

**Report of Head of Planning and Local Development**

**Market Rights Policy**

**1 Purpose of report**

To seek approval to adopt the Market Rights Policy (appendix one).

**2 Executive summary**

The Market Rights Policy was approved for consultation at Services Committee on 14 September 2015. A 6 week consultation period took place from 21 December 2015 to 5 February 2016 with no comments received. It is therefore proposed that the Market Rights Policy in appendix one is adopted.

**3 Appendices**

Appendix One – Market Rights Policy

**4 Proposed action:**

**4.1 The committee is invited to RECOMMEND that the Market Rights Policy (in appendix one) is adopted.**

**5 Background**

5.1 The council has exclusive rights, under the terms of its Market Charter, to conduct markets on a Wednesday, within a radius of 6.67 miles of Wellingborough town centre (see appendix one for Market Rights Policy boundary plan)

5.2 NABMA (National Association of British Market Authorities) of which the council is a member recommends that due to the law on market rights being tightened up considerably in recent years as a result of current legislation local authorities have an adopted market licensing policy against which to consider applications for the holding of other markets,.

5.3 Services Committee approved a draft Market Rights Policy document for consultation on 14 September 2015. The document was published on the council's website on 21 December 2015 for a period of 6 weeks inviting the public to comment.

**6. Discussion**

6.1 The following consultees were invited to comment, and copies of the document sent directly to them:

- Wellingborough BID
- Wellingborough Chamber of Commerce
- Wellingborough Market Traders
- Kettering Borough Council
- East Northamptonshire Council
- Daventry District Council
- Wellingborough Norse
- Northampton Borough Council
- Northamptonshire County Council
- Swansgate Centre
- Parish Councils
- Internal officers

6.2 The consultation did not generate any objections or comments. Therefore, it is recommended that the document is adopted to ensure the interests of Wellingborough Market are protected.

## **7 Legal powers**

7.1 The council's constitution delegates power to the committee in respect of town centre management and strategy/operations of the general market.

7.2 The council has the power under its Market Charter to control all markets within 6.67 miles of its own market. In the case of a market taking place on a day other than a charter day it needs to be able to show the likelihood of damage to its own market affecting its financial interests.

## **8 Financial and value for money implications**

Fees are proposed within the draft market rights policy and a recommendation will be proposed to the resources committee. The potential income generated from the fees related to the Market Rights Policy is low.

## **9 Risk analysis**

9.1 If a market rights policy is not introduced, then there could be a loss in trade at Wellingborough Market. The reduction in footfall could cause a downturn in the economic offer within the town, with the reduction in traders reducing the income generated from stall rental.

9.2 The measures needed to control this would be to introduce the market rights policy to deal with the application process for other markets, prohibit

neighbouring markets on charter days, highlight the availability of alternative trading days, promote Wellingborough market and to continue a market improvement scheme to provide a wider choice for customers.

**10 Implications for resources**

The council and Wellingborough Norse officers currently work in partnership to review and improve the operational and marketing areas of the market.

**11 Implications for stronger and safer communities**

A reduction in footfall to Wellingborough on market trading days would be detrimental to established market traders and surrounding business and create a poor economic and social offer within the town centre.

**12 Implications for equalities**

Damage to Wellingborough market could limit services offered to residents who rely on public transport and other access provisions offered by a town centre location

**13 Author and contact officer**

Victoria Phillipson, Planning policy and Regeneration Manager

**14 Consultees**

Julie Thomas, Head of Planning and Local Development  
Bridget Lawrence, Head of Resources  
Liz Elliott, Head of Finance  
Geoff Hollands, District Law  
Tracey Cave, Finance Officer

**15 Background papers**

Market Working Group Meeting Minutes



## WELLINGBOROUGH MARKETS RIGHTS POLICY DRAFT: AUGUST 2015

### 1. Introduction

The council recognises the importance of markets in the local economy and the character of the area. They remain an important council service and contribute in a number of ways to the local communities they serve.

The council's market is described in more detail in Section 2 of this policy and it represents an important investment by the council in delivering economic regeneration and town centre vitality.

The council is keen to maintain the balance of markets throughout its area and also that there is consistency in the way that markets are organised. In this context the council has decided to implement a markets policy which sets out the basis upon which markets are held and the process by which applications for new markets will be considered. The policy will also cover markets (whether they are described as such or car boot sales or otherwise come within the definition in Section 4) outside the administrative area where it has a legal right under its common law market franchise to control them.

The council recognises that there are many different types of market activities and the policy adopted by the council is intended to cater for each type of market. In particular, the council's policy distinguishes between commercial markets and those that are largely community-based with a strong charitable element. Section 5 of the Markets Policy considers the different types of markets and the council's approach in considering applications in respect of such markets.

Prior to implementing this policy the council is consulting with the following organisations:

- Wellingborough BID
- Wellingborough Chamber of Commerce
- Wellingborough Market Traders
- Kettering Borough Council
- East Northamptonshire Council
- Daventry District Council
- Wellingborough Norse
- Northampton Borough Council
- Northamptonshire County Council
- Swansgate Centre
- South Northamptonshire Council

- Bedford Council
- Wellingborough Town Centre Partnership

In addition, the council has consulted internally with the relevant council sections responsible for licensing, economic regeneration, tourism and town centres.

The policy will be reviewed on an annual basis.

## **2. Markets**

- 2.1 A market is held in Wellingborough on Tuesday, Wednesday, Friday and Saturday. A market charter was issued by King John to the Abbott of Crowland in 1201AD the right to hold a market in Wellingborough on a Wednesday.  
In 2013, all markets were registered under part III of the Food Act 1984

## **3. Market Rights**

- 3.1 The right to hold a market gives the owner of the right certain important powers, including the ability to control other markets held within 6<sup>2/3</sup> miles of the market owner's own market.
- 3.2 The council, by virtue of its statutory powers, enjoys market rights throughout its area and beyond where they are within the above distance and is in a position to consider applications for market events.
- 3.3 Section 5 of this policy sets out the basis on which applications will be dealt with by the council.
- 3.4 This right has been exercisable for many years and the council has taken into account relevant UK and European legislation in drawing up this markets policy.

## **4. What is a market event?**

- 4.1 The Council's market policy is intended to cover all market events held within 6.6 miles of Wellingborough market.
- 4.2 In order that potential market operators are fully aware of the council's definition of a market the following guidelines are provided:
- a) the legal definition of a market is a "concourse of buyers and sellers" (this means that the public are entitled to attend market events to buy and sell).
  - b) A market will comprise not less than five stalls, stands, vehicles, whether moveable or not or pitches from which articles are sold.
  - c) There will be an operator of the market who will be responsible for the organisation and delivery of the event.

- d) The term “market event” includes car boot sales, antique and craft markets, general markets, farmers' markets and charity markets, whether indoors or outdoors.
- e) A market may sometimes be held as an integral part of a special event and where this arises the market element will fall within the council's markets policy.

4.3 The council's markets policy differentiates between markets of a commercial nature and community-based markets which have a strong charitable element.

4.4 A market subject to this policy may happen on any day of the week, irrespective of the day when the council's franchise market operates.

## **5. Licensing of markets under the Council's Markets Policy**

5.1 The council's consent to a market event must be given before the market takes place.

5.2 Markets will only be licensed once an application for a markets licence has been successfully pursued. Any market that takes place without such a licence is in breach of the council's markets policy and may be subject to enforcement action as described in Section 10.

5.3 The council will consider applications in respect of the following categories of market events:

### **5.3.1 Alternative commercial markets**

An alternative commercial market is one which is operated for profit and where the traders are engaged in a business activity of selling commercial goods for their own purposes i.e a craft fair or farmers market

The council will consider applications in respect of commercial markets having regard to the following requirements:

- a) No market will be authorised within 6<sup>2/3</sup> miles of Wellingborough Market (as the crow flies) unless it can be demonstrated that the new market will not undermine the existing market and not prejudice the overall market offer.
- b) In respect of any consent the operator must have adequate insurance, comply with trading standards guidelines, health and safety requirements and any other statutory provisions laid down by the council.
- c) A fee will be paid in respect of any consent given by the council and the fee will be based on the size of the market and the frequency of the market. Refer to Section 6 in respect of fees.
- d) A licensing agreement will be entered into between the operator

and the council and such licensing agreement must be concluded before the market takes place.

- e) The council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

### 5.3.2 Car Boot Sales

#### 5.3.2.1 Commercial

A commercial car boot sale is one which is operated for the profit of the operator/organiser.

The council will consider applications in respect of commercial car boot sales having regard to the following requirements:

- a) No market will be authorised within 6<sup>2/3</sup> miles of Wellingborough Market (as the crow flies) unless it can be demonstrated that the new market will not undermine the existing market and not prejudice the overall market offer.
- b) No commercial traders (other than catering vans) are permitted at the car boot sale. Sellers are restricted to private sellers, selling second hand household items.
- c) In respect of any consent the operator must have adequate insurance, comply with trading standards guidelines, health and safety requirements and any other statutory provisions laid down by the council.
- d) A fee will be paid in respect of any consent given by the council and the fee will be based on the size of the market and the frequency of the market. Refer to Section 6 in respect of fees.
- e) A licensing agreement will be entered into between the operator and the council and such licensing agreement must be concluded before the market takes place.

#### 5.3.2.2 Community Based/Charity Car Boot Sales/Markets

Community-based/charity car boot sales/markets are organised by local communities or organisations with the intention of raising funds for a specific charity or celebrating a special event.

The Council does not require applications in respect of these types of car boot sale/markets to be submitted, providing that the following issues are considered:

- a) the markets must be operated on a non-profit making basis to assist a charity or community event and the operator shall supply relevant information to the Council if requested. While it is acknowledged that some traders will be selling goods for their own purposes, the council will look for the event to have a strong charitable element in the way the event is organised.
- b) The operator must have adequate insurances, comply with trading standards guidelines, health and safety requirements and any other statutory provisions laid down by the Council.
- c) The Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

5.4 Applications in respect of Alternative commercial markets and commercial car boot sales should be made to the following:

*Details to be confirmed*

- 5.5 Applications must be submitted to the council, providing no less than 28 days notice of the market, to ensure that the council has adequate time to consider the relevant matters in an appropriate way.  
In considering the application the council will require sufficient information to deal with all the issues set out in the criteria listed above and also covered on the application form. Failure to provide such information is likely to lead to a delay in the council making a decision.
- 5.6 If the council decides to refuse an application it will set out the reasons for its decision and will advise the procedure for submitting an appeal in respect of the refusal. An appeal must be submitted within seven days of the council's written decision.

## **6. Appeal Procedure**

- 6.1 Upon service of a notice of an application being refused, the applicant may lodge an appeal in writing to be left at or sent to:

The Head of Planning and Local Development,  
Borough Council of Wellingborough  
Swanspool House  
Doddington Road  
Wellingborough  
Northamptonshire  
NN8 1 BP.

- 6.2 The notice of appeal should be served within 7 days of the notice and set out clearly the grounds for appeal.

- 6.3 The Head of Planning and Local Development shall make a decision within two weeks thereafter.
- 6.4 The appellant will be entitled to a personal hearing, but will have no right to cross-examine other witnesses or testimony presented, unless directions to the contrary are given by the Head of Planning and Local Development.
- 6.5 The decision of the Head of Planning and Local Development is final and binding on all parties.

**7. Fees**

7.1 Application fees are as follows:

<b>Number of Pitches</b>	<b>Fees 2015</b>
1-20 Registration fee	£15.00
Fee per event	No Fee
21-50 Registration fee	£15.00
Fee per event	£20.00
51-75 Registration fee	£20.00
Fee per event	£25.00
76-100 Registration fee	£25.00
Fee per event	£30.00
101-125 Registration fee	£30.00
Fee per event	£35.00
125-150 Registration fee	£35.00
Fee per event	£40.00
151-175 Registration fee	£40.00
Fee per event	£45.00
176-200(Max) Registration fee	£45.00
Fee per event	£50.00

**8. Other Approvals**

- 8.1 It is important to emphasise that any approval given by the council in respect of its market policy does not remove the requirement for other relevant approvals to be obtained.
- 8.2 In particular the operator of a market should ensure that where the market is being held on private land, the approval of the landowner is obtained. The council will wish to receive evidence of such approval.
- 8.3 Planning permission might also be required and any market operator should consult with the council's Development Management Department to ascertain whether any

planning considerations are relevant.

- 8.4 Attention is also drawn to the provisions of the Licensing Act 2003 in respect of any entertainment provided at the market or where a Temporary Events Notice might be required in respect of the sale of hot food or alcohol.

## **9. Parish and Town Councils**

- 9.1 The council recognises the important role played by parish and town councils in serving their local communities and also acknowledges the contribution made by parish and town councils to a wide range of community events which include, on occasions, a market element.
- 9.2 The council will discuss with parish and town councils the extent to which this market policy will apply to them and in the context of the outcome of such discussions will review the implementation of the policy.

## **10. Enforcement**

- 10.1 The council will monitor the application of its markets policy and any market event which is established after the date of the implementation of this markets policy will be subject to the council's requirements.
- 10.2 Any market which is not approved by the council under Section 5 of its markets policy will be subject to legal action and the council will seek an appropriate remedy in the courts to prevent the market being held and/or damages as appropriate.
- 10.3 In addition, any market operator acting in contravention of any market licence granted by the council will run the risk of the licence being terminated by the council on such terms as the council determines and, in such circumstances, the council reserves the right to refuse any future applications for market licences submitted by the operator concerned or any person or organisation associated with the operator.

