

Report to the Council

Committee: Licensing

Date: 17 December 2013

Subject: Street Trading - Markets

Chairman: Councillor K Angold-Stephens

Recommending:

- (1) That the established markets currently operating in Loughton (Sunday Market) , The Broadway, Loughton and High Street, Ongar be required to apply for consent in accordance with the Street Trading practice but that the fee of £355 and subsequent renewal fees be waived;**
 - (2) That each applicant be required to advertise their application in a local newspaper in accordance with the Street Trading practice; and**
 - (3) That for any application to operate a new market in the District, the Council's full requirements for issuing a licence be met.**
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Background

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

Epping High Street
Waltham Abbey Square
Ongar High Street
The Broadway, Loughton
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 a street or other area to which the public would usually have the right access without payment.

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 15 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. In an attempt to regularize the position the Council's Licensing Officers wrote to the three market proprietors requiring applications for consent. The Council's procedure requires

an applicant to place a notice in a local newspaper and pay a fee of £355.

6. The size and days of operation of each market are set out below:

- (a) Ongar market operates on a Wednesday and has approximately four stalls;
- (b) The Broadway has between twenty and thirty stalls and operates on a Thursday;
and
- (c) Loughton market operates on a Sunday and has approximately twenty two stalls.

7. We have been informed that in response to the approach from the Licensing Officers the market operators and some local councillors expressed concern that payment of the consent and advertising fee would impact on the operators' ability to trade. They also pointed out that payment had not been required for several years.

8. In considering the position for these three established markets we have taken account of the purpose of the consent regime. In addition to the generation of a fee it enables a local authority to attach standard conditions, allowing an element of control over the operation of the markets.

9. We are of the opinion that it is important to balance the need to apply the street trading policy fairly and to cover costs with the Council's aim 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. Consent is given for one year and the same requirements also apply to renewals.

12 Having taken account of all the relevant factors we believe that the three historic markets currently operating in Loughton, The Broadway and Ongar should be required to seek consent and place the necessary notice in a local newspaper but that the fee of £355 and subsequent renewal fees should be waived.

13. Although the Council will forego income from the three applicants at a cost of £1065 per annum this must be weighed against the potential for one or more of the markets to cease trading in any event if the fee being levied.

Policy

14. We have agreed that that the Council's practice in granting street trading licenses should be formalised as a policy. We have issued a draft policy for consultation and will consider the responses at our next meeting.

Recommendation

15. We recommend as set out at the commencement of this report.