

LICENSING PANEL (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item

Brighton & Hove City Council

Subject: *CAPs 5-6 Western Road Hove*
Date of Meeting: **19th April 2013**
Report of: *Mark Prior, Head of Transport*
Contact Officer: Name: *David Fisher* Tel: **29-2065**
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Wards Affected: Brunswick and Adelaide

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 The report is in relation to an application for a highway licence for tables and chairs outside 5-6 Western Road, Hove on part of the public highway. (Appendix 1)

1.2 5 objections to the granting of the licence have been received mainly from resident associations. In light of these objections it is considered appropriate for the application to be determined by a Licensing Panel rather than under the power delegated to officers.

2. RECOMMENDATIONS:

(1) That the sub-committee determines the application.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Section 130 of the Highways Act 1980 imposes a duty on highway authorities to assert and protect the rights of the public to the use and enjoyment of the highway. This duty will include a duty to prevent, as far as possible, the obstruction of highways.

However, Part VIIA of the Highways Act (sections 115A – 115K) allows highway authorities carry out works or place objects on the highway, or permit others to do so, for purposes of enhancing the amenity of the highway and its immediate surroundings, or of providing a service for the benefit of the public or a section of the public.

In considering whether to grant the application, regard should be had to the policies set out below.

3.2 The council's policy "Control of placements on the highway states HP8/4" states *"To control obstructions upon the highway to ensure safe use and access, while permitting essential works, supporting business and encouraging a vibrant street scene."* (Appendix 2)

3.3 During 2010 a report from the overview and scrutiny panel endorsed the policy and also made several recommendations. (Appendix 3)

3.4 The pavement outside 5-6 Western Road is not entirely public highway. There is an area 1.3m wide fronting the property that is private land. The Highway Enforcement team has no control over items placed on this area.

3.5 The area of public highway requested for the placement is 50cm wide and extends the length of the property.

3.6 The remaining pavement is 1.65m wide at its narrowest point, not including the kerb edge which is 30cm wide.

3.7 In other areas of Western Road the public highway is already restricted to less than 1.65m because of private land. There are no licensed sites that reduce the public highway to less than 1.65m.

3.8 The objections mainly relate to the restriction of the pavement and the precedent it may set. Whilst this is the case and the pavement will be narrowed. The barriers placed around the outside seating will also help control patrons and stop the overspill seen at other premises that leads to large groups of people blocking the highway. The precedent of large planter type barriers has already been set in other parts of the city. Each site is determined individually, so if agreed will not set a further precedent.

4. CONSULTATION

4.1 An equalities impact assessment was carried out during the policy review in 2009 which involved consultation with a wide range of relevant groups, traders and local residents.

4.2 Full consultation was also carried out by the Overview and Scrutiny Street Access Panel including a public invitation to submit evidence and 3 public meetings where individuals and representatives of various organisations or businesses were invited to give evidence.

4.3 The business has displayed a 28 day notice asking for objections to the granting of the highway licence to be submitted in writing (Appendix 4).

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no additional financial implications arising from the recommendation in this report.

Finance Officer Consulted: Jeff Coates

Date: 27/03/13

Legal Implications:

- 5.2 These are set out in the body of the report.

Carl Hearsom 25/3/13

5.3 Equalities Implications:

The council seeks to ensure that the public highway is used in a manner that maximises the benefit to the most number of users. However in the busiest areas of the city competing interests can come into conflict. It is the council's responsibility to manage these interests and to ensure equality of access particularly for those with mobility issues.

Sustainability Implications:

- 5.4 There are no sustainability issues identified.

Crime & Disorder Implications:

- 5.5 There are no direct crime and disorder implications arising from this report

Risk and Opportunity Management Implications:

- 5.6 The council seeks to ensure that access and risk issues are reduced by controlling items to be placed on the public highway.

Corporate / Citywide Implications:

- 5.7 Each site is individually assessed so does not necessarily set a precedent but may be of relevance to any future applications from other businesses.

SUPPORTING DOCUMENTATION

Appendices:

1. Highway licence application including plan.
2. Control of placements policy.
3. Street Access report and recommendations.
4. Objections.
5. Photos.

Documents In Members' Rooms

None

Background Documents

None