for £1,000,000 were £98.58 (with £500 excess) and £110.24 (with £200 excess). The dearest quote was £501.17, although this quote also included an element of Employers Liability insurance.

Note: the quotes were based on a 40 year old man who had just started in the business of street trading.

5. Application Fees

Whilst the setting of fees has been recommended to be delegated to the Executive Director, it is proposed that the fees will be:

Permission application fee: An area of up to 18 square metres = £750
An area of more than 18 square metres = £1,000

Annual Fee: An area of up to 18 square metres = £500
An area of more than 18 square metres = £750

Note: Permissions will normally last for 3 years, unless the Council decides otherwise for any particular application or the applicant applies for a lesser period (e.g. 1 or 2 years)

6. Recommendations

- 6.1 That the Licensing Committee consider and agree the documents attached as Appendices A to D, (see also number paragraph 6.2 below).
- 6.2 That the Licensing Committee determine the level (e.g. £Nil, £5m) of any Public Liability Insurance that applicants should obtain, and delegates to the Principal

Officer (Licensing) the power to amend the appropriate sections of Appendices A to D accordingly.

- 6.3 That the Licensing Committee and agree (with such changes as it thinks fit) the delegations to the Executive Director - Operations set out in section 3 of this report.
- 6.4 That the Licensing Committee considers what areas in the Borough should have all applications referred to it for determination (e.g. the areas in the Borough which are the subject of a Cumulative Impact Policy under the Licensing Act 2003).
- 6.5 That the Licensing Committee sets a date that the permissions regime is to come into force. It is recommended that this should not be less than one month after the date of said Committee, so as to allow Officers to make the necessary arrangements.