

## MANAGEMENT OF EPSOM MARKET

<b>Head of Service:</b>	Ian Dyer, Head of Operational Services
<b>Wards affected:</b>	Town Ward
<b>Urgent Decision?(yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	
<b>Appendices (attached):</b>	Annex 1: Report to Environment Committee 16 October 2013 Annex 2: Standard Licence Conditions

### Summary

This report seeks agreement for the day to day operation of the Market Place to be managed under one set of regulations using part III of The Food Act 1984

To promote the use of this newly developed Market Place on more days of the week exploring opportunities for increased revenues and funding streams to increase the markets pull to visitors and destination shoppers increasing the footfall to our Town.

### Recommendation (s)

**The Committee is asked to:**

- (1) delegate to the Head of Operational Services in consultation with the Chairman of Environment & Safe Communities Committee, the power to establish and manage Epsom Market for up to 7 days per week;**
- (2) delegate to the Head of Operational Services the power to determine appeals from stallholders as provided for by the Licence Conditions;**
- (3) delegate to the Chief Operating Officer and the Chief Legal Officer the power to determine appeals from operators of other markets or car boot sales within the borough of Epsom & Ewell where refusal is due to the type or quality of the event.**

### 1 Reason for Recommendation

- 1.1 The Market Place forms a central point of the wider Plan E programme and contributes directly to the themes in the new Vision for Epsom, and Ewell and the Council's new Four Year Plan.

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- 1.2 Green and Vibrant- providing trees, drinking fountain, recycling bins and LED lighting
- 1.3 Economy and Prosperity- promoting to local businesses more trading opportunities in the marketplace and providing a good basis for attracting business investment at a time of increasing competition and changing retail behaviour
- 1.4 Cultural and Creative- promoting cultural and Civic events that encourages shoppers and visitors' footfall into our Town centre.
- 1.5 Smart and Connected- providing cycle stands, signage and a unified approach to the management and promotion of the Market Place to support higher levels of use. Effective Council- the use of the Food Act to operate the Market opens the opportunity to use the new market place to its full potential. The actions within this report would enable the Borough Council to more effectively manage the success of the Market Place, to deliver within one framework under which it would operate, using the new area to the full potential of what the new market place has to offer.
- 1.6 Smart and connected – providing cycle stands, signage and a unified approach to the management and promotion of the Market Place to support higher levels of use. Effective Council- the use of the Food Act to operate the Market opens the opportunity to use the new market place to its full potential. The actions within this report would enable the Borough Council to more effectively manage the success of the Market Place, to deliver within one framework under which it would operate, using the new area to the full potential of what the new market place has to offer.
- 1.7 Safe and Well – Having a well-managed and attractive town centre and Market Place environment will enable everyone to enjoy what is on offer.

## **2 Background**

- 2.1 Epsom's market is an important part of the Borough's cultural, social and economic fabric. We want to ensure that this asset is developed to its full potential, benefitting from the most current and sustainable retail trends.
- 2.2 We recognise the role that Epsom Market plays in developing the vitality and viability of our local economy and the need to make sure that its daily activities benefit our local communities.
- 2.3 By actively supporting the development and growth of our market we will help to contribute to the local economy and its wider benefits to our communities by establishing a variety of partnerships. The council is keen to work with the community to develop its market place to ensure that it fulfils its full potential

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- 2.4 Therefore, this needs to be considered within a broad context of partnership working and co-design with key stakeholders to ensure that the future of the market is sustainable both as a community and as a commercial asset.
- 2.5 Nationally there was a decline of street markets that came about due to the growth of supermarkets. Supermarkets provide parking, shelter and a vast choice of product, allowing consumers to buy everything in one place. Mass production and shipping from overseas also brought down prices and a diverse range of food that is affordable to all. However, research reveals that people are now ready to go back to shopping in street markets for a number of factors, but the main driver is their desire to buy fresh, healthy fruit and vegetables at reasonable prices. People want to buy 'in season' loose produce, thus reducing waste and helping to become a more sustainable society.
- 2.6 Epsom Market operates two days a week (Thursday and Saturday) from 6 am to 7pm, with around 45 designated pitches.
- 2.7 On Mondays, Tuesdays, Wednesdays and Fridays the Market Place is operated under a Street Trader's Licence.
- 2.8 The Council can utilise Part III of the Food Act 1984 to establish a market for up to seven days a week. One benefit would be that this would ensure that traders would be subject to one set of regulations rather than the present regime of Street Traders' Licences and Market Stall Holders' Licences. The proposed new licence agreement will supersede all previous licences to ensure consistency on all trading days.
- 2.9 Other cultural events on the Market Place will be managed under the Premises Licence. The focus of the market is hot food traders, meat, fruit and vegetables, eggs, cheese, bread, cakes, clothes and general household goods, and the adjacent cafés for tables and chairs offering an extension to the premises and for people to enjoy the space given by the Market Place.
- 2.10 There is a Farmers' Market held on the first Sunday of each Month that has been operational for many years and in October 2019, the new Market Place attracted its first Vegan Market. The operator of this market has requested to trade on the 4th Sunday of each month. Both markets are managed by private operators and pay the council a daily hire charge for the use of the area and electricity supply.
- 2.11 On Monday, Tuesday, Wednesday and Friday the market is managed by the use of Street Traders licences. These are used by the Cafes whose shops are adjacent to the market, mobile food stalls and other traders that hire an area by the size of the space that they require.

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- 2.12 The Market Place is also used for occasional one-off events when not in use by regular Licensees. A Premises Licence is in place for these occasions, this licence covers evening events and activities.
- 2.13 Markets around the country are operated under either Royal Charter or by way of Lost Modern Grant, Prescription or custom and practice, or Street Traders Licensing with some of these market powers going back fifteen hundred years.
- 2.14 Epsom Market has organically developed over the years and is currently operating under a number of regulations. As we move forward with the new Market Place and plan to increase use of the facility, it is felt important to both simplify and consolidate the way we operate the Market Place. This will bring both consistency of operation and extend the opportunities for functions and events within the area.
- 2.15 Consistent daily management of the market under one set of regulations would clarify the administration needed to run the market. This in turn would reduce the amount of licences needed and give clarity to the users of the marketplace of the rules and license agreement they are operating under.

### **3 Proposals**

- 3.1 To utilise the provisions under Part III Food Act 1984, to operate and manage Markets.
- 3.2 The benefits of using the Food Act are the specific powers given to establish a market that enables a local authority or other operator licensed by the local authority, to determine its own letting arrangements, which can be varied depending on local circumstances. This enables the Council to fix its own charges and these can be determined depending on a range of different circumstances. The local authority is entitled to charge a commercial rate if appropriate. It also contains a series of provisions enabling the local authority to fix the dates of the market, the hours when the market will operate, and enables byelaws and regulations to be made.
- 3.3 It is necessary to have regard to the provisions of Section 50(2):-  
  
' Market shall not be established in pursuance of Section 50 so as to interfere with any rights, powers or privileges enjoyed within (the authority's area) in respect of any market by any person, without that person's consent.'

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This section gives the market authority the right to control the type and quality of other markets and car boot sales within the borough of Epsom & Ewell. Refusal can be on the ground that the event is not of a type or quality that the Council deems suitable. Refused applicants have the right to appeal the decision within 21 days of the decision. It is recommended that appeals be determined by the Chief Operating Officer and the Chief Legal Officer

- 3.4 The proposal is that the Market Place operates as a Market for up to seven days a week. This will allow the present events to operate under one set of regulations and opens the opportunity to develop the offering to support a range and variety of businesses who may wish to operate and hire the facility.
- 3.5 In order to manage the new market, a new set of licence conditions, as set out in Annex 2, will be imposed.
- 3.6 Stallholders will need the ability to appeal against decisions taken in respect of their conduct as set-out in licence conditions. In order for this to occur a delegation to enable the Head of Operational Services to determine any such appeals has been sought.
- 3.7 There is a need to review the Premises Licence (which covers all licensable activities as defined by the Licensing Act) due to the increase in Sunday market activity. Both the Farmers and Vegan markets sell alcohol which requires the application of a Temporary events licence (TENS). Only 15 TENS can be issued in one year.
- 3.8 To combat this shortfall and to cover the activities on the new Market Place there is a need to apply for a full Premises Licence. This will allow the retail sale of alcohol on the Market Place without a limit on the number of events.
- 3.9 To encourage more entrepreneurship, independence and innovation to new start-ups, we will:
  - 3.9.1 offer new enterprises a free trading space of 3 x 3 metres for up to six weeks on Monday, Tuesday, Wednesday and Friday. Public liability insurance will be the responsibility of stall holders;
  - 3.9.2 offer a 50% discount on the established Thursday and Saturday Market day fees for the same six week period. This would be subject to availability and not being in competition with regular traders paying full market rent.
  - 3.9.3 purchase and offer the hire of equipment to new traders between 8:30hrs to 16:00 hrs, Monday – Saturday. The hire charge for of a pop-up gazebo with weights 3 x 3 meters would be £15 per day.

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3.10 We will also be seeking:

3.10.1 to target specialist markets with the intention to fill the remaining two Sundays of the month to complement the monthly farmers and vegan markets that already operate there.

3.10.2 to explore opportunities for increased revenues and funding streams

3.10.3 to investigate events and activities that will draw footfall to the Market place.

## 4 Risk Assessment

Legal or other duties

4.1 Impact Assessment

4.1.1 A change in the way we operate the Market is needed to ensure that the Market Place is strong and continues to grow staying financially viable. This will be achieved by changing the status of how it presently operates. Using the authority given within The Food Act to manage markets as a local authority, will give the right to set our fees and charges and regulate other markets within 6.66 miles of its location.

4.2 Crime & Disorder

4.2.1 None

4.3 Safeguarding

4.3.1 None

4.4 Dependencies - None

## 5 Financial Implications

5.1 The use of the Food Act and a full Premises Licence will allow the opportunity to increase the use of the resource of the new Market Place. Existing market traders will not be negatively impacted by these changes and therefore existing income receipts are not expected to reduce.

5.2 At the same time it will provide the opportunity to recover the income needed to cover the costs involved in managing a market place and related events, and as appropriate, reinvest in the maintenance of the infrastructure.

5.3 The purchase of gazebo and weights as referenced in paragraph 3.10.3 will be funded using the Market renewals fund of £14,531.

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- 5.4 As the market develops, any additional resource required to manage the increase in management will be considered through the annual budget setting process.
- 5.5 **Section 151 Officer's comments:** The financial implications are detailed within the body of the report.

### 6 Legal Implications

- 6.1 Part III of the Food Act 1984 allows Councils to establish a market. New licence conditions will be required in order to ensure that the new market is administered in a smooth and efficient manner.
- 6.2 The new licence conditions are set out at Annex 2. There is a system of penalty points envisaged and ultimately licence holders may have their licences taken away. In general governance terms it is only fair that there should be an appeal against this decision. The appeal system will be that the licence holder will have 21 days to appeal the decision. This will be in writing and the Head of Operational Services will consider these and then make his decision. There will be no appeal from the Head of Operational Services' decision. The Head of Operational Services will have a discretion to allow the trader to trade during the appeal period.
- 6.3 The Food Act empowers a Market Authority to stop alternate markets and similar events such as boot fairs from occurring within the borough. Again, it is good governance to allow for an appeal process should such an application be refused by the Head of Operational Services. It is recommended that these appeals be delegated to the Chief Operating Officer and Chief Legal Officer to determine. Again, a 21 day period will be allowed for the applicant to submit their written reasons why their event should be allowed to proceed.
- 6.4 **Monitoring Officer's comments:** None arising from the content of this report.

### 7 Policies, Plans & Partnerships

**Council's Key Priorities:** The following Key Priorities are engaged: Supporting our Community, Supporting Businesses and our Local Community, Managing our Resources

- 7.1 **Service Plans:** The matter is not included within the current Service Delivery Plan.
- 7.2 **Climate & Environmental Impact of recommendations:** The use of a Market Licence helps to control the use of energy, reduce waste, and encourage traders to offer healthy and high quality food.
- 7.3 **Sustainability Policy & Community Safety Implications:** The introduction of further markets would be another step towards futureproofing the footfall of the market and the town.

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- 7.4 **Partnerships:** We will work with the Epsom Business Improvement District (BID) and other stakeholders who would benefit from the use of the Market Place

### 8 Background papers

- 8.1 The documents referred to in compiling this report are as follows:

**Previous reports:**

- Report to Environment Committee 16 October 2013 (Annex 1)

**Other papers:**

- Standard Licence Conditions (Annex 2)