

Item No.	Classification: Open	Date: August 2009	Decision Maker: Executive Member for Environment
Report title:		Markets and Street Trading Strategy	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment & Housing	

RECOMMENDATION

1. That the Executive Member for Environment agrees the consultation draft of the Southwark Markets Strategy set out at Appendix 1 (summarised in section 7 below) and authorises officers to carry out 28 days consultation on the draft.

BACKGROUND INFORMATION

2. Towards the end of 2008 the Council commissioned a Strategic Review of Markets and Street Trading in the Borough working with the National Association of British Markets Authorities with the participation of traders representatives.
3. This review was completed at the end of January 2009. One of the main recommendations of the review was the development of a Markets Strategy.
4. The aim of the strategy is to chart the way forward to revitalising markets and street trading so that they play a full part in the regeneration of Southwark, maximise their economic and employment benefits, promote and sustain independent and small businesses, provide access to high quality affordable food and other commodities and contribute to a vibrant public realm.
5. The draft Strategy has been developed at a time when traditional street markets across the country have seen a decline. The position in Southwark reflects the national picture with some markets seeing a decline in trader numbers with others performing well.

KEY ISSUES FOR CONSIDERATION

6. The draft Strategy has two main aims. These are to:
 - Regenerate Southwark's markets addressing the issues causing the decline in traditional markets and making them more attractive as retail destinations and to visitors to the Borough.
 - Identify opportunities for establishing new markets in Southwark that contribute economically, socially and culturally to the Borough.

7. The recommendations of the review focus on eight key areas that will contribute to revitalising and transforming our markets. These are:

Markets Playing a Full Part in Regeneration

8. In the past there was a lack of engagement of the market and street trading operation in the regeneration and planning processes. This, linked with the lack of market rights arising from the legislative framework and the absence of a markets strategy, means that there has been and continues to be an uncoordinated expansion of private markets in the Borough.
9. There has also been a lack of joined-up working at both strategic and operational level. The role and contribution of markets and contribution to helping deliver core strategic objectives has therefore been limited.
10. Markets can play a significant role in regeneration as part of the retail economy of the Borough and contribute to the opportunities identified in the Council's Retail Capacity Study. To maximise this contribution the Council needs to take a more coordinated approach to both new developments and revitalising existing markets as part of regeneration schemes.
11. Markets are part of the overall retail economy of the Borough and they work with other forms of retail to enhance the economy of the Borough. We aim to seek new opportunities for markets as part of regeneration schemes.
12. To succeed the role of markets in regenerating the Borough needs to be recognised and incorporated into relevant regeneration and planning policies and action plans. The Strategy proposes that this will recognise the importance of existing local markets and how they impact on the local area taking care when proposing new markets to ensure that the correct balance is maintained.

Thriving & Viable Markets

13. To address the decline that Southwark has seen in traditional retail markets (excluding for example Borough Market) the Council needs to improve the viability of markets by linking traders in to the business support mechanisms that are available for small businesses and encouraging new business start-ups. There is also a need to promote the variety and diversity of job opportunities including the potential for providing local employment. An essential part of the success of our markets is ensuring that they meet the needs of users and residents.
14. The Council recognises that street traders are small business operators and therefore supports their development wherever possible. New business start-ups can be encouraged to consider market trading as a first business step and be supported in this process. Another objective is to ensure there are fewer barriers to people trading in markets and seek to work with BME business support organisations to increase the diversity of street trading in the Borough.

15. The number and type of stalls in any market also needs to complement not compete with the existing retail mix of an area. We will also ensure that there is some form of quality control of product and trader in place for new and existing stallholders so that the products they offer for sale not only meet the requirements of Environmental health and Trading Standards but attract shoppers and add to the offer available on each market.

Improving the Public Realm

16. How our markets look and feel is an important element in making them work as successful retail and leisure destinations. The Strategy sets an objective of seeking capital investment to upgrade the market infrastructure and the public realm in and around market areas. The current lack of access to capital investment to upgrade existing market areas has hindered their development and contributed to their decline. In the current financial climate under which the Council operates we need to be creative in how we identify and secure capital investment. New stalls are a key element of these improvements the Strategic review demonstrated that financially this was a viable option but equally important was the image this would create on the markets.

Improving the branding and promotion of Southwark's Markets

17. We will aim to improve how markets and their benefits are promoted to key stakeholders and improve how markets are promoted to attract more users and more traders. We need an effective communications and marketing strategy to promote Southwark's markets and other street trading sites. A successful outcome will mean active brand management to increase the brand value and image of markets and ensure they attract customers and traders to return. A poor image and lack of marketing offer little incentive for traders and customers to return. The communications plan should take account of all stakeholders, including traders, customers, the Council and the private sector. It should set out the style and frequency of communication and who will lead the process.

Greening Southwark's Markets

18. Markets have a major role to play in environmental sustainability through encouraging green travel, reducing waste, recycling, eliminating packaging and local food. We will develop the role street markets have in promoting and engaging with policies on environmental sustainability and becoming sites of good practice. The Council will also ensure that markets play a full part in delivering the objectives of the Council's future food strategy.

Markets as spaces for social interaction

19. Markets are more than just economic entities they have a role as spaces for social interaction and can contribute to community cohesion. Good markets are at the centre of the communities they serve. We will develop street markets that reflect the diversity of Southwark and promote their role as spaces for social interaction and inclusion.

Modernising Management of Our Markets

20. The Council will modernise how our markets are managed, reviewing policies, procedures and working practices to support thriving markets and encourage entrepreneurship. To succeed we need to work closely with traders and we will improve consultation and engagement with traders. Bringing in the expertise to transform and modernise the service. The Strategic review of the Service acknowledged that some excellent work was being done across the Council and that there are a great many opportunities to develop and expand the markets service so that it meets the challenges of the future.
21. Historically the management of markets has taken a regulatory/enforcement approach. This has meant the skills and experience required to successfully manage modern markets have not been applied. Through our partners we will bring a more commercial approach focused on retail, marketing and customer focus. We will also promote the social value of markets.
22. There are clear and significant issues arising from the current regulatory/legislative framework that are having a deleterious effect on the markets and the Strategy suggests changing the legal basis on which the Council operate markets.
23. Like the majority of London Boroughs the market and street trading operation of Southwark Council is governed by the provisions of the London Local Authorities Acts 1990 (as amended). The focus of the London legislation is street trading, which does not fall within the definition of a market that gives rise to market rights.
24. Markets arising from franchise (e.g. charter markets) or statute are afforded certain rights in law. They have the right and power to control the establishment of 'rival' markets within a given distance of the franchise or statute market (6.66 miles). Whilst the London Local Authorities Act 1990 gives some restricted control over markets close to a public highway, it does not afford the same level of protection. There are many reasons why market rights are important. The ability to control other market events and the ability to use market rights enables many local authorities outside London to organise markets on a more structured basis. The Strategy aims to move towards organising markets in Southwark in a more structured way.
25. London Boroughs can operate markets on the same basis as local authorities throughout England and Wales. In addition to the various powers available under charter, letters patent, prescription, custom and practice and local legislation it is possible to utilise the provisions of Part 111 of the Food Act 1984 which provide, inter alia, the following:
 - Section 50 - The ability to establish or acquire a market
 - Section 52 - Appointment of market days and hours
 - Section 53 - Charges
 - Section 61-Interpretation which provides that a local authority includes a London Borough.
26. Many of the concerns about the operation of street trading provisions can be avoided by operating under the 1984 Act.

27. Currently street trading is limited in terms of what can be charged by allowing only “as may be sufficient in the aggregate to cover in whole or in part the reasonable administrative or other costs in connection with their functions under this Part of the Act. There is no such restriction under the 1984 legislation since section 53 provides that “a market authority may demand in respect of the market such charges as they may from time to time determine”. This is not a totally unfettered discretion but it can be used to apply commercial considerations to a market activity.
28. There are many reasons why market rights are still important. The ability to control other market events has always been near the top of the list and while case law in respect of so called rival markets has been a little “thin on the ground” in recent years the ability to use market rights enables many local authorities to organise markets on a structured basis. Dealing with charges in more commercial and flexible ways is always an attraction to use the markets legislation under the 1984 Act.
29. The street trading legislation in London provides a framework for determining applications. There is no reason why a London Borough cannot develop additional policies in respect of street trading to deal with matters such as quality provided that any policies do not conflict with the legislation. The same position applies equally in respect of markets.
30. The Strategic Review pointed out that the current allocation policy needs to be replaced to attract and retain new traders and new products. This in turn may encourage local people to trade and offer products that fit the requirements of the changing local demographics. Successful modern markets need a management system that is able to identify and respond to new trading opportunities. Equally it requires an understanding of the demands and aspirations of the customer. We will address this skills gap and ensure there are effective and modern systems and procedures in place for the effective management of a dynamic retail environment.

Action for individual markets

31. We will implement an action plan for individual market sites that improves each market within the framework set out in this strategy. We will identify new opportunities for establishing markets linked to the regeneration of the Borough. New developments will use the Mosaic demographic/lifestyle analysis to identify customer profiles and inform the type and quality of retail offer in each area to help build the business case for change and development.
32. The Strategy provides the overarching direction for the Service but recognises that each market is unique and serves a different community. Improvement plans will be developed for each of the existing markets within the framework set out in the Strategy.

Policy Implications

33. The Street Trading Strategy supports the Objectives and Priorities of the Sustainable Community Strategy (Southwark 2016) and the Council’s Corporate Plan. The Strategy also makes links between markets and street trading and the Southwark Plan, the developing Local Development Framework and the Council’s Regeneration Plan and Policies.

34. The value of street markets and street trading more generally is increasingly recognized for its economic and social benefits. Well managed and supported Street Markets:
- Provide access to high quality affordable food and other goods.
 - Have significant economic and employment benefits.
 - Promote and sustain independent and small businesses and can be a fertile environment for black and minority ethnic entrepreneurs as business start-ups.
 - Contribute to a vibrant public realm that people enjoy and feel safe using.
35. The Council is keen to work with the community to develop markets and street trading in Southwark to ensure that they fulfill their potential to:
- Increase their pull to visitors and destination shoppers.
 - Become successful economic, social and cultural institutions.
 - Encourage more entrepreneurship, independence and innovation.
 - Support an extraordinary range and variety of businesses.
 - Promote distinctiveness and vibrancy in a well managed and maintained public realm.
 - Provide access to affordable, healthy and high quality food and other commodities including to those on low incomes.

Community Impact Statement

36. The Strategy aims to ensure that markets are inclusive of all residents of the Borough including black and minority ethnic communities and those with disabilities. Markets and street trading have a positive impact on the community and the Strategy aims to develop this role by developing the role of Markets in:
- Providing access to high quality, healthy, affordable food and other goods including for those on low incomes.
 - Having significant economic and employment benefits.
 - Promoting and sustaining independent and small businesses and becoming a fertile environment for black and minority ethnic entrepreneurs as business start-ups.
 - Contributing to a vibrant public realm that people enjoy and feel safe using and reflects the cultural diversity of contemporary Southwark.

Resource Implications

37. Many of the initiatives set out in the Strategy do not require significant financial resources and can be implemented within existing resources (largely existing staff time). As part of the implementation of the Strategy resources will be sought externally where available. Any additional bids for Council resources will need to be made through the Council's policy and resourcing strategy and this report does not attempt to pre-empt that process. More detailed financial analysis on the broad objectives set out in the Strategy will be presented once the consultation is concluded and it is clear what the final objectives are. Officers are also working on a more detailed recovery plan for the deficit and both of these analyses will be available before the final strategy is presented.

None of the Strategy objectives will be implemented before a financial plan is produced and agreed by the Strategic Director of Environment & Housing and where necessary the Finance Director or other appropriate decision maker.

38. The street trading account is a ring fenced account and this means that all expenditure on the street trading service is met from fees and charges paid by the traders. There is however a significant deficit on the account which the service must attempt to reduce over time. This has arisen because the increases in fees and charges to traders have not been sufficient in the face of declining trader numbers to cover the costs of operating the street trading service.
39. It should be noted however that as the account is ring fenced the deficit has no implications for the General Fund; however any deficit is listed as a debtor to the Council in its accounts. As noted above, the Council has an obligation to recover the deficit to ensure that there is no special burden on the General Fund over time.
40. The Strategy aims to raise additional income by maximising trader numbers through revitalising existing markets and taking advantage of opportunities for new ones to reduce and over time remove the deficit on the account.
41. A key recommendation of the Strategy is to change the legal framework under which the Council manages markets moving from the London Local Authorities Act 1990 (as amended) to the Food Act (1984). This will be the subject of separate consultation but is significant for a number of reasons set out in the Strategy. Not least of these is that the Council moves from the current model of licensing and collecting income from individual traders to licensing an operator(s) to operate market(s) for which operator(s) would pay the Council a fee. The income from this fee would be used to reduce the deficit on the current street trading account and the Council's expenditure would be limited to the client and development role. This also has the potential to bring private sector investment to the modernisation of markets.
42. The cost of implementing this report is a maximum of £1,000 for consultation materials and postages. This will be contained within the existing street trading budget and therefore will have no additional financial implications for the Council.

Consultation

43. Consultation was undertaken with traders and other key stakeholders as part of the Strategic Review of the Service. Further consultation will be carried out on the draft strategy as a result of agreement of this report.
44. Consultation will take place with all traders in Southwark and with bodies representing traders in the Borough. We will also consult with ward Councillors, local businesses and residents in areas where there are markets.
45. Once the consultation is complete a further IDM report will be presented to the Executive Member setting out the proposed final version of the Strategy and the implementation plan.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Finance Director (PB0709)

46. This report does not currently outline the financial base or funding resources from which the Southwark Street Trading Strategy 2009-12 can be implemented. Therefore this report should only be used for the purpose of consultation on the proposed strategy and does not give approval for implementation of the outlined strategy.
47. Given the present £520K deficit on the Street Market trading account, any future reports with scope beyond purely consultation of the proposed strategy, will need to provide full financial details specifying how the deficit will be addressed and the implementation of the strategy funded. Without such details, an increased risk of an expanding debtor account will arise which may have future negative implications for the general fund.

Strategic Director for Communities Law & Governance

48. This report seeks authorisation to commence consultation on the strategic review of Southwark markets. There are no legal issues arising in connection with the commencement of the consultation.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Strategic Review of Southwark Markets & Street Trading Service, October – December 2008. (Nabma Consultancy Services)	160 Tooley Street SE1 2TZ	Stephen Douglass 020 75725 0886

APPENDICES

No.	Title
Appendix 1	Consultation Draft Southwark Street Trading Strategy 2009-2012.

AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment and Housing
Report Author	Des Waters, Head of Public Realm
Version	Final
Date	August 2009
Key Decision	Yes

CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER

Officer Title	Comments Sought	Comments included
Strategic Director for Communities Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Executive Member	Yes	Yes
Date final report sent to Constitutional Officer		August 20 2009