

BRECKLAND COUNCIL

Report of: Rob Walker - Assistant Director of Commissioning

To: General Purposes – 16th October 2013

Author: Tiffany Bentley – Licensing Officer

Subject: Application for consent to place tables and chairs on the Highway

Purpose: To determine an application to place tables and chairs on the Highway under S115 (e) Highways Act 1980

Recommendation(s): It is requested that the Committee make a decision in regard to the application submitted in respect of The Florin Diner, 3 Quebec Street, Dereham, Norfolk NR19 2DJ to place tables and chairs on the Highway.

1 INTRODUCTION

1.1 Background

1.1.1 Section 115 (e) of the Highways Act 1980 provides for a Council to grant permission to use objects or structures on certain categories of highway for a purpose which will result in the production of income.

1.1.2 The Act also provides for a Council to attach such conditions as they think fit to a permission granted under Section 115 (e). The Council has adopted standard conditions in respect of permissions to use objects or structures on the highway and these are attached at Appendix A of this report.

1.1.3 The Act gives Councils a wide discretion to determine such applications and to impose conditions. Each case must be considered on its own merits with due weight being given to relevant considerations only. Existing policies or guidelines should not be applied so rigidly that an exercise of discretion in each individual case is precluded. Accordingly, the adopted standard conditions could be added to or amended depending on the circumstances of each individual application.

1.2 Issues

On 8th July 2013 a complete application was received from Grove Holiday Parks Ltd trading as The Florin of 2 – 3 Quebec Street, Dereham Norfolk NR19 2DJ for a licence to place 2 tables and 4 chairs on the Highway outside the premises known as The Florin Diner, 3 Quebec Street, Dereham, Norfolk NR19 2DJ.

A copy of the application form is attached at Appendix B together with details of the Public / Employer's Liability Insurance at Appendix C.

A copy of the proposed location plan together with relevant photographs of the front of the premises and the street are attached at Appendix D.

The requested days and times of use are:

Monday to Saturday 8am to 6pm

Sunday 9am to 4pm

The application was advertised at the premises by means of the Statutory Notice for a period of 28 days between 8th July 2013 and 4th August 2013. This notice was also given to adjacent premises. A copy of this notice is attached at Appendix E.

A copy of the application was sent to the Norfolk County Council Highways Department on 8th July 2013. An objection to the application was received based on concerns over reducing the width of the footway. A copy of the email is attached at Appendix F. No other objections were received.

The applicant has provided additional information to be included in this report and the letter is attached at Appendix G.

1.3 **Options**

1.3.1 The Committee may :

- Grant the tables and chairs application, or
- grant the application with additional and appropriate conditions attached, or
- refuse to grant the application in line with the objection due to public safety being compromised.

1.4 **Reasons for recommendations**

1.4.1 N/A

2 **IMPLICATIONS**

2.1 **Risk**

2.1.1 Any potential risk to the general public as a result of granting this application would be covered by the provisions within the applicant's insurance policy which has a limit of £10 million.

2.2 **Financial**

2.2.1 None

2.3 **Legal**

2.3.1 None

2.4 **Equality and Diversity**

2.4.1 None

2.5 **Other**

2.5.1 Human Rights Act 1998.

Article 6

The Committee must ensure a fair hearing.

(The applicant has been invited to attend your meeting, has been sent a copy of this report and informed of his right to be represented at the meeting.)

Article 8

Everyone has the right to his/her private life and family home.

3 **ALIGNMENT TO COUNCIL PRIORITIES**

3.1 Building Safer & Stronger Communities
Prosperous Communities

4 **WARDS/COMMUNITIES AFFECTED**

4.1 Dereham Central

Lead Contact Officer

Name/Post: Tiffany Bentley – Licensing Officer

Telephone Number: 01362 656396 Email: tiffany.bentley@breckland.gov.uk

Officer who will be attending the meeting:

Tiffany Bentley - Licensing Officer

Appendices attached to this report:Appendices attached to this report:

Appendix A – Standard Conditions

Appendix B – Application Form

Appendix C - Insurance Questionnaire & Policy

Appendix D – Applicants Plan, Location Plan and Site Photographs

Appendix E – Public Notice

Appendix F – Letter of objection

Appendix G – Additional information from applicant