

**13 January 2015**

**Licensing Committee**

**Markets, Including Specialist and Christmas Markets**

**Report of:** *Ashley Culverwell – Head of Borough Health Safety and Localism*

**Wards Affected:** *All*

**This report is :** *Public*

**1. Executive Summary**

- 1.1 This report is to seek Member approval to approach the various Parish Councils with a view to gauging whether there is an interest or a desire to have a Market in their parish area.

**2. Recommendation**

**2.1 Members are requested to authorise officers to:**

- i) **write to all parish Councils to seek expressions of interest in having a general Market and/or a specialist or Christmas Market in their relevant parish areas; and**
- ii) **to report back to a future meeting of the Licensing Committee with details of responses received and any relevant requirements for adoption of areas as ‘licence’ or ‘consent’ streets.**

**3. Introduction and Background**

- 3.1 Street trading (including markets and market stalls) is governed under provision of the Local Government (Miscellaneous Provisions) Act 1982 (the Act).
- 3.2 Section 2 (1) of the Act provides that a district council may by resolution designate any street in their district as either a prohibited street, a consent street or a licensed street. Designation as either a licensed or a consent street would be necessary in order to undertake any licensing of stalls or markets.

- 3.3 Where any street is owned by a relevant corporation and/or is maintained by the highways authority, their consent will be required prior to the passing of any resolution.
- 3.4 It is also necessary prior to the passing of a resolution to notify the Chief Officer of Police and to advertise the intention in a local newspaper.
- 3.5 The High Street in Brentwood was designated as a 'licence' street in August 2011. Since that time it has operated a successful weekly market, which has recently expanded from Saturday trading only to Friday and Saturday.
- 3.6 There are a number of smaller Towns and villages within the Borough and following the success of the Brentwood High Street market and given the unique character of some of these areas, there may be a desire amongst some of the various parishes to hold either a regular or a series of 'one off' specialist markets.

#### **4. Issues Options and Analysis of Options**

- 4.1 There is a set legal process required as highlighted in paragraphs 3.2 to 3.4 (above), however, it is advisable in the first instance to gauge any interest among the parishes and to identify the specific areas that could potentially be affected.
- 4.2 Any market that arose eventually from any process would be under the ownership and/or control of the individual parish, the organisation for which would remain their responsibility. However, the licensing process would be undertaken by the licensing authority in the same way as it is currently conducted for the High street Market.
- 4.3 The current Street Trading and Market Policy would be updated to include any additional areas or information as relevant having assessed any responses received relating to this proposal.

#### **5. Reason for Recommendations**

- 5.1 The appropriate licensing of any Market, particularly if it is a regularly run market, is essential on the basis that in so licensing the activity there will be a requirement to conform to the Street Trading and Market Policy and to comply with any conditions as may be attached to individual licences. This safeguards the public with particular regard to safety and nuisance caused by littering, smells etc.

- 5.2 The licensing or enforcement in relation to Street Trading is only possible if the trading area or street has been adopted in accordance with the provisions of section 2 (1) of the Act as indicated in 3.2 (above).
- 5.4 The process will only be necessary should there be a will among the Parishes to conduct a Market in their areas. Therefore this report recommends in the first instance that officers are authorised to write to the parishes, to collate any responses and to report back to Licensing Committee with a further recommendation at a future date.

## **6. References to Corporate Plan**

- 6.1 The proposals contained within this report link directly to the following priorities of the corporate plan:

***A prosperous Borough*** – “Safeguarding public safety through a risk based regulation and licensing service.”

***Street Scene and Environment*** – “Develop effective partnership arrangements so all issues affecting neighbourhoods are delivered in a timely and efficient way”

***Localism*** – Encourage local businesses to invest directly in Brentwood’s communities”

## **7. Consultation**

- 7.1 If the recommendation of this report is agreed, Initial consultation will be with each Parish Council within the Borough by way of gauging interest in the proposal.
- 7.2 It is likely that if a market took place on a regular basis, planning permission would be required. Consultation would also be undertaken therefore with the Councils planning team to ensure that any such requirements were identified and fulfilled.
- 7.2 Further consultation is laid down in legislation and is required only if a proposal is intended to be put into place. These consultation requirements are laid down in paragraph 2 (3) of the Act where there is a requirement to:

- a) Publish a notice of intent to pass a resolution to designate an area as a licence, consent or prohibited street.
- b) Serve a copy of the notice of intent on the Chief Officer of Police... and on the relevant Highway authority

In addition, where the street is owned by a relevant corporation, the consent of that corporation is required. The relevant corporations listed in the Act are; the British Railways Board, the Commission for the New Towns (new Towns residuary body), a development corporation for a New Town or an urban development corporation established under the Local Government Planning and Land Act 1980.

- 7.3 Any representations received must be considered and the Council may pass the resolution if they think fit.
- 7.4 Should, following the above procedure, a resolution be passed, a further notice must be published to that effect on two consecutive weeks in a local newspaper. .

## **8. Implications**

### **Implications**

#### **Financial Implications**

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There are costs involved in advertising the proposals and in dealing with any other matters that may arise from the designation of any street. However, these costs are directly attributable to the street trading account and recovered by the Council through licence fees. It is not anticipated that there will be any additional or hidden costs relating to any increase in tariffs. Any associated cost relating to the operation of a market will fall to the relevant Parish Council or to each individual trader or market operator.

#### **Legal Implications – Monitoring Officer Comment**

**Name & Title:** Christopher Potter, Monitoring Officer and Head of Support Services

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It is essential that all procedures are conducted in full accordance with the provisions of section 2 (1) to 2 (13) of the Local Government (Miscellaneous provisions) Act 1982 as failure to do so may result in heavy cost implications in respect of any successful litigation, which may include Judicial Review of the process followed.

**9. Appendices to this report**

**None**

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