

TRAFFORD COUNCIL

Report to: Executive – AMENDED VERSION
Date: 29 June 2015
Report for: Decision
[Draft] Report of: Executive Member for Economic Growth and Planning

Report Title

Proposed Adoption of a Markets Policy

Summary

The purpose of this report is to set out a proposal to implement a Markets Policy and the legal context for such a policy.

It sets out the proposed content of the Policy as well as the proposed application and sign off processes.

There is currently a review taking place of events on council land. This Policy will sit alongside such a policy in order to cover the trading element (if any) of such events. A report on the wider policy will be brought to the Executive later this year.

Recommendation(s)

That the Executive:

- 1. Approve the 'Markets Policy' as set out in Appendix 1 of this report;**
- 2. Note the next steps contained within section 4.0 of this report which requires the development of the application process and the establishment of a charging schedule on the basis outlined in the report.**

Contact person for access to background papers and further information:

Name: Kelly Dooley
Extension: x1262

Background Papers: None.

Relationship to Policy Framework/Corporate Priorities	This Policy relates to the Council's 'Economic Growth and Development' Corporate Priority.
Financial	An appropriate fees and charges structure will need to be determined for applications. The development of the policy and subsequent development of the application process will be undertaken within existing resources and budgets.
Legal Implications:	The policy will need to compliment street trading, highways and events guidelines and legislations. Most of which is determined within the body of this report.
Equality/Diversity Implications	Not applicable
Sustainability Implications	To be determined at applications stage – event specific, no relation to the policy.
Resource Implications e.g. Staffing / ICT / Assets	The development of the policy and subsequent applications will be managed within existing resources, no relation to the policy.
Risk Management Implications	To be determined at applications stage – event specific, no relation to the policy.
Health & Wellbeing Implications	To be determined at applications stage – event specific, no relation to the policy.
Health and Safety Implications	To be determined at applications stage – event specific, no relation to the policy.

1.0 Background

- 1.1 Trafford is a vibrant borough which attracts large scale events and festivals. These applications are administered by the Council if they are held on Trafford Council owned land. This land, in the main, is parks and green spaces.
- 1.2 The Council processes in excess of 150 applications per year, many of which are community based events containing fairground rides, face painting, stalls and competitions. The Council also administers events that take place on the Trafford highway which involve a road closure such as road running events and parades. The Council also receives applications to host markets on the highway, and these types of applications sit outside of street trading laws.
- 1.3 In some instances the above events incorporate a number of commercial trading stalls. The law stipulates that where there are five or more stalls, this will constitute a 'market'.
- 1.4 In 1290 the Council was granted the right by Royal Charter to hold markets in Altrincham and has adopted additional statutory powers which enable it to take steps to protect its existing established markets at Altrincham, Urmston,

Partington and Sale, where these could be harmed by the operation of any 'rival market'.

- 1.5 The practical implications of this mean that the Council controls markets operating across the whole of the Borough, as no one can operate a market in Trafford without the express approval of the Council. In the past the Council has successfully taken action against large scale car boot sales and other similar activity in order to protect the established lawful markets.
- 1.6 In the light of the increasing number of applications for approval of markets or events which include a market element it is important that the Council acts fairly and consistently in relation to such applications, whilst also balancing the need to protect the existing markets. The Policy proposed distinguishes between small scale non-commercial market activity, generally ancillary to community or other events; one off specialised markets; and non-specialised markets, whether run for commercial or charitable purposes. The reason for making these distinctions is based on the extent to which each type of activity could impact harmfully on the existing markets.
- 1.7 The Council is keen to encourage and support the community or charitable events which either involve some market activity or are proposing a stand-alone market. Where these meet the criteria set out in the Policy it is considered that they are unlikely to have any harmful impacts on the existing markets. The Policy also sets out the commercial markets which are likely to be deemed acceptable on the same basis. All other markets will be deemed to be harmful to the existing markets and will not be permitted.
- 1.8 It is important that the Council continues to enforce its market rights by carefully considering whether proposed market activities are likely to be harmful to the existing markets and to take steps to prevent the operation of any harmful 'rival markets'. Failure to uphold these rights will diminish their value over time and could result in the Council ultimately being unable to act to protect its existing markets and having no control over the establishment of any rival markets.
- 1.9 This report proposes the adoption of a policy (set out in Appendix 1) for dealing with all 'market' applications across the Borough.

2.0 Application and approval process for a 'market'

- 2.1 The proposed policy (Appendix 1) sets out a two-stage application process.
- 2.2 It is proposed that a suitable application form is developed for stage one which will provide agreement in principle to the applicant within six weeks of their application.
- 2.3 It is proposed that the application will be reviewed by a number of Council departments, as set out in the Policy, and partner agencies will be consulted where required. This would provide an 'agreement in principal'.
- 2.4 Stage two should determine that although the market might be agreed in principal in stage one, further requirements might be imposed by the reviewing

officers before the application is fully approved. This could include further licences being obtained or wider consultation for example.

- 2.5 Fees, which are to be determined, would apply to commercial events, festivals and markets however the Council should reserve the right to waive fees e.g if the event was for charity.

3.0 Final approval

- 3.1 It is proposed that authority to approve a 'market' application is delegated to the Corporate Director for EGEL or appropriate deputy (Director level or above).

4.0 Next steps

Subject to approval of this report and Policy:

- 4.1 An appropriate application form will be developed for applicants;
4.2 An appropriate charging schedule will be developed and published alongside the Policy and application form.

5.0 Other Options

- 5.1 The only other available option is not to develop a Markets Policy. This will mean there is no framework in place to determine applications. In such circumstances, every event could be addressed on its merit.
5.2 This will give rise to continued uncertainty for applicants considering holding a 'market' or any type of event which has a trading element.
5.3 In the absence of a policy it could become more difficult to challenge 'rival markets'. The policy provides a context for the granting of permission to hold a market which is based on an assessment that the activity permitted will not be harmful to the existing market. Therefore, allowing markets in those circumstances should not diminish the Council's right to take action against those which are considered to be harmful.

6.0 Consultation

- 6.1 Internal consultation has taken place with Legal, Public Protection services including – Licensing and Environmental Health as well as Asset Management.

7.0 Reasons for Recommendation

- 7.1 The policy and subsequent application will provide clarity as to the circumstances in which 'markets' or events with a trading element will be permitted.

Key Decision: Yes

If Key Decision, has 28-day notice been given? Yes

Finance Officer Clearance *(type in initials)...*PDC.....
Legal Officer Clearance *(type in initials).....*JL.....

Helen Jones

CORPORATE DIRECTOR'S SIGNATURE *(electronic)*

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.

Markets Policy (Draft) June 2015

1. Introduction

- 1.1 Trafford is a popular borough for hosting events, fairs, festivals and markets with an increasing number of applications coming into the Council. The Council wants to encourage innovation and new business in the borough and sees markets as the ground-level entry to business development.
- 1.2 The purpose of this policy is to set out Trafford Council's position in relation to any application to hold a market and for other events, fairs and festivals where they include a trading element whether it is proposed to hold these on Council land, such as parks and public highways or on private land. This policy aims to provide clarity and guidance for the applicant so they can submit an informed application through the right channel.

2. Application of this Policy

- 2.1 This policy does not apply to those markets established by statute where there are established permanent markets including Stretford, Partington and Urmston.
- 2.2 Market(s) are classed as a gathering of five or more buyers and sellers. It may be held on one occasion or may occur on a regular basis (more than twice annually) and may take place over one or more days or part days. Market also includes car boot sales. If less than five stalls are proposed to be permitted it will not require a licence as a market.
- 2.3 Many events such as fairs, festivals, whether they are community, commercial or charity events may have a number of trading stalls and will therefore require approval for the trading element as a 'market'.
- 2.4 Events taking place on Council land require the Council's prior approval as landowner. There is a separate application process for such approval.
- 2.5 In addition, other consents and licences may be required and it is the applicant's responsibility to ensure that they obtain all necessary approvals for the event.
- 2.6 Markets that do not take place on Council land are still subject to a licence. Markets held solely for charitable purposes or not for profit community events, will be exempt from any charges associated with the application, but will still require a licence.

3. Altrincham Market Charter

- 3.1 The Council enjoys the benefit of the right to operate, licence and if necessary protect through legal action its markets from 'disturbance' by rival markets set up within a 6 and 2/3 mile radius of Altrincham market. The attached map shows the Trafford boundary and the area within 6 and 2/3rd miles of Altrincham Market.

- 3.2 The right to hold markets in the town of Altrincham was originally granted by Royal Charter from King Edward I in 1290. The Council's market rights were acquired by Deed from the successors in title to the Lords of the Manor to whom the original charter was granted. The charter allowed markets to be held in the town on a Tuesday in each week.
- 3.3 In addition to the Council's historic market rights the Council has certain statutory rights under Part III of the Food Act 1984. Amongst other things this means that the Council is not limited by the terms of the Charter as to when markets may be held and it allows the Council to decide for itself the days and places of the markets held throughout Trafford.
- 3.4 Currently there are three markets operated in Altrincham under the control of or with the consent of the Council:

A street market, known as **New Market Square**, held on Council owned land in Central Way and held on Tuesdays, Thursdays, Fridays, Saturdays and Sundays.

The Market Hall, a covered market, held on the Council owned land adjacent to the Market House in Greenwood Street and held on Tuesdays, Thursdays, Fridays, Saturdays and Sundays.

The **Market House**, an in-door market of food and drink providers, held in the Council owned Market House on Greenwood Street on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays and Sundays.

These three markets are operated under lease from Trafford Council, by Market Operations.

- 3.5 The Charter Rights and statutory rights adopted by the Council give it the power to stop markets from operating anywhere within a radius of six and two thirds of a mile from any location on which Altrincham Market operates and to require anyone wishing to hold a market anywhere in Trafford to obtain a licence for the market from the Council.
- 3.6 In order to protect the existing market rights the Council will consider all market applications (whether commercial or as part of an event).
- 3.7 In addition, there are currently regular markets held in Stretford, Partington and Urmston, and occasional markets held in Sale and Ashton-upon-Mersey.

4. Application for a 'market' as part of an event

- 4.1 Each year the Council receives in excess of 150 requests to hold Events on Council owned land such as parks, green spaces and the public highway, such as community fun days, fun-fairs, sports days and mass participation picnics, and for cultural, music and food festivals.
- 4.2 Some of these events take place annually, are free to all to enter and add vibrancy to the local community. Income generated by selling space for trading stalls at the event, by the event organisers is used to cover the delivery of the wider event with any profits being given to charity or a not-for profit

organisation. They require the prior approval of the Council in order to allow them to take place and may require a 'market' licence for the stalls.

- 4.3 Sometimes the Council also allows commercial events to take place on its land such as concerts and other profit making events. These events also require Council approval and are they are subject to payment of a licence fee to the Council. They may also require a 'market' licence for the stalls.
- 4.4 Applicants for all events must also follow strict guidelines for food vendors and have appropriate insurance in place for their event.
- 4.5 Some individual stalls and vendors might also be liable for other fees depending on the nature of their operation.
- 4.6 All event organisers applying to the Council must ensure they abide by all legal and health and safety requirements in relation to their Event and must have public liability insurance and all other necessary approvals or licences in place.
- 4.7 There are no restrictions on the day of the week these events take place as long as the trading stalls are not the principal attraction of the event. This will be considered at application stage. Those events where the trading stalls are the principal attraction are subject to additional restrictions.
- 4.8 Events taking place on private land and premises do not need to apply to the Council for approval however a 'market(s) licence' and other statutory approvals/licences may still be required.

4.9 How to apply for permission to hold a 'market' as part of an event:

Details of the application process can be obtained from:

Events Team
Trafford Council
Trafford Town Hall
Talbot Road,
Stretford,
Trafford,
Manchester
M32 OTH
Tel: 0161 912 2000

Email events@trafford.gov.uk

Web: <http://www.trafford.gov.uk/residents/community/partnerships-and-communities/corporate-and-community-events.aspx>

Further details of the approval process are set out in paragraph 6.

5. Market applications

- 5.1 Trafford is a vibrant borough and welcomes applications for market activities which increase footfall in our town centres; support local businesses, enhance Trafford's visitor offer and promote enjoyment for the local community.

- 5.2 However, anyone wishing to hold a market (including car boot sales) within a radius of 6 and 2/3rds of a mile of Altrincham Market must provide the Council with at least 28 days' advance notice and will require a licence for the market even if it is a single event. Anyone wishing to operate or permit such a market who fails to provide the required notice will be guilty of an offence and may be liable to prosecution.
- 5.3 The Council holds the absolute right to decline applications for markets and car boot sales taking place on private land. Likewise, should a non-approved market be set up, the Council upholds the right to stop the market from trading.

5.4 What will be considered?

Applications for market licences are required to meet the following criteria:

- Market(s) will generally only be considered if proposed to be held on Sundays and Mondays. This is to protect the historic market Charter for Altrincham Market and other rights adopted by the Council;
- Markets may be considered on other days of the week if the market application is considered not to be in direct competition with Altrincham Market. For example a special interest/themed market selling one type of goods (i.e vintage car market, stamp fair or coins) may be considered acceptable even if held on other days;
- Consent will not be given where there is already another market of similar nature operating in the same locality and in the same timeframe as that proposed by the applicant;
- The application may be refused if there are already a number of competing events / festivals/ markets approved on the proposed dates;
- Each application will be considered on its merits and no one operator will have precedence over any other;
- No more than six consecutive markets (within an agreed timeframe) will be approved at any one time. For example, there might be a single application to hold six monthly markets in one location between June and December ;
- If for any reason a market does not take place or is cancelled on more than two occasions in the agreed/approved period of time, the Council has the right to withdraw the license and may approve another application in its place. In such cases the operator will be notified in writing;
- Any change to the proposed dates and times of operation for the market requires express written approval of the Council before such changes can be made.

5.5 Approval process

A written application is required at least 8 weeks prior to the first market taking place. As well as the above requirements, the following considerations will be taken into account and the applicant, as a minimum, must address the following in their application:

- Each application will be considered on its own merits. The following considerations are the types of issues that are likely to be taken into account but are not exhaustive.
- Whether the market has support from local traders operating in the vicinity of the proposed location. Evidence must be provided within the application demonstrating appropriate consultation with local traders. Applications will not be considered if more than 50 per cent of consulted existing traders disagree with the proposal. Where there are established groups such as community panels or working groups or town centre partnerships these groups will also be consulted by the Council. The Council might also ask for further evidence as to potential impacts of the market on local traders throughout the application process;
- Access and egress plans for the proposed market, parking arrangements and public transport availability/proposals;
- Plans for the disposal of refuse and for leaving the site in a clean, tidy and undamaged condition.
- Appropriate proposals of how the market will support local and existing traders operating in the vicinity of the proposed market as well as plans for monitoring this. The Council might ask, at any time, for further evidence throughout the application process;
- The proposal should include details of any consultation which has taken place with local residents and how the applicant will limit and control any potential disruption to residents in the vicinity of the proposed market;
- Details of how the event will add value i.e how will the event increase trading / footfall in the particular town or more widely in Trafford as well as plans for monitoring this. The Council might ask, at any time, for further evidence throughout the application process;
- The proposal should demonstrate how the proposed market traders will offer different and unique goods to other traders in the vicinity of the proposed market ensuring existing local business will not be adversely affected by direct competition;
- The proposed market must satisfy all other requirements for running a suitable and safe event including having appropriate insurances in place and meeting all legal requirements. This will be determined through the application process. Only food traders that are registered with Trafford Council Environmental Health Service or with the local authority where they are based will be allowed to trade on the market.

5.6 Street Trading Licenses

If trading on the public highway, as part of a market, Street Trading Licenses are not required. Fees are payable to the Council for such events.

If not part of the market, proposed street traders should visit <http://www.trafford.gov.uk/business/licenses-and-permits/a-to-z/street-trading-licence.aspx> for details.

5.7 Road closures

To find out more about how to obtain a road closure, visit <http://www.trafford.gov.uk/residents/transport-and-streets/roads-highways-and-pavements/docs/request-for-temporary-traffic-regulation-order.pdf>

5.8 How to apply for a market

Details of the application process and fees, contact:

Head of Communication
Trafford Council
Trafford Town Hall
Talbot Road,
Stretford,
Trafford,
Manchester
M32 0TH
0161 912 2000

6. Who will decide on the application for a 'market' as part of an event or a Market?

6.1 Stage 1 (response to applicant within 6 weeks of initial application):

Applications must be received at least 8 weeks before the proposed date of the event/Market.

The Council will consult with the following departments. A decision will be determined subject to agreement from all consultees:

- Property and Development
- Licencing/Street Trading
- Events
- Economic Growth
- Environmental Health
- Traffic / Highways management
- Parking services

The Council may where appropriate also consult with or require you to provide evidence of adequate consultation with the police and other emergency services.

6.2 Stage 2 (must be satisfied before consent given):

The event/market might be agreed in principal in stage 1 however further requirements might be imposed by the reviewing officers before the application is fully approved. This may include, for example, a requirement for further licences to be obtained or for wider consultation to be carried out.

7. Publicity / Marketing

- 7.1 The event / market must not be promoted until approved consent has been given by the Council. The aim is to determine applications as soon as possible however applicants made 8 weeks before the proposed first date, may not receive a decision in principle until 14 working days before the event takes place and you should bear this in mind when making your application and ensure that you allow sufficient time for approval when considering publicity arrangements for the event/market.
- 7.2 Any reference to the Council in publicity must be cleared before publication by emailing details to communications@trafford.gov.uk

8. Fees

- 8.1 A range of published fees apply to both event and market applications.

Appendix 2: Map

