

Wem Town Council

MARKETS LICENCING POLICY

1. Introduction

The Council recognises the importance of markets in the local economy and the character of the area. They remain an important Council service and contribute in a number of ways to the local communities they serve.

The Council's markets represent an important investment by the Council in delivering economic regeneration and town centre vitality.

The Council is keen to maintain the balance of markets throughout its area and also ensure that there is consistency in the way that markets are organised. In this context the Council has decided to implement a markets policy which 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 the policy adopted by the Council is intended to cater for each type of market. In particular, the Council's 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.

The policy will be reviewed on an annual basis.

2. What is a market event?

The Council's markets policy is intended to cover all market events held within the Council's area. 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 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 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. Where this is the case Shropshire Council's licensing section should be consulted.

3. Market Rights

The right to hold a market gives the owner of the right certain important powers, including the ability to control other markets held within 6 2/3 miles of the market owner's own market.

The Council, by virtue of its statutory powers, enjoys market rights throughout its area and is in a position to consider applications for market events.

Section 5 of this policy sets out the basis on which applications will be dealt with by the Council.

This right has been exercisable for many years and the Council has taken into account relevant UK and European legislation in drawing up this markets policy.

All markets held in Wem are licenced and operated in accordance with the provisions of Part III of the Food Act 1984.

The statutory powers afforded to the Council under the provisions of Part III of the Food Act 1984 enable the Council to:

- a) implement a markets policy within its area;
- b) operate markets within Wem;
- c) consider applications for other markets; and
- d) determine whether such markets can be held by way of consent.

4. Wem Town Council Markets

From 1.6.23 Wem Town Council will operate the following market in the town.

Thursday outdoor weekly market on Jubilee Square, Wem

The Council has the power to establish new markets if it so wishes – as either regular or occasional events. The Council will operate any new markets under the provisions of Part III of the Food Act 1984 and/or its Royal Charter.

5. Licensing Private Markets under the Council's Markets Policy

The Council's consent to a market, by the grant of a market licence, must be given prior to the event taking place. Any market that takes place without such a licence shall be in breach of the Markets Policy and may be subject to the enforcement action described in Section 8 below.

Markets shall only be licenced once an application for a markets licence has been approved. An appropriate fee may be requested by the Council.

- No market shall be authorised within 6 2/3 miles of an existing licenced market unless it can be demonstrated that the new market shall not undermine the existing market and not prejudice the overall market offer.
- The applicant is required to undertake a risk assessment in relation to the proposed operation of the market and make this available for inspection by the Council upon request.
- The applicant must ensure that all other necessary consents and licences have been obtained prior to the market taking place.
- The operation and liability of the said market is the sole responsibility of the applicant not the Town Council

Market licences are issued to the market operator identified in the application (“the Market Operator”) and are not transferrable.

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

- i) Commercial markets; and
- ii) Community-based markets with a strong charitable element.

Commercial market

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 within 6 2/3 miles of an existing market unless it can be demonstrated that the new market will not undermine the existing market 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.

c) A fee will be paid in respect of any consent given by the Council and the fee will be based on the size of the market and the frequency of the market.

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

Community-based markets

These 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 community-based markets having regard to the following requirements:

- The applicant is required to undertake a risk assessment in relation to the proposed operation of the market and make this available for inspection by the Council upon request.
- The applicant must ensure that all other necessary consents and licences have been obtained prior to the market taking place.
- The operation and liability of the said market is the sole responsibility of the applicant not the Town Council.
- The markets must be operated on a non-profit making basis to assist a charity or community event and the Operator shall supply relevant information to the Council if so requested. While it is acknowledged that some traders shall be selling goods for their own purposes, the Council shall look for the event to have a strong charitable element in the way the event is organised.

Applications in respect of both commercial markets and community-based markets should be made to the following:

Penny O'Hagan Town Clerk, Wem Town Council, Edinburgh House, New Street, Wem SY45DB

Information about the Council's markets policy can also be obtained online with the relevant application forms www.wem.gov.uk/markets

The Council will aim to deal with applications for a markets licence within a period of twenty days. An operator of a market event is therefore urged to submit an 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 and 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 decides to refuse an application it will set out the reasons for its decision and will advise the procedure for submitting an appeal in respect of the refusal. Normally any appeal must be submitted within fourteen days of the Council's written decision.

The authority to grant a market licence is held by the Amenities and Services Committee with this power being delegated under the Council's constitution and scheme of delegation.

All decisions to grant market licences are made at the discretion of Wem Town Council.

Appeal process

If the Council decides to refuse an application for a market licence it will contact the applicant and set out the reasons for its decision.

There is no statutory right of appeal against refusal to issue a market licence, however, you may appeal against the decision.

Any appeal against a decision to refuse a market licence must be made in writing to the Council, setting out the reasons the applicant believes the refusal is unwarranted.

On receipt of an appeal request the decision to refuse the market will be reviewed and the applicant informed of the outcome.

Renewing a market licence

Market Operators should re-submit their application every 12 months if they wish to continue to operate a regular market. This must be done at least one month before their current market licence expires.

The Council will not send out reminders for renewals. It is up to the operator to renew their application on time.

Lapsed market licences will be dealt with as new applications.

6. Market Licence Fees

A licence fee is payable once an application for a market licence has received in principle approval from the Council. In circumstances where a payment is requested a licence agreement will not be drawn-up by the Council until the appropriate fee has been received.

The licence fee will be dependent on the type of market being held, size of the market and the frequency of the market

All fees are payable to Wem Town Council.

7. Other Approvals

It is important to emphasise that any approval given by the Council in accordance with this Market Policy shall not remove the requirement for any other relevant approvals, consents and licences to be obtained by the Market Operator.

- Where the market is being held on private land the Market Operator must ensure that the prior approval of the relevant landowner is obtained.
- The Market Operator shall be responsible for any temporary road closures and associated traffic management arrangements that may be required in order to facilitate the operation of the market.
- The Market Operator should consult with the Shropshire Council's Planning Department to ascertain whether planning consent is needed for the market to operate. Any market held in the same location for 14 or more days in a calendar year will require planning consent.

The Council may require evidence of these approvals being obtained prior to the granting of a market licence

8. Enforcement

The Council will monitor the application of its Markets Policy and any market event which is operated after the date of the adoption of this Markets Policy will be subject to the Council's requirements.

Any market which is not approved by the Council under Section 5 of its Markets Policy will be subject to legal action and the Council may seek an appropriate remedy in the courts to prevent the market being held and/or damages as appropriate.

Any market operator acting in contravention of any market licence granted by the Council will run the risk of the licence being terminated by the Council with immediate effect on such terms as the Council determines and, in such circumstances, the Council reserves the right to refuse any future applications for market licences submitted by the operator concerned or any person or organisation associated with the operator.

Any costs of, or associated with, enforcement action deemed necessary as a result of the Market Operator's failure to comply with the Market Policy will be recovered from the Market Operator.