

DELEGATED DECISION

NEIGHBOURHOOD SERVICES

6 February 2013

Hat & Feathers – Section 115 Licence



Report of John Reed – Head of Technical Services

Purpose of the Report

- 1 To consider the application to place tables and chairs on an area of highway covering approximately 30 square metres and extending in width to a maximum of 2.6 metres in front of the premises. (See attached plan).

Background

- 2 An approach has been received from Emma Fallon, of J D Wetherspoon, requesting permission to place tables and chairs on an area of highway outside the Hat & Feathers for use by clientele of his premises.
- 3 Consultations have been undertaken under the provisions of Section 115B, 115C and 115E of Part 7 of the Highways Act 1980. On 24 August 2012 a notice of the intention to consider consent was posted on site and also served on the owners and occupiers of premises it was considered might be affected by the proposals, allowing 28 days to make representations. In addition the Statutory Undertakers, the Police, Fire Brigade, Ambulance Service and the Local Members were notified of the proposals and asked to indicate whether they would wish to make any representation. The usual conditions attached to the granting of such permission would apply, along with an additional condition in regards anti-social behaviour.

Details of any alternative options considered and rejected when making the decision

- 4 N/A

Recommendations and reasons

- 5 I recommend that the application for a Tables & Chairs licence be granted subject to the attached terms and conditions.

Decision

- 6 Approval of recommendation.

Background papers

Location plan, Formal Conditions

Contact: Andrew Blanckley Tel: 03000 268103

Appendix 1: Implications

Finance – Initial £400 fee paid, annual renewal of £50 payable each April

Staffing - None

Risk - None

Equality and Diversity / Public Sector Equality Duty - None

Accommodation - None

Crime and Disorder – Additional condition added re Anti-Social Behaviour

Human Rights - None

Consultation - Statutory Undertakers, Emergency Services, Neighbouring Businesses and the local members were consulted on 9 January 2013. A consultation notice was also posted on site on 9 January 2013 and maintained for 28 days.

Procurement - None

Disability Issues - None

Legal Implications - Highways Act 1980 Section 115 states the requirement for a licence for any tables and chairs upon the adopted highway.

**PROPOSED PLACEMENT OF TABLES AND CHAIRS ON AGREED AREA
AS PER THE ATTACHED SCALE 1: PLAN**

SCHEDULE OF CONDITIONS

1. Consent is for the placement of tables and chairs (number to be agreed) on the agreed area for use by the clientele of Hat & Feathers.
2. **Consent does not confer the Grantee any licence for the sale to or consumption by the clientele of the premises or by any other persons of intoxicating liquor (Permission for this must be sought from the proper sources).**
3. The tables and chairs, whether in use or otherwise, shall occupy only that part of the highway agreed by the Area Engineer. The tables and chairs should be so positioned to cause as little restriction along the highway as possible and must not encroach beyond the limits of the consent area.
4. Any litter and spillages deposited on the highway whether within the limits of the consent area or the area surrounding, in consequence of or emanating from the use of the consent area must be removed and the highway left in a clean and tidy condition. The Grantee must take such steps as are practicable to prevent any litter emanating from the use of the consent area so as not to be a nuisance to the users of the highway and occupiers of adjacent premises.
5. The tables and chairs must be of a design and manufacture commensurate with the nature of the surrounding area and be approved by the Council. Any parasols associated with the tables and chairs must not carry any advertising material other than the name of the premises.
6. The County Council is not to be held liable for any damage that may be caused to the tables and chairs or any items associated with them by any third party. This includes persons using the highway, any of the Statutory Undertakers or contractors in their employ carrying out works for the installation or maintenance of their apparatus or by any operations or activities of the County Council. In the latter event the exception would be if the damage were due to wilful default or negligence on the part of the County Council, its servants or agents.
7. **The Grantee is to indemnify and keep sufficiently indemnified the County Council against all liability for any loss of or damage to property or injury to persons and any other expenses, loss, damage, costs, actions, suits, proceedings or claims which but for the granting of this consent and the placement of the tables on the highway would not have arisen. Minimum amount of cover should be no less than £5 million.**

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8. The County Council may at any time revoke consent upon the breach of any of the conditions of consent or for any reason the Council may consider appropriate.
9. Consent may be temporarily suspended for any reasonable cause, at any time at the request of a Police Officer or any officer of the Statutory Authorities, including Durham County Council, to enable them to carry out any of their statutory duties.
- 9a. Consent may be suspended at the request of the Police if they receive complaints of anti-social behaviour associated with this area. At this time the premises are non operational so it is currently impossible to measure any potential effects of these tables and chairs.
10. Consent shall be personal to the Grantee as the proprietor of the premises and shall not be assigned without the written consent of the County Council.
11. Consent shall not confer on the Grantee any rights as against the owners of the land on which the highway is situated to use the land.
12. **This consent is only valid upon the payment of an initial fee of £400 and the annual fee of £100 thereafter.**

I agree to abide by the above conditions.

Signed:
Print Name:
Date:

Hat & Feathers

