

**PROVISION OF AMENITIES ON HIGHWAYS – “PAVEMENT LICENCES” – PART V11A OF THE HIGHWAYS ACT 1980**

**LEAD OFFICER:** Clinton Boyce, Legal Services Manager  
**REPORT AUTHOR:** Marlene Jewell, Senior Legal Services Officer

**Summary:** Further to the decision of the Executive on 5<sup>th</sup> April 2005 this report considers a draft policy and procedures for dealing with applications made to the Council under part V11A of the Highways Act 1980.

<b>Recommendations:</b>	That:- (a) the policy at Appendix 1 to this report be issued for consultation to the persons listed in paragraph 7.1 of the draft policy and that a further report be submitted to the Panel after such consultation; and (b) that the application from Jennings Brothers plc be noted.
-------------------------	---

**Resource Implications:** None of this report other than officer time; in respect of applications received there will be a cost in officer time of dealing with such but this will be recoverable from the fees received.

**LA 21 Implications:** None.

**Rural Implications:** None.

**Crime & Disorder Act Implications:** Where applications are received from licensed premises there is a potential for an increase in crime and disorder; the draft policy suggests that applications are considered on the same basis as applications for premises licences under the Licensing Act 2003 where the prevention of crime and disorder is one of the four licensing objectives taken into account when considering applications.

**Key Decision Status**

- **Financial:** None.  
- **Ward:** None.

**Other Ward Implications:** None.

**1.0 INTRODUCTION**

- 1.1 The Executive on the 5<sup>th</sup> April 2005 considered a report on this issue and resolved that “the matter be referred to the Taxi and General Licensing Panel and that the Panel be asked to formulate a protocol on dealing with applications, including appropriate delegations and that further reports be submitted to the Executive and/or Full Council”.
- 1.2 The issue arose as the result of the Council receiving an application from Jennings Brothers plc for the grant of a licence under Section 115E of the Highways Act 1980. Such a licence would grant the company permission to use objects or structures on the highway for the purposes which would result in the production of income. In the company’s case the application is for tables and chairs to be put on the frontage to The Waterfront, West Strand, Whitehaven.

- 1.3 Applications of this nature can be dealt with either by this Council or the County Council as Highway Authority. The County Council, at portfolio level has requested that this Council deals with applications of this nature as they relate to amenity issues. A formal reply has been required from the County Council on this point. Whichever authority deals with an application there are reciprocal consultation duties.

## **2.0 PROPOSED POLICY**

- 2.1 Appendix 1 to this report contains a draft policy which deals with a variety of issues including the processing of applications, proposed fees, how the application will be processed, the criteria for determining an application and proposed delegations.
- 2.2 Members are asked to consider the draft policy at Appendix 1 and in particular to consider the following points:-
- (a) Should the fee be set at £135;
  - (b) What should be the period of the licence issued? The report proposes a three year licence. Many authorities have annual licences. On the other hand a premises licence under the Licensing Act 2003 lasts until revoked or surrendered. Balancing an age of deregulation against a desire to maintain some control over the area concerned it is recommended that a three year period is allowed;
  - (c) Are members happy with the proposed terms of delegation contained in paragraph 5.1 to 5.3. Who should deal with applications for placing goods outside shops?
  - (d) In respect of the conditions to be attached should the Council require barriers to be erected around the area for the tables and chairs. This could be of a specified design. Attached as Appendix 2 to this report is guidance for applicants in respect of street cafes which is used by another local authority. That document contains comments on barriers and layout which members may wish to consider in respect of this point.
  - (e) Who should be consulted on the policy? Members will recall that in respect of the Statement of Policy under the Licensing Act 2003 the organisations were consulted included the following local organisations – CAMRA (West Cumbria and West Lakes Branch), Citizens Advice Bureau, Cleator Moor Chamber of Trade, Copeland Borough Councillors, Cumbria County Councillors, Cumbria Food Liaison Group, Cumbria Health & Safety Liaison Group, Cumbria Tourist Board, Egremont Chamber of Trade, Jennings Brewery, Hartleys Brewery, Lake District National Park, Local Neighbourhood Forums and Economic Development Groups, Parish Councils, Tenants and Residents Associations, Whitehaven Development Company, Whitehaven Chamber of Trade, Whitehaven Harbour Commissioners and the Whitehaven Heritage Group. Whilst it is not recommended that there is such extensive consultation on this matter it is recommended that in addition to the public authorities, disabled groups are included in the consultation as they are the people who are particularly affected by the proposals.

## **3.0 CONCLUSION**

- 3.1 Once the Panel has endorsed the attached policy it will then be issued for consultation for a period of 28 days. At the end of that period the Panel can then consider the responses received and amend the policy and then submit it to the Council's Executive for approval.

### **List of Appendices**

**Appendix 1 – Draft Policy**

**Appendix 2 – Guidance for Applicants**

**List of Background Documents:**

As attached Appendices

**List of Consultees:**

None. Internal consultation to be held as part of the main consultation process.