

APPENDIX C

SLOUGH BOROUGH COUNCIL MARKETS POLICY

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Related Documents	
Document Title	Location
Food Act 1984	Statute
Local Government (Miscellaneous provisions) Act 1982	Statute

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1. INTRODUCTION

The Council recognises the importance of markets in the local economy and their contribution to the character of the area. Markets serve an important function to the community and contribute in a number of ways to the local communities they serve.

Markets contribute to economic growth and regeneration by; creating jobs, promoting local produce and attracting tourists.

The Council's markets are described in more detail in Section 2 of this policy and they represent an important investment by the Council in delivering economic growth and regeneration creating jobs, promoting local produce, attracting tourists and Town Centre vitality.

The Council is keen to maintain regular markets in the Town Centre. This markets policy sets out the basis upon which markets are held and the process by which applications for new markets will be considered.

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

In producing this policy the Council has taken the opportunity of consulting publicly and with the following organisations: NABMA (The National Association of British Market Authorities), the NMTF (National Market Traders Association) and other UK Local Authority Market Operators. In addition, the Council has consulted internally with Cabinet Members, Ward members for Central ward and the relevant Council Service areas responsible for licensing, economic regeneration, and town centres operations.

The policy will be kept under review.

2. MARKETS

Council operates markets principally in the High Street. However, the Council can also run any number of ad-hoc markets at locations across the Borough and establish new markets if it chooses to do so.

3. LEGISLATIVE POWERS HELD BY THE COUNCIL

The Council has adopted the provisions Sections 50 to 61 of Part III of the Food Act 1984, to hold markets within its area and the right to licence and control the frequency of markets within its borough. In addition the Council has adopted Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982 that requires any person intending to hold a temporary market to notify the Council in advance, so that if appropriate the Council can take steps to remove the permitted development rights to hold such a market and require the operator to apply for planning permission to do so.

This right has been exercisable for many years and this policy takes into account relevant UK and European legislation.

4. WHAT IS A MARKET EVENT?

The Council's markets policy is intended to cover, principally markets in the High Street and where necessary all market events held within the borough. 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 temporary 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, continental style markets and charity markets.
- 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.

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

This markets policy does not cover street trading activities. This activity is regulated by the Council's Licensing Team under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

5. MARKET OPERATOR

A Market Operator is defined as person, body or organisation to whom a market licence is granted by the Council.

6. LICENSING OF MARKETS UNDER THE COUNCIL'S MARKETS POLICY

The Council's consent to a market event must be given before the market takes place. Markets will only be licensed once an application for a markets licence has been approved. Any market that takes place without such a licence is in breach of the Council's markets policy and will be subject to enforcement action as described in Section 12.

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

- i) Commercial markets including continental style markets
- ii) Markets with a strong charitable/community element

The criteria set out in Section 4 will be relevant in respect of both categories of market event.

i) Commercial markets

A commercial market is one which is operated for profit and where the traders are engaged in

a business activity of selling goods for their own purposes.

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

- a) No market will be authorised to take place within the Borough unless it can be demonstrated that the new market will not undermine the existing markets and not prejudice the overall market offer.
- b) In respect of any consent 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, including the Market Licensing Standard Terms and Conditions.
- c) A fee will be charged for any application to the Council, The fee will be based on the size and number of traders engaged in the market event. Please refer to Section 9 in respect of fees.
- d) The goods to be sold on the market will be approved by the Council.
- 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.
- f) All authorised markets will be subject to the Slough Borough Council Market Licensing Standard Terms and Conditions.
- g) The Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

ii) **Markets With A Strong Charitable/Community Element**

Some 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 will consider applications in respect of such market events having regard to the following requirements:

- a) The markets must be operated on a non-profit making basis to assist a charity/community, and the operator shall supply relevant information to the Council evidencing the same 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) In respect of any consent 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) 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.
- d) All authorised markets will be subject to the Slough Borough Council Market Licensing Standard Terms and Conditions.

- e) The Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.
- f) The operator must hold adequate proof that the charity they represent is registered with the Charity Commission, and also provide written permission from the charity organisation to raise funds on their behalf.

7. HOW TO APPLY

The application form to hold a market in respect of both, commercial markets and charity/community-based markets can be requested from the Markets Manager at:

The Events and Commercial Manager
 2nd Floor West
 St Martins Place
 Bath Road
 Slough
 SL1 3UF

Or via the Councils website at: <http://www.slough.gov.uk>

The application process will consider such matters as (but not limited to):

- Has an adequate Event Management Plan been completed with the inclusion of any relevant Risk Assessments?
- Has the operator held other events within the borough, if so how many and at what frequency?
- Has proof of any insurances/licences been provided? Including adequate Public and Employers Liability cover?
- Where applicable and if not in the High Street, has permission been granted by the venue/land owner?

The Council will aim to deal with applications for a markets licence within a period of twenty eight days from receipt of all the necessary and required information.

Please note the separate requirement for notice under s37 Local Government (Miscellaneous Provisions) Act 1982; at paragraph 11 below. An operator of a market event is therefore urged to return the application as early as possible 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, the Market Licensing Standard terms and conditions and also covered on the application form. Failure to provide such information is likely to lead to a delay in the Council coming to a decision.

If the Council refuses an application it will set out the reasons for its decision. If the applicant wishes to appeal the decision then any appeal must be submitted within fourteen days of the Council's written decision, refer to section 8 in respect of the appeals procedure.

8. APPEALS PROCEDURE

An applicant can appeal in writing against refusal, with supporting reasons, to the Communications Manager. If the appeal is not resolved at this stage, the applicant will be referred to the Council's Corporate Complaints Procedure.

9. FEES

A reasonable administrative fee will be charged for applications. The fee takes into consideration the time and cost to the Council of considering the application. The Fee Scale can be obtained upon request at:

The Events and Commercial Manager
2nd Floor West
St Martins Place
Bath Road
Slough
SL1 3UF

Or via the Councils website at: ???

10. OTHER APPROVALS

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. 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.

Planning permission might also be required and any market operator should consult with the Council's Planning Department to ascertain whether any planning considerations are relevant.

Attention is also drawn to the provisions of the Licensing Act 2003, specifically where the sales of alcohol are to take place the stall/unit must have obtained either a Premises Licence or Temporary Event Notice for the period of the sale of alcohol.

During the hours that alcohol sales are permitted, a holder of a Personal Licence within the meaning of section 3 of the Licensing Act 2003 must be present at the point of sale.

A market licence does not constitute approval under any other statutory regime or remove the need for planning permission for the event.

11. SECTION 37 OF PART XII OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Slough Borough Council has approved the adoption of Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982.

Section 37 of the 1982 Act deals with temporary markets and any operator of a temporary market, (together with where applicable the occupier of land on which the market is to be held), is required to give to the Council not less than one month's notice of the holding of the market.

Any notice given by the operator and the occupier of the land shall state:

- i) The full name and address of the person intending to hold the market.
- ii) The day or days on which it is proposed that the market will be held and its proposed opening and closing times.
- iii) The site on which it is proposed that the market will be held.
- iv) The full name and address of the occupier of the land if he is not the person intending to hold the market. A market licence application will also need to be completed.

It is important to emphasise that the requirements of Section 37 of the 1982 Act are quite separate to the licensing of events under the Council's Markets Policy set out in Section 5. The operator and the occupier of the land should ensure that a notice is given to the Council under the requirements of Section 37 as soon as proposals for a temporary market are under consideration. This will enable the Council to give preliminary consideration to a proposal and indicate its likely view on a subsequent application for a markets licence.

Failure to give a notice under Section 37 is a criminal offence and attracts liability on conviction to a fine in the Magistrates' Court

12. ENFORCEMENT

The Council will monitor the application of its markets policy and any market event which is established will be subject to the Council's requirements.

No events or activities promoting a particular religion or political party are to take place in the High Street, Slough Town Square, Mackenzie Square or any of the council's parks or open spaces.

Any market which is not approved by the Council under Section 5 of its markets policy will be asked to close immediately and to apply for a market licence. Failure to do so will result in any future application being refused.

In addition, any market operator acting in contravention of any market license granted by the Council will run the risk of the license 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 licenses submitted by the operator concerned, or any persons or organisation associated with the operator.

13. PARTNERSHIPS

Slough Borough Council works with partners to extend its offer of specialist markets and events. Partnership operators will have to demonstrate a sound knowledge in their chosen field, and be able to source and organise an exciting and varied array of traders. Examples of specialist market/events could include:

- Cultural
- Records / Vinyl / Music
- Art and Design
- Antiques
- Craft
- Horticultural
- Fashion