

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Council **DATE:** 27<sup>th</sup> September 2018

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**WARD(S):** All

### **PART I** **FOR DECISION**

#### **RECOMMENDATION OF THE LICENSING COMMITTEE FROM ITS MEETING HELD ON 10<sup>TH</sup> SEPTEMBER 2018**

#### **ADOPTION OF THE PROVISIONS OF SECTIONS 50 TO 61 OF PART III OF THE FOOD ACT 1984 AND SECTION 37 OF PART XII OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

##### **1. Purpose of Report**

To consider a recommendation from the Licensing Committee from its meeting held on 10<sup>th</sup> September 2018 for the Council to formally adopt the relevant legislation pertaining to establishing and licensing markets (including temporary markets), and to note and comment on the draft Market Licensing Standard Terms and Conditions and Draft Market Policy.

##### **2. Recommendation(s)/Proposed Action**

The Council is requested to resolve;

- (a) That the provisions of Sections 50 to 61 of Part III of the Food Act 1984 and Section 37 of part XII of the Local Government (Miscellaneous Provisions) Act 1982 be adopted.
- (b) That the draft Market Licensing Standard Terms and Conditions be approved.
- (c) That the draft Markets Policy be approved.

##### **3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The Council recognises the importance of markets in the local economy and their contribution to the character of the area. Markets contribute to economic growth and regeneration by; creating jobs, promoting local produce, attracting tourists and adding vitality to the Town Centre.

The report details that the Council does not currently have any provisions in place to establish, regulate, control or licence markets in Slough.

Street trading is governed by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 which has been adopted by the Council and Specifically states that 'anything done in a market or fair' is not classed as street trading.

In order for the Council to establish markets and licence and regulate markets within the Borough it must first adopt the relevant legislation which is contained in Sections 50 to 61 of Part III of the Food Act 1984 which affords the power to establish and the right to licence and control the frequency of markets in the local authority area, together with Section 37 of the Local Government (Miscellaneous Provisions) Act 1982 which provides for a person wanting to hold a 'temporary market' to give the local authority one months notice of his/her intention to do so, (unless the proceeds of the temporary market are applied solely or principally for charitable, sporting, social or political purposes, in which case not notice is required).

3a. **Slough Joint Wellbeing Strategy Priorities**

The adoption of the legislation allowing the Council to licence markets will contribute to the SJWS priorities of:

Priority:

1. Protecting vulnerable children
2. Increasing life expectancy by focusing on inequalities
3. Improving mental health and wellbeing

3b. **Five Year Plan Outcomes**

The proposals will contribute to the Five Year Plan with the specific outcomes of:

1. Slough will be an attractive place where people choose to live, work and stay.
2. Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

The proposals will also contribute to the recommendations within the Town Centre Strategy.

4. **Other Implications**

(a) Financial

There are no financial implications of proposed action.

(b) Risk Management

Recommendation from section 2 above	Risks/Threats/ Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
a. Resolve to adopt the provisions of Sections 50 to 61 of Part III of the Food Act 1984 and Section 37 of	The ability to licence, regulate and control markets in the High Street and other areas of the Borough	None	3	Approval of a Markets Policy following consultation.

<p>the Local Government (Miscellaneous Provisions) Act 1982</p> <p>b. Adoption of the provisions of Sections 50 to 61 of Part III of the Food Act 1984 and Section 37 of the Local Government (Miscellaneous Provisions) Act 1982</p> <p>c. Comment on the draft Market Licensing Standard Terms and Conditions</p> <p>d. Make any amendments to and approve the Market Licensing Standard Terms and Conditions</p> <p>e. Approve the draft Markets Policy following public consultation</p>				
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(c) Human Rights Act and Other Legal Implications

1. Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equality Impact Assessment has been completed which highlights that there are no adverse or negative impacts of opportunity for any equality group or for any other reason.

(e) Workforce

None.

**5. Supporting Information**

- 5.1 The Council recognises the importance of markets in the local economy and their contribution to the character of the area. Markets contribute to economic growth, and regeneration by; creating jobs, promoting local produce, attracting tourists and adding vitality to the Town Centre.
- 5.2 The Council does not currently have any provisions in place to establish, regulate, control or licence markets in Slough.
- 5.3 The definition of a temporary market in the 1982 Act is – ‘*A concourse of buyers and sellers and will comprise of not less than five stalls, stands, vehicles, (whether movable or not) or pitches from which articles are sold*’.
- 5.4 Street trading is governed by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982 which has been adopted by the Council and specifically states that ‘anything done in a market or fair’ is not classed as street trading.
- 5.5 In order for the Council to establish and hold markets within its area and the right to licence and control the frequency markets, it must first adopt the relevant legislation which is, the provisions of Sections 50 to 61 of Part III of the Food Act 1984. A copy of this legislation is attached at **Appendix A**.
- 5.6 With regards to ‘Temporary Markets’ the Council needs to adopt Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982 which requires any person intending to hold a temporary market to notify the Council in advance by giving it one months notice of its intention to do so, (unless the proceeds of the temporary market are applied solely or principally for charitable, sporting, social or political purposes, in which case notice is not required). A copy of this legislation is attached at **Appendix B**.
- 5.7 Section 37 of the 1982 Act also states that once the Council has resolved to adopt these provisions, within 14 days of the passing of the resolution which is publicly circulated by advertising in a local newspaper in their area, those provisions shall come into force in their district on the day specified in the resolution.
- 5.8 It is best practice that information is available to those affected to understand the requirements of the Council licensing markets. Therefore a draft ‘Markets Policy’ has been developed in conjunction with the Council’s Communications Team who will be responsible to this licensing regime. The ‘Markets Policy’ is attached at **Appendix C**.
- 5.9 The Committee are asked to approve the draft ‘Markets Policy’ which was subject to a public consultation between 30<sup>th</sup> July 2018 and 20<sup>th</sup> August 2018. Others consulted on the draft Markets policy were all members of Cabinet, ward members for Central Ward, the NABMA (The National Association of British Market Authorities), the NMTF (National Market Traders Association) and other UK Local Authority Market Operators. In addition, relevant Council Service areas responsible for licensing, economic regeneration, and town centres operations were also consulted.

5.10 Responses to the consultation have been very limited and only minor amendments have been made to the draft policy document which are shaded in grey.

5.11 The responsibility of the Council is to ensure that those individuals to whom permission to trade is granted are conducting their business in a proper and safe manner. In doing so, it is necessary for the Council to specify terms and conditions that must be complied with. These conditions reflect the need to protect the public and for the avoidance of nuisance. Again, in conjunction with the Communications Team, 'Market Licensing Standard Terms and Conditions' have been developed which are attached at **Appendix D**.

5.12 These terms and conditions are similar to those already in place for street trading and as approved by the Licensing Committee following consultation in 2016 and will therefore ensure a consistency for compliance in both licensing regimes. The Committee is asked to formally approve and adopt these terms and conditions.

## **6. Comments of Other Committees**

This report was considered by the Licensing Committee on 10<sup>th</sup> September 2018 and it was agreed to recommend adoption of the relevant legislation and approval of the policy and terms and conditions to Council.

## **7. Conclusion**

That the Council approve:

- a. The adoption of the provisions of Sections 50 to 61 of Part III of the Food Act 1984 and Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982 to Full Council
- b. The draft Market Licensing Standard Terms and Conditions.
- c. The draft Markets Policy.

## **8. Appendices Attached**

'A' - Copy of provisions of Sections 50 to 61 of Part III of the Food Act 1984

'B' - Copy of Section 37 of Part XII of the Local Government (Miscellaneous Provisions) Act 1982

'C' - Copy of Markets Policy

'D' - Copy of Market Licensing Standard Terms and Conditions.

## **9. Background Papers**

None.