

Appendix 1

Shropshire Council

Market Rights Policy, Market Drayton

22 August 2014

Purpose of Market Policy

The purpose of this policy is to safeguard the quality of the markets and their on-going commercial viability and value. Shropshire Council (“the Council”) and its predecessor bodies have a long history of operating the markets in Market Drayton and consider them to be a vital part of the social and economic fabric of the town.

This Market Policy sets out the Council’s powers to manage and license markets within Market Drayton and its intention to license (“Market License”) all markets in the future through an application process. Markets held solely for charitable purposes will be exempt from any charges associated with it but will still require a license. For the purposes of this policy markets where only the pitch charges are donated to charity or a donation is made to charity will be considered as commercial markets.

The Council reserves its right to set up additional markets within the Market Drayton area at any time. Applications received from alternative market operators to run temporary markets within the Market Drayton area will be considered in light of the impact that such markets may have on the Council’s existing or planned future markets.

Background & Introduction

The Council enjoys the benefit of the right to operate, license and if necessary protect through legal action its markets from disturbance by rival markets set up within a 6 and 2/3 mile radius of Market Drayton (regardless of whether this is within Shropshire or not).

The right to hold markets in the town of Market Drayton were originally granted by Royal Charter from Henry III in 1247. The Council’s market rights were acquired by Deed from the successors in title to the Lords of the Manor to whom the original charter was granted. The charter allowed markets to be held in the town on a Wednesday in each week.

In order to strengthen the Council’s historic market rights the Council has adopted Part III of the Food Act 1984. Amongst other things this enables the Council to decide for itself the days and places of the markets and prevents the Council from being limited by the terms of the Charter as to when markets may be held.

Currently the commercial markets operated in and around Market Drayton under the control or with the consent of the Council comprise:

1. A street market (held in Cheshire Street and the High Street) held on Wednesdays and Saturdays.
2. An indoor market which is held in the Council owned market hall situated off Frogmore Road car park on Wednesdays and Saturdays.
3. A livestock market which is operated from the Agricultural Centre off Adderley Road.

To assist the Council in the protection of its market rights it has also adopted Section 37 of the Local Government (Miscellaneous Provisions) Act 1982. The adoption of Section 37 enables the Council to require that anyone intending to hold a temporary market (within a radius of 6 and 2/3rds of a mile), including car boot sales, should provide the Council with at least 28 days advance notice. Anyone intending to operate or permit a temporary market who fails to provide such notice will be guilty of an offence and may be liable to prosecution.

Further to this Policy, any temporary market that takes place within a radius of 6 and 2/3rds of a mile of Market Drayton will require a Market License from the Council. This Market License will be required irrespective of:

- i) the intended location of the proposed temporary market;
- ii) any permission granted by the owner of the land of the proposed temporary market site;

Any temporary market that takes place without such a Market License will be in breach of the law and may be subject to legal action.

Definition of a market within this policy

A temporary market is defined as a “concourse of buyers and selectors numbering five or more stalls, stands, vehicles or pitches”. Therefore if an event has less than five traders it will not be considered to be a market and will fall outside of this Policy.

This Policy is concerned with the licensing, setting up and operation of all temporary markets, including commercial markets, e.g. farmers’ markets, continental markets, seasonal markets and car boot or table top sales, and charitable markets, e.g. for social, sporting or political purposes and including church or school events, Christmas fayres, jumble sales, etc.

Licensing application, charging and other considerations

Details of the application process can be obtained from:

Shropshire Council
Community Engagement Team
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND
01743 253077
communityenablement@shropshire.gov.uk

Applications should be returned to this address.

The following information should be included within the application:

- The full name, address and contact details of the person intending to organise and to be responsible for the market
- The days on which it is proposed that the market shall be held and its proposed opening and closing times
- The site on which it is proposed to hold the market
- The full name and address of the owner of the site if they are not the person intending to hold the market
- Details of the nature of the market, whether commercial or charitable, the types of goods to be offered the number of stall, its layout, etc.
- Declaration of compliance with all statutory requirements and considerations including Health and Safety, Food Safety, Trading Standards and Planning. The applicant may be requested to provide a copy of their Risk Assessment
- Confirmation of adequate insurance in place or intention to obtain this prior to holding the market as detailed below

Regardless of the nature and type of the market (commercial or charitable) organisers shall make the necessary provisions to ensure compliance with all statutory requirements including planning consents. Organisers are also responsible for gaining the landowners permission.

Each application will be judged on its merit broadly having due regard to the balance of markets within Market Drayton, their commercial viability and their quality. Criteria by which market applications shall be evaluated will include:

- Nature and quality of detailed proposal, commercial or charitable intentions
- Any impact of the proposed market to established markets managed or licenced by the Council
- Evidence of insurance (or intention to obtain subject to the license being issued)
- Plans for the disposal of refuse and for leaving the site in a clean, tidy and undamaged condition

Applications should be received at least 28 calendar days before the proposed event. Any applications received within this period will not be considered.

In the event that a Market License is granted to an applicant to hold a market, the Council shall not be held liable for any damage or personal injury relating to or arising from the market howsoever caused and the applicant will be required to indemnify the Council against all claims, demands, costs, expenses, damages, etc. (whenever and however made) and will be required to produce evidence of a minimum of £5 million public and product liability insurance and where appropriate, employers liability and professional indemnity insurance.

The responsibility for making a decision on applications is delegated to the Area Commissioner (or other senior officer as advised) and a Local Elected Member, who will respond within 10 working days of a valid application being received. If the application is successful, the applicant will be advised of the charges (charges will only apply to commercial markets) and a market rights license will be issued. The Market License will detail the standards to be followed and responsibilities for both the operator and the Council.

The Council does not wish to subsidise the licensing of markets and will seek to recover its costs through the application of charges (for commercial markets). Charges will be kept under review by the Council and will be available from the address above.

Applicants should also note that in the event of the market operator wishing to use Shropshire Council owned premises or land they may be required to pay a separate site fee.

Permission for a temporary market is not given until a Market License has been issued by the Council (and the license fee paid if appropriate).

Monitoring, Non-Compliance and Enforcement

Markets and their operation may be monitored by the Council to ensure compliance with this Policy and the terms of any license issued.

If applicants/market operators do not comply with this Policy and the terms of their license the Council reserves the right to take action to resolve the issue including legal action if necessary. Actions may result in the Council's withdrawal of a license and the recovery of any costs (including legal costs) associated with defending its market rights and taking enforcement action against the applicant/market operator.

Comments, compliments and complaints

If a person wishes to appeal against a decision to allow or refuse an application with respect to a temporary market then such appeal may be submitted to the local Shropshire Council Members for Market Drayton and to the appropriate Shropshire Council Cabinet Portfolio Holder via the address referred to above.

The Council will deal with comments, compliments or complaints using its existing policy. If you wish to make a comment, compliment or complaint about any Market Rights Licensing matter please write or email providing us with your contact details and as much information as you can.

For further details of Shropshire Council's market policy and the application process visit:
www.shropshire.gov.uk
or contact the Community Enablement Team