



Leicester
City Council

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FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
OSMB
Cabinet

18th November 2010
22nd November 2010

Review of Rival Market Policy

Report of the Director of Planning and Economic Development

1. Purpose of Report

- 1.1. To consider revisions to the Rival Markets Policy to provide clearer guidelines for any potential operators seeking a licence and to review licence fees for each category.

2. Recommendations

- 2.1. Cabinet is requested to approve the revised Rival Market Policy with immediate effect.

3. Summary

- 3.1 Leicester City Council holds market franchise rights, and these are enshrined in a Market Charter. This allows the Council to control all markets operated within a 6 2/3rd mile boundary of its own operated markets in the Market Place, Leicester City Centre and at Beaumont Leys. Any Market which is operated, other than by the City Council, within this radius is deemed a Rival Market. It is unlawful to operate such a market without a licence and, where required, planning permission.
- 3.2 The City Council approved licensing regulations within an adopted Rival Markets policy in 1985 and these were last reviewed in 2007. This outlines the process to apply for a licence and conditions under which licences will be issued to operators, allowing Rival Markets to be held.
- 3.3 The Rival Markets Policy is periodically reviewed and this report proposes amendments to make the policy clearer and easier for potential operators to understand the licencing process. It also reviews the fee charges for different types of markets under the licence. The fee levels have been set in light of current budget pressures on the Council and also a review of current and proposed charges elsewhere in the country.

4. Report

- 4.1 Leicester City Council holds market franchise rights which are enshrined in a Market Charter. This allows the Council to control all markets operated within a 6 2/3rd mile boundary of its own operated markets in the Market Place, Leicester City Centre and at Beaumont Leys. Any market proposal not operated by the City Council, within this radius is considered to be a Rival Market. As such a licence is required to operate the market. Planning permission may also be required as well as a licence.
- 4.2 The Council's Rival Markets Policy provides the framework to consider proposals for Rival Markets which can be in the form of car boot sales, farmers markets, speciality markets or regular markets. The City Council first approved licensing regulations within an adopted Rival Markets Policy in 1985. These were last reviewed in 2007 where specific amendments were made regarding farmers markets.
- 4.3 The Rival Markets Policy outlines the process to apply for a licence and conditions under which licences will be issued to operators, allowing Rival Markets to be held. It also sets fee charges for the different types of markets.
- 4.4 A regular market category was introduced to the Rival Market Policy in 2004 and until 2009 no application had been received. At that time a review of the policy was under discussion and at the same time the Walkers Stadium Market proposal was under consideration. In considering this proposal it was clear that some guidelines within the Policy could be improved and made clearer. Consequently the Policy has been revised as attached in Appendix 1.
- 4.5 Each different type of rival market attracts a daily fee charge and these are reviewed periodically. The proposed revisions to the Rival Markets Policy in Appendix 1 also amend the fee charges and related refund considerations. In reviewing the charges account has been taken of the current financial circumstances the Council finds itself in following severe budget constraints and the need to maximise income. Account has also been taken of the potential to increase local food trade, as well as policies elsewhere in the country both in terms of current and proposed increases to fee charges. The charges also reflect the officer resources required to manage the licencing process.
- 4.6 The significant changes to the Rival Markets policy are:
- Greater clarity on the information required at the time of applying.
 - Clear guidelines as to how regular market applications will be processed and decisions taken.
 - Reduction in Farmers Market fee from £300 to £200 per day. The maximum stall number has also been increased from 25 to 30. This is to encourage local food trading.
 - The specialist market fee has been revised from £300 to £500
 - The regular market licence fee has been revised from £500 to £1200 per trading day.
- 4.7 It should be noted also that the current provisions for determining future applications for

regular markets is retained. Each application will be considered on its own merits and will be considered by the relevant Director responsible for the Markets in consultation with the Cabinet Lead. The revised policy makes it clear however that applications may be referred by the Cabinet lead to Cabinet for a decision to be made and that comments will also be sought from the Council's Market's Forum.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

It is good practice to review fees and charges on a regular basis. Given that at present we have not received any regular market licences the increase in fees won't have a significant impact on the Market's income as a whole.

Martin Judson, Financial Services

5.2. Legal Implications

Although there are no direct legal implications, it should be noted that the Council's Rival Markets Policy provides guidelines for potential operators seeking a licence to hold a rival market. The Council approved licensing regulations within an adopted Rival Markets policy in 1985 and these were last reviewed in 2007. It is good practice that this Policy is reviewed on a periodic basis to ensure the policy and guidelines are updated. The updated policy now provides clearer guidelines for those wishing to apply for a rival market application.

Dina Nathwani, Legal Services

5.3. Climate Change Implications

None

6. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within the Report
Equal Opportunities	NO	
Policy	YES	Whole report deals with Rival Markets Policy
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	NO	
Corporate Parenting	NO	
Health Inequalities Impact	NO	

7. Risk Assessment Matrix

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
Not reviewing the policy regularly will not allow the opportunity to improve guidelines based on experience of operating the policy. This may lead to a weaker policy over time potentially threatening the Council's markets. Also fee levels will become outdated.	M	M	Review the policy regularly.

8. Background Papers – Local Government Act 1972

8.1. None

9. Consultations

- Martin Judson – R&C Head of Finance
- Dina Nathwani – Solicitor, Resources Department

10. Report Author

10.1. Nick Rhodes
Head of Markets x 392370

Nick.Rhodes@leicester.gov.uk

Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)

Appendix 1

Proposed Rival Markets Policy



LEICESTER CITY COUNCIL RIVAL MARKETS POLICY



1. INTRODUCTION

- 1.1 Leicester City Council's market service operates retail markets in the Market place, and also at Beaumont Leys Shopping Centre. Any market that is operated, other than by the City Council's market service within a radius of 6 2/3rd miles of any retail market shall be deemed to be a Rival Market.
- 1.2 A market shall be deemed a Rival Market, irrespective of the type of goods or general nature of the market. The legal definition of a market, being "a concourse of buyers and sellers" shall apply in the determining whether an event constitutes a rival market or not. In this respect such events as car boot sales, antiques fairs etc shall be deemed rival markets.

2. LICENSING POLICY

- 2.1 The City Council has approved a policy outlining conditions under which licenses will be issued to organisers/ operators allowing rival markets to be held. This revised policy is effective from (new date).
- 2.2 The licensing policy enables Leicester City Council to regulate markets within its radius to ensure that proposed markets do not become a nuisance to residents, neighbouring businesses and are operated in the appropriate manner. Where planning permission is required this will require the retail impact aspect to also be satisfied.
- 2.3 Any person who wishes to operate a rival market may only do so if such a market has been licensed by the City Council. A license normally will be issued provided the application complies with relevant criteria.
- 2.4 Rival Markets will be categorised into four different types:
 - (a) Car Boot Sales
 - (b) Speciality Markets
 - (c) Farmers Markets
 - (d) Regular Markets

3. CAR BOOT SALES

- 3.1 Car boot sales will be limited to a maximum of 50 trading positions (i.e. stalls / vehicles / pitches) each trading position shall be of a standard size with a maximum size of 8x6 feet (2.5 x 1.5 metres).
- 3.2 Car boot sales shall be restricted, as far as is possible, to householders selling surplus household articles. No new goods are permitted for sale at any car boot sale. The car boot sale description will also cover events such as computer, records, toy and book fairs providing all other car boot sale criteria are met.
- 3.3 Permission shall only be granted to any organisation or individual during the course of any twelve month period, to hold a maximum of six licenses.
- 3.4 Individuals shall be regarded as persons who are actually the organisers of the event. One individual will be permitted to apply per household.
- 3.5 An organisation shall be deemed a group, e.g. Scouts, P.T.A., Sports Clubs. All events that are for charitable purposes should only be applied for by the Charity concerned. A letter confirming that the full proceeds will be received by the organisation must be sent on application. Commercial organisations are entitled to apply and all proceeds from the market should be strictly received by the organisation.
- 3.6 A registered charity may apply to hold a car boot sale and will need to supply their registered charities number on application. All proceeds must be received by the registered charity.
- 3.7 Any site or premises may only be used for a maximum of six car boot sales during the course of any twelve-month period, with not more than one market being held on a Sunday in any 28-day period. Should any part of the site or premises be used for a car boot sale, any other part of the site "or premises should not be deemed as a separate site or premises for the purposes of the condition. A site must be of a different location, have separate

boundaries and be of a suitable distance from other operated sites, as described from time to time by the Council.

- 3.8 If, in the opinion of the Council, any organiser of a car boot sale either directly or indirectly contravenes any of these conditions, then the City Council will not issue that person with any further licenses to operate any markets within the 6 2/3rd mile boundary for a period of five years from the date of the breach.
- 3.9 Any venue used for the purposes of a car boot sale which, in the opinion of the Council, either directly or indirectly is used in contravention of these conditions will not be permitted to host any further markets of any description until such time as the matters giving rise to the breach have been remedied to the Council's satisfaction.

4. CAR BOOT SALE - LICENCE FEES

4.1 In respect of a car boot sale organised by commercial organisers/ operators: A £160.00 fee to be paid on application not less than 28 days before the event.

4.2 In respect of a car boot sale operated by non-commercial organisers/ operators:

A deposit of £64.00 shall be required upon application not less than 28 days before the event, any balance payable within 14 days after the event. This deposit accounts for the first 20 trading places.

A fee of £3.20 shall be payable for each trading position over 20 let, payable within 14 days after the event, subject to the minimum £64.00 deposit being retained by the council.

4.3 In respect of a car boot sale operated by registered charities:

A deposit of £20.00 shall be payable on application not less than 28 days before the event, any balance payable within 14 days after the event. This deposit accounts for the first 20 trading spaces.

A fee of £1.00 shall be payable for each trading position over 20 let, payable within 14 days after the event, subject to the minimum £20.00 deposit being retained by the council.

4.4 A refund for a cancelled market is available, providing notification is received prior to the day of the event. The refund is as follows:

In the case of commercial organisers/ operators a £150.00 refund of the fee.

In the case of non-commercial organisers/ operators a full refund of the £64.00 fee.

In the case of registered charities a full refund of the £20.00 fee.

5. SPECIALITY MARKETS - CRITERIA

5.1 Speciality markets are themed markets whereby a mixture of new and second hand goods, fresh produce and other products may be sold, for example markets such as French and Continental.

5.2 Speciality markets will be limited to a maximum of 50 trading positions (i.e.: stalls / vehicles/ pitches) each trading position shall be of a standard size with a maximum size of 8x6 feet. (2.5 x 1.5 metres).

- 5.3 Speciality markets will be permitted for the sale of both new and second hand products.
- 5.4 Permission shall only be granted to any organisation or individual during the course of any twelve month period, to hold a maximum of three Speciality markets.
- 5.5 Individuals shall be regarded as persons who are actually the organisers of the event. One individual will be permitted to apply per household.
- 5.6 Any site or premises may only be used for a maximum three Speciality markets during the course of any twelve month period, with not more than one market being held on a Sunday in any 28-day period, should any part of the site or premises be used for a market, any other part of the site or premises should not be deemed as a separate site or premises for the purposes of the condition. A site must be of a different location, have separate boundaries and be a suitable distance from other operated sites, as described from time to time by the council.
- 5.7 If, in the opinion of the Council, any organiser of a specialist market either directly or indirectly contravenes any of these conditions, then the City Council will not issue that person with any further licenses to operate any markets within the 6 2/3rd mile boundary for a period of five years from the date of the breach.
- 5.8 Any venue used for the purposes of a Speciality market which, in the opinion of the council, either directly or indirectly is used in contravention of these conditions will not be permitted to host any further markets of any description until such time as the matters giving rise to the breach have been remedied to the Council's satisfaction.

6. SPECIALITY MARKETS - LICENCE FEES

- 6.1 In respect of a Speciality market licence the sum of £500.00 per trading day is required. The fee should be paid in full not less than 28 days before the event.
- 6.2 A refund for a cancelled market is available, providing written notification is given 7 days prior to the event. The refund will be £170.00 per trading day.

7. FARMERS MARKETS - CRITERIA

- 7.1 Farmers Markets are themed markets whereby local Farmers meet at a market to sell their own produce.
- 7.2 Farmers should live within a 30-mile radius of the operated market, and the organiser/operator should supply the Council with a register of all Farmers trading together with the address of the farm.
- 7.3 Farmers Markets will be permitted for the sale of the Farmers own produce only. This produce shall not be produce that has been bought to directly sell on.
- 7.4 Farmers Markets will be limited to a maximum of 30 trading positions (i.e. stalls/vehicles/pitches). Each trading position shall be of a standard size with a maximum size of 8x6 feet (2.5 x 1.5 metres).
- 7.5 Permission shall only be granted to any organisation or individual during the course of any

twelvemonth period to hold a maximum of twelve Farmers Markets. Individuals shall be regarded as persons who are actually the organisers of the event. One individual will be permitted to apply per household.

- 7.6 No Farmers Market will be approved if it is proposed to operate it from a venue within 3 miles of a site previously authorised to hold such events.
- 7.7 Any site or premises may only be used for a maximum of twelve Farmers Markets during the course of any twelve-month period, with not more than one market being held on a Sunday in any 28-day period.
- 7.8 Should any part of the site or premises be used for a market, any other part of the site or premises should not be deemed as a separate site or premises for the purposes of the condition. A site must be of a different location and have separate boundaries and be a suitable distance from other operated sites, as described from time to time by the council.
- 7.9 If, in the opinion of the Council, any organiser of a Farmers Market either directly or indirectly contravenes any of these conditions, then the City Council will not issue that organiser with any further licences to operate any markets within the 6 2/3rd boundary for a period of five years from the date of the breach.
- 7.10 Any venue used for the purposes of a Farmers Market which, in the opinion of the Council, either directly or indirectly is used in contravention of these conditions will not be permitted to host any further markets of any description until such time as the matters giving rise to the breach have been remedied to the Council's satisfaction.

8. FARMERS MARKETS – LICENCE FEES

- 8.1 A market licence fee will be charged of £200.00 per trading day, as per other market licence applications. The fee should be paid in full not less than 28 days before the event.
- 8.2 A refund of a cancelled market is available, providing written notification is provided 7 days prior to the event. The refund will be £100.00 per trading day.

9. REGULAR MARKETS CRITERIA

- 9.1 No regular Market will be operated without a market licence first being issued by Leicester City Council
- 9.2 Each application will be considered on it's own merits taking into account any cumulative impact. Comments will be sought from the Council's Market's Forum. The application shall be considered by the relevant lead Director in consultation with the Cabinet Lead for Markets. Applications may be referred by the Cabinet Lead for a decision to be taken by Cabinet.
- 9.3 Each application must meet the criteria as set out below in order to be considered for a licence.
- 9.4 The applicant must:

Be fit for the purpose and fully compliant with all Council policies and must PROVIDE:

- A copy of the Planning Permission that allows the proposed venue to hold a market. This must be in place and a copy provided to the Council at the time of making an application for a market licence.
- The results of any retail impact assessment required through the planning process will indicate to what extent the proposed market will affect the city centre and Leicester Market. Any planning permissions issued for regular markets may impose conditions on its operation. Additional conditions may be imposed through the licence regime.
- An application submitted for a market to be held outside the City boundary will need to also provide a satisfactory retail impact assessment to the Licensing Authority.
- A plan showing the proposed layout of the market.
- The Companies financial position
- The company's policy on consumer protection
- The company's environmental policy
- The Company's approach to managing waste at the proposed market including waste minimisation, recycling and removal of waste after the market finishes.
- The company's Health and Safety Policy coupled with necessary risk assessments; Documentary evidence with supporting references demonstrating the applicants experience and track record.

9.6 The Council may insert additional conditions to the licence prior to it being issued.

9.7 Should the Council refuse to grant a licence, the Council will provide their reasons to the applicant.

9.8 If, in the opinion of the Council, any organiser of a Regular market either directly or indirectly contravenes any of the Conditions that have been inserted as part of the market licence, the operator will not be permitted to host any further markets of any description until such time as the matters giving rise to the breach have been remedied to the Council's satisfaction. The Council may refuse to issue a licence for a period of five years from the date of the breach.

10. REGULAR MARKETS - LICENCE FEES

10.1 In respect of a regular market the sum of £15200.00 per trading day is required. The fee should be paid in full not less than 28 days before the event.

10.2 A refund for a cancelled market is available, providing written notification is given 7 days prior to the event. The refund will be £500 per trading day.

11. LICENCE APPLICATIONS

11.1 An application for a licence must be made on an official application form obtainable from: The Markets Manager, 3rd floor Market Centre, Leicester LE1 5HQ (an application form can also be downloaded from the Leicester City Council Website www.leicester.gov.uk/markets)

- 11.2 Completed application forms must be returned to the above address, so as to arrive not less than 28 days before the event. Please note that applications for some types of market make take considerably longer than 28 days to determine and advice should be sought from the markets team in this respect. The required fees outlined in sections 4, 6, 8 and 10 must accompany all applications.
- 11.3 All organisers/ operators who wish to operate markets will be required to submit a passport sized photograph with the application form. Failure to comply with this requirement will result in the application being rejected.
- 11.4 The organiser/operator undertakes not to affix any notices or signs related to the event to any street furniture, structure or trees on the public highway. Such signs contravene section 132 of the Highways Act 1980.

12. FINAL LICENCE FEE

- 12.1 All non-commercial and registered charity car boot organisers/ operators issued with a licence will be required to complete a pro-forma indicating the number of trading positions let. The pro-forma that will be sent to applicants with a licence must be returned to the Markets Manager (see 9.1 above) within 14 days of the event being held.
- 12.2 In respect of non-commercial and registered car boot organisers/ operators this pro-forma will be used to calculate the balance of the licence fee due. Any such balance must accompany the proforma.
- 12.3 Any charity not completing a pro-forma as required will not be granted any further licences until compliance.

13. GENERAL

- 13.1 All payment of licence fees paid by cheque must be crossed and made payable to Leicester City Council.
- 13.2 Periodic visits will be made to licensed markets by an officer of the City Council to ensure compliance with the licensing conditions. The standard conditions attached to any licence will include a right of access for authorised Council Officers. Any non-compliance with the conditions, including attempts to avert payment of the full licence fee, will result in future applications being refused.
- 13.3 The Council has adopted Section 37 of the Local Government (miscellaneous provisions) Act 1982. This requires that the Council be given at least one months notice of any intention to operate or hold a temporary market. Full details of these requirements including the definition of a temporary market are available from the Markets Manager. The requirements of Section 37 are separate and distinct from the application for a licence from the Council under this policy and must be complied with in each case.
- 13.4 It is the responsibility of the organiser and operator to ensure that the market does not become a nuisance to residents or neighbouring businesses, and are operated in an appropriate manner, including compliance with relevant legislation for public events and with Environmental Health and Trading Standards requirements.

- 13.5 Applications will be treated on an individual basis, however additional conditions may be applied to an organiser, operator or venue dependant upon circumstances. Such conditions will also be a condition of the licence being granted.
- 13.6 The Council may from time to time need to consult with external organisations / groups such as Police, Highways Dept, Trading Standards, Emergency Services and residential parties.
- 13.7 The Council reserves the right to take formal legal action against any person(s) or company who attempts to operate an unlicensed rival market.