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| REPORT TO: | LICENSING COMMITTEE 5 June 2013 |
| AGENDA ITEM: | 6 |
| SUBJECT: | London Local Authorities Act 1990: Applications for Two Variations to Street Trading Licences |
| LEAD OFFICER: | Executive Director, Planning & Environment Department |
| CABINET MEMBER: | Councillor Simon Hoar, Cabinet Member for Community Safety & Public Protection |
| WARDS: | Norbury, Broad Green |
| CORPORATE PRIORITY/POLICY CONTEXT: This report is specific to this application and has no implications on the Council's Corporate Policies | |
| FINANCIAL SUMMARY: There are no direct financial implications arising from this report. | |
| FORWARD PLAN KEY DECISION REFERENCE NO.: N/A | |

For general release

1. RECOMMENDATIONS

- 1.1 The Committee is asked to determine whether to vary the existing street trading licences detailed at Appendices A and B.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to seek the Committee's decision on the proposal to vary existing street trading licences to increase the size of the display and vary the hours and type of goods sold.

3. DETAIL

- 3.1 The London Local Authorities Act 1990 (as amended) (The Act) provides a legislative framework to control street trading in the Borough. Trading in respect of services as well as goods comes within the scope of the Act.

- 3.2 The sites outlined at Appendix A and B have already been designated as a 'licence' street and a street trading licence is in place.
- 3.3 The application at Appendix A is to vary the hours that the service is provided and also the size of the display area.
- 3.4 The application at Appendix B is to vary the type of goods displayed and the size of the display area.
- 3.5 The licence holders have been invited to the hearing.

4 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

4.1 The effect of the decision

There are no direct financial implications as a result of this report.

4.2 Risks

The decision of the Committee may also be subject to Judicial Review

An appeal against a decision of the Committee or a Judicial Review of the application process may present financial risks to the Council with regard to any award of costs against it.

4.3 Options

The options available are: to vary the applications, with or without further conditions, or to refuse the applications

4.4 Future savings/efficiencies

There are no savings or efficiencies arising directly from the recommendations in the report.

(Approved by: Dianne Ellender, Head of Finance, Community Services)

5. COMMENTS OF THE SOLICITOR AND MONITORING OFFICER

5. STREET TRADING LICENCE

If a site has been granted a licence to trade at that site – a street trading licence, then the Committee must decide whether to vary that licence

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- 5.1 (Approved by: Gabriel MacGregor, Head of Legal Services (Corporate) on behalf of the Council Solicitor and Monitoring Officer

6. HUMAN RESOURCES IMPACT

6.1 The Human Resources impact of supporting the Licensing Hearings will be contained within the budgeted establishments of the Democratic and Legal Services and Licensing Teams.

6.2 (Approved by: Heather Daley, Acting Director of Workforce)

7. CUSTOMER IMPACT

7.1 There are no specific customer services issues relating to these applications

8 EQUALITIES IMPACT ASSESSMENT (EIA)

8.1 The arrangements for the Licensing Hearings seek to ensure that all applicants and other interested parties receive a fair hearing and that the process is accessible to all groups within the community.

9. ENVIRONMENTAL AND DESIGN IMPACT

9.1 There are no perceived environmental and design impacts relating to these applications

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 The Police Licensing Officer has been consulted on these variation applications.

11. HUMAN RIGHTS IMPACT

11.1 The Human Rights 1998 (HRA) requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those Rights. **Article 6 (A6)** of the European Convention on Human Rights (ECHR) is the right to a fair trial. The key elements of this include

- The right to a *fair* hearing;
- The right to a *public* hearing;
- The right to a hearing before an *independent and impartial tribunal*;
- The right to a hearing *within a reasonable time*.

11.2 When hearing an application, the proceedings of a non-judicial body such as the Licensing Committee, as opposed to an actual Court, need not meet the full requirements of A6 where there is a right of appeal from the Licensing Committee to a Court that does meet the full A6 standards and can consider all aspects of the case (even if that does not include a full re-hearing of the facts).

11.3 So, while it is good practice to make a hearing before the Licensing Committee as A6 compliant as possible, it will not be a breach of the HRA if it is not.

Further, the hearing of all applications is subject to the principles of Natural Justice and the requirement for decisions to be 'Wednesbury reasonable'.

12. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

- 12.1 Protocols agreed in relation to Licensing Hearings are within the Council's Constitution and will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

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BACKGROUND DOCUMENTS: Application Forms

