

Report to Licensing Committee

Date of meeting: 8 October 2013



**Epping Forest
District Council**

Subject: Street Trading - Established Markets Fees

Responsible Officer: Kim Tuckey 01992 56-4034

Democratic Services: Gary Woodhall 01992 56-4470

Decisions Required:

- 1. That the Committee be requested to consider recommending to the Council:**
 - (a) That the established markets currently operating in Loughton (Sunday Market) , The Broadway, Debden and High Street, Ongar be required to apply for a consent in accordance with the Street Trading policy but that the fee of £355 and subsequent renewals be waived.**
 - (b) That the requirement for each applicant to advertise their application in a local paper in accordance with the Street Trading practice.**
 - (c) That for any new applications to operate a market in the District the Council's requirements in issuing a licence are complied with.**
- 2. That the Council's practice in granting street trading licenses be formalised as a Policy and that consultation takes place in respect of the attached policy document with any amendments members require.**

Background

1. There are various markets currently operating within the District. They are sited at the following locations:

Epping High Street
Waltham Abbey Square
Ongar High Street
The Broadway, Debden
Loughton (Sunday market)
North Weald Airfield.

2. Epping Market and Waltham Abbey Market operate under a Charter which means they do not require a street trading consent. The market at North Weald run by Hughmark Continental does not require a consent as it is not on the public highway

3. Previously, the remaining three markets have been treated as though operating under a Charter, however after some investigation it has been established that this is not the case. Having adopted the street trading legislation on the 15th July 2002, these remaining markets technically require a street trading consent.

4. Although there is anecdotal evidence of some informal permissions being granted prior to this Council adopting the street trading legislation, neither the Council nor the market operators are able to trace tangible evidence of this by way of a letter or an agreement.

Licensing the Markets

5. The Licensing officers wrote to the market proprietors to regularize the position by requiring that the markets receive consent. The Council's procedure requires an applicant to place an advert in a local paper and pay a fee of £355.
6. By way of context the size and days of operation of each market are set out below.
 - i) Ongar market operates on a Wednesday and has approximately four stalls.
 - ii) The Broadway has between twenty and thirty stalls and operates on a Thursday
 - iii) Loughton market operates on a Sunday and has approximately twenty two stalls
7. Understandably, the market operators and their local councillors have expressed concern that suddenly paying a consent and advertising fee will impact on their ability to trade, some suggesting they may have to cease trading if the requirement is enforced. In particular they point out that they have not had to pay for several years.
8. Before proposing a way forward to deal with the position for these three established markets it is important that Members are aware of the purpose of the consent regime. In addition to the fee it enables a local authority to attach standard conditions, allowing an element of control over the operation of the markets. Furthermore, were a new trader to apply to operate a market anywhere in the District, the requirement for a fee, consultation and publicity would be appropriately charged.
9. It is important to balance the need to apply our street trading policy fairly and to cover costs with our wish to promote working in partnership with Local Councils and businesses.
10. The Council's Street Trading practice states that :

"10.1 The Council will consider each individual application for a street trading consent for a market on its merits and in particular shall consider whether: -

 - 10.1.1 There is not enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street;
 - 10.1.2. There are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
 - 10.1.3. The consent, if granted, will result in nuisance to members of the public, residents and local businesses due to likely noise, smell, litter, disturbance or other problems which will be caused by the granting of the licence. In addition the Council will consider:
 - 10.1.4. Known previous convictions;
 - 10.1.5. Failure on a previous occasion to pay Street Trading Consent fees within agreed timescales;
 - 10.1.6. Any additional issues arising from consultations. "
11. A consent is given for one year and it should also be noted that these requirements also apply to renewals.
12. Bearing in mind all of the above it is proposed that the three historic markets currently operating in Loughton, Debden and Ongar be required to obtain a consent but that the fee of £355 and subsequent renewals be waived.
13. In addition the applicant will be required to place the necessary advert in the local

paper.

Policy

14. It is also proposed that the draft policy be considered by members and a consultation be carried out and the results reported to the next Licensing Committee.

Resource Implications:

The Council will forego the income from 3 applicants at a cost of £1065 in total. However this must be weighed against the potential for one or more of the markets to cease trading in any event if the fee is levied.

Legal and Governance Implications:

It is important from a legal perspective to apply Council procedures consistently and in accordance with the law. It is also important that the consents are required as the conditions are an important control on the standards to which the markets operate.

However it is equally important to be flexible and respond to genuine concerns from local Members and businesses.

Governance is maintained by bringing a report so that a clear decision can be made.

Safer, Cleaner and Greener Implications:

The compliance with conditions attached to a street trading consent contributes to the safety and appearance of the street scene

Consultation Undertaken:

Representations have been made by the market operators and local ward councillors and their concerns have been reflected in the report

Background Papers:

The Street Trading practice

Impact Assessments:

Risk Management

To have the three established markets without any consent and therefore conditions of operation would leave the District Council in a difficult position both if required to take any enforcement action.

It may also make it more difficult to enforce the requirements upon new applicants.

Equality and Diversity:

The report does not impact adversely on any group identified in the legislation as having protected characteristics. Of course the essence of the report is seeking to treat three established markets more favourably than the adopted street trading legislation requires. However the report carefully outlines why this should be the case, with particular reference to supporting the local economy.

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

An equalities assessment will be carried out after consultation.