

Committee(s):	Date(s):
Planning and Transportation (For Decision)	17 July 2014
Licensing (For Information)	21 July 2014
Subject: Tables & Chairs Policy	Public
Report of: Director of Markets & Consumer Protection	For Information
<p style="text-align: center;"><u>Summary</u></p> <p>The Highways Act 1980 permits an individual or corporate body to seek permission to place tables and chairs on the highway in order to facilitate their business.</p> <p>The Corporation's licensing team administer the process and enforce the provisions of the Highways Act relevant to the granting of a permission and the use of such tables and chairs.</p> <p>In order to assist the licensing team a number of guidelines are used relating primarily to the health and safety implications of obstructing the highway. These guidelines are now out of date and incorporated in an updated policy attached as an appendix to this report.</p> <p>Recommendations:-</p> <p>Planning and Transportation</p> <p>It is recommended that your committee agree the proposed policy as attached at Appendix 1 to this report.</p> <p>Licensing</p> <p>Members are invited to note the contents of this report</p>	

Main Report

Background

1. An individual or corporate body wishing to place tables and chairs on the public highway, including a City Walkway, must first seek the necessary licence (permission) under the Highways Act 1980. The Licensing Team in the Department of Port Health & Public Protection has responsibility for the operational administration of this function.
2. Planning permission is not normally required to place tables and chairs on the highway as long as none of the furniture is affixed or left in place outside hours of use, and the primary use of the area remains as highway. Tables and Chairs applications arrive separately from any planning process and are also, usually, separate from the premises licence process although there is no reason, except the wishes of the businesses concerned, why these should not be applied for concurrently. (However, the determination procedures for each are distinct, and the outcome of one cannot predetermine the outcome of another).
3. The process of dealing with an application to place tables and chairs on the highway involves consulting with other City of London Corporation departments as well as external individuals and organisations. This is primarily in respect of highway matters such as provision of and access to services, traffic and pedestrian management and street scene issues as well as potential public safety and nuisance matters such as obstruction and noise.
4. A typical small, uncontentious tables and chairs application currently takes approximately three months to process. However, this timescale can be considerably extended if there is any unresolved concern with any consultee, whether internal or external to the City of London Corporation.
5. A Tables & Chairs licence cannot be granted where certain frontagers (a person who occupies or owns a property adjoining the part of the highway on which tables and chairs are to be put) withhold their consent. If the Licensing Team consider that consent has been withheld unreasonably, that is, where an objection is maintained (irrespective of all negotiated agreements and mitigating conditions that appear to address such concerns) the issue must be referred to arbitration.

Current Position

6. There are 105 premises in the City of London for which tables and chairs licences are granted or under consideration. This figure has remained consistent for the past four years. 62 of these premises are licensed premises for the purchase of the supply of alcohol under the Licensing Act 2003. The remaining 43 are associated with coffee shops/sandwich bars etc.
7. Policy and guidelines for the issue of tables and chairs licences were agreed by the then Planning and Communications Committee on 26 April 1983. They have not been formally reviewed or revised since then. Recent cases have shown that they need to be updated to keep abreast with changing circumstances in the City. Additional guidelines used to assist officers are similarly out of date and require updating.
8. A combined policy and procedure document has been produced for the purpose of:
 - explaining the legislation affecting the placing of tables and chairs on the highway;
 - setting out the Corporation's policy in respect of the placement of tables and chairs on the highway, including its enforcement; and
 - offering guidance as to the procedure that should be followed when submitting an application.

The document can be seen as Appendix I

9. Of particular note is paragraph 4.3 which looks at the criteria which will be considered prior to issuing a licence. The criteria are designed to ensure that before a licence is issued environmental and public safety considerations will be taken into account, together with any other relevant City Corporation policies and strategies.
10. Also of note is paragraph 4.10 which makes access requirements a consideration when granting a licence
11. Before preparing the policy the views from a number of City Corporation services were sought including Planning, Highways, Cleansing, the Remembrancer's Office, the Comptroller's Office, and Environmental Health. Their comments were taken into consideration in the preparation of the policy.

Corporate and Strategic Implications

12. The proposed policy surrounding the placing of tables and chairs on the highway and extending trading facilities in the City of London meets one of the City Corporation's aims, as stated in the Corporate Plan 2013-2017, 'To provide modern, efficient and high quality local services and policing within the Square Mile for workers, residents and visitors with a view to delivering sustainable outcomes'.
13. It also meets one of the five key policy priorities KPP2, in that it seeks to 'support and promote the international and domestic financial and business sector.

Legal Implications

14. In preparing policy and criteria it should be noted that the Highway Authority has a duty under s. 130 of the Highways Act 1980 to assert and protect the rights of the public to the use and enjoyment of the highway or City Walkway. This has to be balanced against the public benefits that could be derived by placing amenities on the public highway. Due regard must also be had to other relevant considerations including whether there is any interference with property or family life, and if so, whether it is proportionate to the public benefit (Human Rights Act 1998), and any Equalities Act considerations for example in terms of reduced access or safety.

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