

Report to the Council

Committee: Licensing

Date: 28 June 2011

Subject: Pavement Licences

Chairman: Councillor Richard Morgan

Recommendation:

That the licences be not granted under S115E of the Highways Act 1980 which would permit items such as tables and chairs to be placed on pavements.

1. At its meeting on 13th October 2010, the Licensing Committee after considering a report and having taken into account the request by Essex County Council and its own Town Centre Manager, recommended that the Council should exercise its powers to issue licences to businesses which wished to place table, chairs, A boards etc on the pavement. We asked the Council to agree a schedule of delegations and the suggested conditions and the recommended fees which were attached to the report.
2. The Council referred the report back to the Licensing Committee for a more detailed explanation of the process, costs of the County Council and the fees that Epping Forest District Council would charge.
3. At our meeting on 13 April 2011 we received a detailed explanation of the procedure which is set out in the Highways Act 1980. This provides that 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
 - consult with the highways authority,
 - consult with the planning authority
4. Before a licence can be granted the consent of the owner of any property adjoining the area of pavement must be obtained. The consent of the adjoining owner must not be unreasonably withheld. If there is an objection the question as to whether consent has been unreasonably withheld must be referred to an arbitrator and the procedure in the Act followed. If there were any objections then the application would have to be referred to the Licensing Sub-committee for decision.
5. If the licence were to be granted it would have been made subject to a number of conditions and it will be necessary to monitor compliance and enforce against any breaches of conditions.

6. Officers had suggested the following fees with the intention that the work was self funding:

- £125 per annum for 5 or more tables (and associated chairs),
- £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

There are a large number of premises in the district which already place tables and chairs outside their premises and the process set out in the Highways Act for the issue and determination of each licence together with enforcement is time consuming. It was considered that the work could not be carried out by existing staff in the Licensing Section. Essex County Council has not intimated that it would charge a fee to undertake the consultation.

7. We noted that if an application is made, the Highways Act 1980 requires the Council to make a decision. In the past any applications have been referred to Essex County Council which has the same powers as the District, however, Essex County Council has declined to issue licences for streets in the district. Further we noted that there had been some complaints about obstruction of the pavements.

8. Having noted the Council's concerns about the cost to businesses of the licence and the fact that there have not been a large number of complaints, we decided that we would not recommend the granting of licences at this time but we asked that this be kept under review and a further report be submitted to the Licensing Committee in a year's time.