

**HIGHWAY LICENCES FOR TABLES AND CHAIRS**

*To:* **Cabinet**

*Date:* **25<sup>th</sup> October 2011**

*From:* **Executive Director : Environment Services**

*Electoral division(s):* **All**

*Forward Plan ref:* **Not applicable**      *Key Decision:* **No**

*Purpose:* **To consider a new process for the issuing of licences for tables and chairs on the public highway.**

*Recommendation:* **Cabinet is recommended to support the procedures and charges set out in sections 3 to 5 and appendix A of the report.**

<b><i>Officer contact:</i></b>		<b><i>Member contact</i></b>	
Name:	Richard Preston	Name:	Councillor Steve Criswell
Post:	Head of Road Safety and Parking Services	Portfolio:	Cabinet Member for Community Infrastructure
Email:	<a href="mailto:richard.preston@cambridgeshire.gov.uk">richard.preston@cambridgeshire.gov.uk</a>	Email:	<a href="mailto:steve.criswell@cambridgeshire.gov.uk">steve.criswell@cambridgeshire.gov.uk</a>
Tel:	01223 699763	Tel:	01223 699173

## **1. BACKGROUND**

- 1.1 In recent years Cambridge City Council has led on the determination of licences for tables and chairs on the highway within Cambridge, including pedestrian areas, with the involvement of county highway officers. However, a recent review has shown that the City Council does not have powers to substantiate its current lead role with regard to operations on highways. Therefore it is necessary to review the process for future applications and renewals in the City.
- 1.2 There is also a general lack of clarity over how the licensing of tables and chairs on the highway should be managed across Cambridgeshire. Therefore the opportunity has been taken to review the process to:
  - Achieve a consistent approach across the county
  - Ensure that local members are at the heart of decision making
  - Ensure that it is robust in terms of legislation.

## **2. POLICY APPROACH**

- 2.1 Tables and chairs on the highway (in practice, typically on pavements and pedestrian areas for example) have the potential for supporting economic growth by enhancing the ambiance of an area and promoting growth in business, especially leisure, tourism and retail. . When assessing the suitability of tables and chairs located on the highway, care needs to be taken that their presence does not unduly impact on the needs of other highway users. Ensuring adequate and safe accessibility for highway users must remain a key requirement when determining these matters.
- 2.2 Subject to satisfying the above requirements, it is recommended that applications for tables and chairs should be viewed positively. The licensing process will provide control over the placement of tables and chairs, allow appropriate conditions to be attached where required to manage impact on highway use and facilitate enforcement in problematic cases.

## **3. DELEGATION**

- 3.1 The Constitution's Scheme of Delegation provides a suitable delegation to allow officers to execute decisions taken on licence applications. Given that this is a regulatory function it is proposed to change from the current delegation for determining lawful and unlawful use of the highway under the Traffic Management Act 2004 from the Head of Network Management to the statutory role of Traffic Manager.

## **4. PROCESS**

- 4.1 An on-line form will be developed to facilitate a simple application process. Applications would be acknowledged within 3 working days. Full details of the application process will be provided on the county web pages. County and district local members will be provided with a copy of the application along with relevant costs. Council officers with responsibilities for business growth and local street management and district officers who may be involved in street care operations will be given an opportunity to comment on the applications.

- 4.2 County officers will then undertake a highway needs assessment to determine what impact granting the application would have on the operation of the highway. If the assessment is favourable and no concerns are raised by local Members the application would be advertised on-site and on the County Council's web pages for 21 days to allow any representation to be lodged. If no representations are received in response to the advertisement, then a licence would be issued under the existing officer delegation.
- 4.3 If representations were received, they would be considered by the local County Council member(s) consulting with district members representing the area concerned and supported by County Council officers. The applicant and those making representations would be invited to attend a meeting to present their case. The meeting would be expected to balance highways with economic development issues.
- 4.4 If the initial officer assessment identified unacceptable implications for the operation of the highway this outcome would be shared with the local county member. If this assessment was supported by the local county member, the application would be rejected. If the Member took a differing view to officers the Cabinet portfolio holder would be asked to determine the outcome. If approved by the Cabinet portfolio holder, the proposal would be advertised; in other cases the application would be rejected.
- 4.4 The final decision on all applications will lie with the local County Council Member and be executed under officer delegation. **Appendix A** sets out the process.

## **5. LICENCE CONDITIONS AND CHARGES**

- 5.1 Appropriate conditions would be applied to licences to mitigate any adverse effects on the highway. These might take the form of restrictions on the days and times that tables and chairs could be put out and/or the provision of barriers or other means to delineate the licence area.
- 5.2 The opportunity exists for district officers involved in street care operations to support the monitoring of licence conditions and to work with highway officers on any necessary enforcement action if licence conditions were breached. This would have benefits for both councils in terms of ensuring the safe operation of the highway and protecting and promoting the amenity of the area.
- 5.3 The Highways Act makes provision for a council to levy a charge to "*reimburse the council their reasonable expenses in connection with granting the permission*". The licence process should therefore be cost neutral to the council and a non-refundable application fee would be made to cover the cost of the application process, along with a licence fee to cover the cost of issue and monitoring for the duration of the licence.
- 5.4 A fee of £315 would cover the Council's typical costs for processing, monitoring and enforcement of licences. However to help businesses requiring only small areas for tables and chairs, this fee could be waived for areas of less than 5m<sup>2</sup>.

- 5.5 Licences would be issued for a two year period with the council reserving the right to revoke or suspend the licence at any time if required for highway purposes. A revocation would be subject to 2 months notice, other than in emergency situations. Suspension of a licence for operational reasons would be subject to a minimum notice of 7 days other than in emergencies. Licences could be automatically renewed, provided highway circumstances had not changed, with a renewal fee of £100.
- 5.6 The licensee will be required to indemnify the Council against any claim in respect of injury, damage or loss, arising out of the grant of the permission other than any claim which is attributable to the negligence of the Council.

## **6. ALIGNMENT WITH PRIORITIES AND WAYS OF WORKING**

- 6.1 The following bullet points set out details of implications identified by officers:

### **Supporting and protecting vulnerable people when they need it most Helping people live healthy and independent lives in their communities**

- There are no significant implications for these priorities.

### **Developing the local economy for the benefit of all**

- Highway tables and chairs can support local economic activity and contribute towards the vitality of streets.

### **Ways of Working**

- Delegation to local members would be consistent with Localism / subsidiarity
- Involving District Members and officers will inform decision making and support licence monitoring.

## **7. SIGNIFICANT IMPLICATIONS**

### **Resources & performance**

#### Finance

- 7.1 The process will be self funding with fees covering operational costs.

#### Performance

- 7.2 Effective regulation of tables and chairs on the highway will contribute to the efficient use of the road network whilst supporting economic activity.

### **Statutory, Legal and Risk Implications**

#### Statutory

- 7.3 No significant implications identified

### Key Risks

- 7.4 A failure to manage tables and chairs on the highway may lead to an increase in unauthorised actions on the county road network will could:
- damage the council's reputation
  - increase the risk of litigation arising from incidents
  - reduce accessibility particularly in pedestrian areas
  - impact adversely on those with mobility problems
- 7.5 Adoption of the new process and operational arrangements will mitigate the above risks.

### Legal

- 7.6 Licences would be issued under the appropriate legislation (Highways Act 1980)

### **Equality and Diversity Implications**

- 7.7 No significant implications identified.

### **Engagement and consultation**

- 7.8 The process will actively involve local Members and will facilitate consideration of opposing views to achieve an informed decision and is consistent with the move towards decision making at the lowest appropriate level.

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#### Source Documents

#### Location

Constitution: Scheme of Delegation

[http://www2.cambridgeshire.gov.uk/db/council1.nsf/CN/Constitution/\\$File/p3-2.pdf](http://www2.cambridgeshire.gov.uk/db/council1.nsf/CN/Constitution/$File/p3-2.pdf)

PROCESS FOR DETERMINING TABLES AND CHAIRS LICENCE APPLICATIONS

