



**City of Westminster**

# Licensing Committee

<b>Date:</b>	<b>14 March 2012</b>
<b>Classification:</b>	<b>For General Release</b>
<b>Title:</b>	<b>Proposed process for the determination of an application to use amplified noise equipment under section 147 of the Police Reform and Social Responsibility Act 2011</b>
<b>Report of:</b>	<b>Operational Director for Premises Management</b>
<b>Wards Involved:</b>	<b>St. James's</b>
<b>Policy Context:</b>	<b>Management of the Public Realm</b>
<b>Financial Summary:</b>	<b>Cost of administering application met by fee</b>
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## **1. Summary**

- 1.1 This report provides a brief on Section 147 of the Police Reform and Social Responsibility Act 2011 which regulates the operation of amplified noise equipment in Parliament Square. It also seeks approval of the process and fee for the determination of an application for an authorisation to use amplified noise equipment under that section.

## **2. Recommendations**

- 2.1 That the Committee approve the following:
- a. Process to determine an application under Section 147 of the Police Reform and Social Responsibility Act 2011.
  - b. Fees for applications made

## **3. Background information**

- 3.1 An application for authorisation to operate amplified noise equipment on the footways that immediately adjoin the central garden of Parliament Square must be made to the Council pursuant to section 147 of the Police Reform and Social Responsibility Act 2011.
- 3.2 In addition, consent may also be required under Schedule 2 to the Noise and Statutory Nuisance Act 1993 if the applicant intends to use a loudspeaker between the hours of 9pm and 8 am on the following day. In the absence of such consent, the use of a loudspeaker during those hours will amount to an offence contrary to section 62 of the Control of Pollution Act 1974.
- 3.3 Amplified noise equipment means any device that is designed or adapted for amplifying sound, including (but not limited to) loudspeakers and loudhailers
- 3.4 The operating of any amplified noise equipment in the controlled area of Parliament Square is a prohibited activity in accordance with section 143(2) of the Police Reform and Social Responsibility Act 2011 unless the person operating the equipment has the necessary authorisation from the appropriate authority.
- 3.5 The Controlled area of Parliament Square means the area of land that is comprised in (a) the central garden of Parliament Square, and (b) the footways that immediately adjoin the central garden of Parliament Square. The Greater London Authority is the responsible authority in relation to the land comprised in the central garden, whilst Westminster City Council is the responsible authority in relation to the footways.

The respective areas are shown on the attached plan (Appendix 1)

- 3.6 If a person operates any amplified noise equipment in the controlled area of Parliament Square without an authorisation, he may be given a direction to cease that activity. The direction can be given by an authorised officer or a constable but only if the equipment is being operated or is about to be operated in such a manner as to produce sound that other persons in or in the vicinity of Parliament Square can hear or are likely to be able to hear.

A direction may be given orally, may be given to any person individually or to two or more persons together, and may be withdrawn or varied by the person who gave it. The direction will continue for such period specified by the authorised officer or constable, not exceeding 90 days.

- 3.7 A person who fails without reasonable excuse to comply with a direction commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000). In addition, the amplified noise equipment may be seized and may be subject to forfeiture by the court in the event of a person being convicted of the offence.

#### **4. Proposed Procedure**

Please see Appendix 3

## 5. Proposed Fees

Please see Appendix 4

## 6. Financial considerations

- 6.1 The cost of administering an application for consent will be covered by the fee proposed in Appendix 4.

## 7. Legal considerations

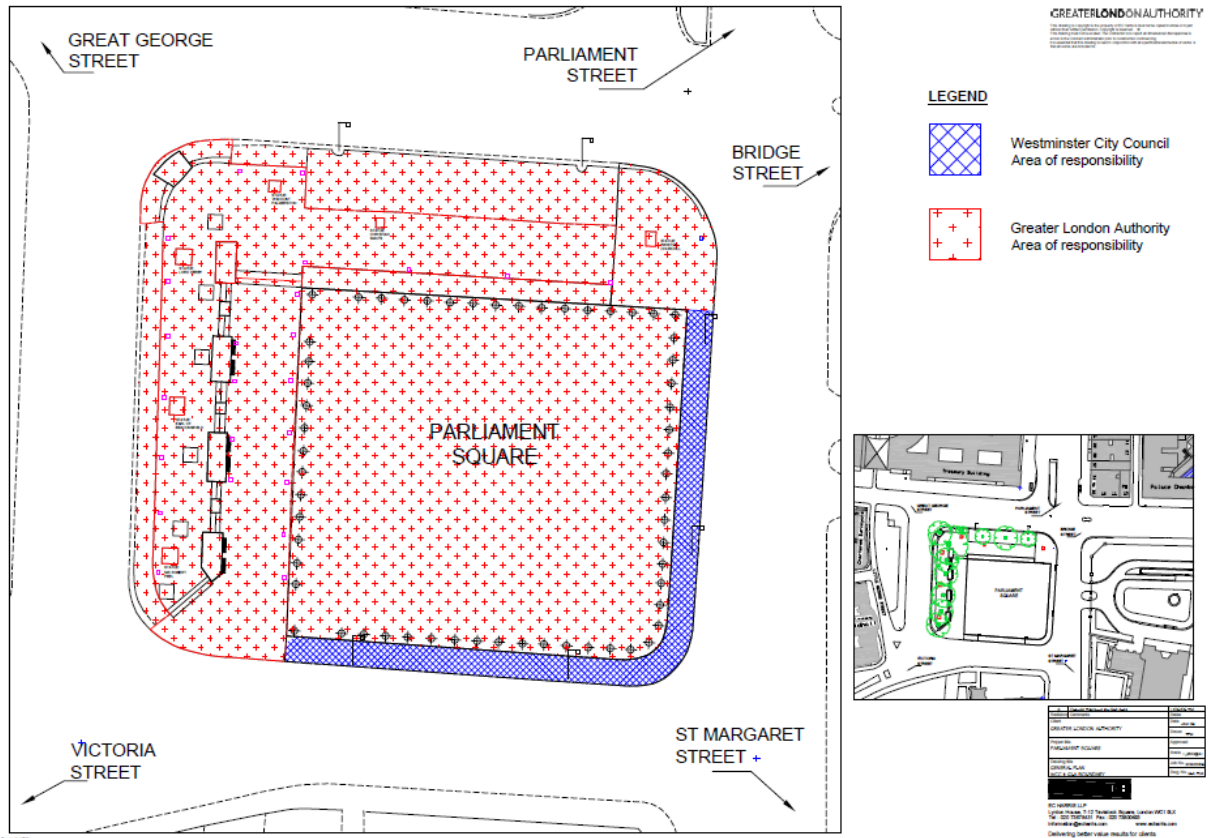
- 6.1 Applications under both the 2011 Act and the 1993 Act must be considered having regard to the applicant's right to freedom of expression pursuant to Article 10 of the European Convention on Human Rights. This right includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority. However, such a right is also qualified in that it may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of (among other things) public safety; for the prevention of disorder or crime or for the protection of the rights of others.
- 6.2 The refusal of an application to use amplified noise equipment or any decision to grant the application subject to conditions would amount to an interference with the applicant's Article 10 rights. The burden of justifying that interference is placed on the Council which must make an informed decision on the evidence. Proportionality requires that the Council imposes the least possible restriction on an applicant's freedom of expression, commensurate with the legitimate aims which the restriction seeks to protect. In other words, it would be wrong to reject the entire application if the issues of concern can be addressed by imposing appropriate conditions and any conditions imposed must themselves be based on a pressing social need and constitute a proportionate response to that need.

**If you have any queries about this report please contact  
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## Background Papers

None

# Appendix 1



## PROCESS FOR THE DETERMINATION OF AN APPLICATION TO USE AMPLIFIED NOISE EQUIPMENT

### APPLICATION

An application for authorisation to operate amplified noise equipment on the footways that immediately adjoin the central garden of Parliament Square must be made to the Council by completing an application form as prescribed from time to time by the Operational Director of Premises Management (Appendix 3). The form must be submitted to the Council with the appropriate fee as set out in the attached fees notice (see Appendix 4) at least 21 days before the person/s intend to use the equipment.

The Council must determine the application within a period of 21 days beginning with the day on which your application is received. The application will not be accepted unless the correct fee has been enclosed with the form.

If the people wish to use amplified noise equipment in the central garden of Parliament Square, the application will have to be made to the Greater London Authority.

The applicant may be required to meet with Council officers prior to the determination of the licence depending on the type of equipment to be used.

### The operation of a loudspeaker between 9 pm and 8 am on the following morning

If a person wishes to use a loudspeaker between the hours of nine in the evening and eight in the following morning, a person will also need to apply for consent pursuant to Schedule 2 of the Noise and Statutory Nuisance Act 1993.

The use of a loudspeaker during those hours without the necessary consent from the Council will constitute an offence contrary to section 62 of the Control of Pollution Act 1974. A person committing such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

A person can make this application by using the same form and completing the appropriate section of the form in which the person should set out the period when you wish to use the loudspeaker during those hours, the days of the week when he wish to do so and the specific hours of use. The applicant should also explain the reason he wants to use the loudspeaker at those times.

## **CONSULTATION**

The Council will consult any individuals or organisations that might be affected if the application is granted and who might want to object to the application or some aspect of the application.

## **DETERMINATION**

The application will be determined by one of the Council's Licensing Sub-Committees. The applicant will be asked to attend the Sub-Committee meeting and may be asked to give more details about his application. The members of the Sub-Committee will also consider any representations received from people who object to your application.

In reaching a decision, the Licensing Sub-Committee must have regard to the applicant's representations and to any representations received from individuals or organisations who oppose the application, either in whole or in part.

## **NOTICE OF DECISION**

Any notice of decision on this application must specify the person or persons authorised (whether by name or description); the kind of amplified noise equipment to which the authorisation applies; the period to which the authorisation applies and any conditions to which the authorisation is subject.

The Council may at any time withdraw an authorisation or vary any condition to which an authorisation is subject.

## **APPEAL**

There is no right of appeal against the decision made by the Licensing Sub-Committee or authorised officer.



# City of Westminster

## APPLICATION FOR AMPLIFIED NOISE EQUIPMENT AUTHORISATION

This form should be completed and forwarded to the: **Licensing Service, City of Westminster, 4<sup>th</sup> Floor, City Hall, 64 Victoria Street, London, SW1E 6QP.** Telephone No. **020 7641 7828**

Fee Paid
Date Received
Initials
Cheque/Receipt No.

**Fee payable:** This will depend on the number of dates required and whether amplified noise equipment is used at commemorative or charitable events. See attached schedule of fees.

**NOTE: PLEASE SEND THIS FORM AT LEAST 21 DAYS BEFORE THE START OF THE EVENT**

A cheque or postal order should be made payable to **City of Westminster**.

**PLEASE READ THE FACT SHEET CAREFULLY BEFORE COMPLETING THIS FORM**

<p><b>1</b> Full name and address of applicant(s).</p> <p><b>Note: In the case of a limited company please complete the separate form entitled 'Particulars of a Limited Company'.</b></p>	<p>Name:</p> <p>Address</p> <p>Telephone No. (during normal office hours)</p>
<p><b>2</b> Location(s) for which the consent is sought:</p> <p><b>Please specify the exact location where you wish to use the amplified noise equipment. If your application relates to Parliament Square, please bear in mind that this application must be limited to the two footways surrounding the central Garden.</b></p>	<p>Location(s):</p>

<p><b>3</b> Give details of each date(s) for which authorisation is being sought:</p> <p><b>Note: This must include any dates on which the equipment will be tested in the locations sought</b></p>	
Dates/Period applied for (please state dates and months)	
Days of week within the period applied for	
Time of day when consent is sought for to use the loudspeaker	
<p><b>4</b> Details of the nature of activities at this event or events (e.g. demonstration, march, speeches, instructions to participations)</p>	<p>Activities:</p> <p>(1)</p> <p>(2)</p> <p>(3)</p>
<p><b>5.</b> State the reason why there is a need to use a loudspeaker for the period/hours/days applied for (e.g. incidental music, announcements, demonstration)</p>	
<p><b>6.</b> Describe in full the nature of the equipment to be used (e.g. microphone, loudhailers, amplifiers, megaphone, fixed public address system).</p> <p>State the manufacturer and model number in respect to each piece of equipment.</p> <p>Please specify if static or mobile use.</p>	
<p><b>7.</b> State the number of loudspeakers proposed and their positions in the street.</p> <p><b>Note: A plan showing the exact position(s) of the loudspeaker(s) must be attached.</b></p>	



<b>8</b> Output power of loudspeaker/amplifier system that will be used (e.g. number of watts per channel).	
<b>9</b> Proposed means of controlling noise levels (e.g. by manual means or electronic limiter).  <b>Please explain the measures that you will take to avoid causing a nuisance to persons who are living and working in the area during the proposed hours (if applying to use a loudspeaker between 9pm-8am)</b>  <b>Note: The Council may need to be involved in establishing limits settings before the event.</b>	
<b>10</b> Name, address and telephone number of responsible person for correspondence.	
<b>11.</b> Name and (mobile) telephone number of the person responsible for the event on the day and testing of the equipment before the event, if different from 10 above.	

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Signature(s) of applicant (s),  
or solicitor's signature if acting for the applicant (s)

Date:.....

**IMPORTANT NOTE: THIS APPLICATION FORM IS OPEN TO  
INSPECTION BY THE PUBLIC**

## Appendix 4

It is proposed to use the fees for loudspeaker consents as approved by the Licensing Sub-committee on 17May 2007.

### **FEEES FOR LOUDSPEAKER CONSENTS WITH EFFECT FROM 1 JUNE 2007 (APPROVED BY THE LICENSING SUB-COMMITTEE ON 17 MAY 2007)**

	<b>CHARGE</b>
<b>SINGLE AND EACH ADDITION DATE WITHIN 12 MONTH PERIOD</b>	£
Single Date	200
Each additional date	20
<b>MULTIPLE USE WITHIN THE PERIOD OF UP TO 12 MONTHS</b>	250

#### **WAIVER OF FEES**

Waiver of fee in full or part for use of a loudspeaker at Commemorative events (for example wreath laying ceremonies) And at events which in the opinion of the Council, are for a charitable purpose.

If a full or part waiver is being sought then a written request must be made accompanying the application.