APPENDIX A

Southwark Markets Policy

JUNE 2017

The London Borough of Southwark

Markets Policy

1. Introduction

1.1 Southwark Council ("the Council") recognises the important contribution that markets make to 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.

1.2 The Council's markets (which are described in more detail in Section 4 of this markets policy) represent an important investment by the Council in delivering economic regeneration and town centre vitality.

1.3 The Council is committed to maintaining the balance of markets throughout Southwark and ensuring there is consistency in the way markets are operated. Accordingly, 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 markets shall be considered ("the Markets Policy").

1.4 The Council recognises that there are many different types of market activities and, accordingly, the Markets Policy is intended to cater for each type. In particular, the Markets 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 activities and sets out the Council's approach when considering applications in respect of such markets.

1.5 During the process of formulating the Markets Policy the Council has consulted the following organisations and departments:

- National Association of British Market Authorities (NABMA)
- Southwark Council legal department
- Southwark Council planning department
- SAST (Southwark Association Of Street Traders)

- Council Portfolio holder for Markets and Street Trading.

2. What is a market?

2.1 The Markets Policy is intended to apply to all market events held in Southwark. Guidance notes are set out below indicating which activities the Council regards as being a 'market'. However, these notes are not intended to cover all potential eventualities and the Council reserves the right to apply additional requirements in appropriate circumstances.

i. The legal definition of a market is a 'concourse of buyers and sellers'.

ii. **A market shall be comprised of not less than five stalls, stands, vehicles (whether moveable or not) or pitches from which articles are sold and normally there shall be a range of different sellers.**

iii. A market may be held either outdoors or in a building.

iv. There shall be an operator of the market who shall be responsible for the organisation and delivery of the market event.

v. A market operator means the person, body or organisation to which a market licence is granted by the Council.

vi. Markets include car boot sales, antique and craft markets, general markets, food markets, farmers' markets and charitable markets. However, this list is not exhaustive.

vii. A market may sometimes be held as part of a wider event. When this arises the market element (compromising of 5 or more stalls) of the event shall be subject to the Markets Policy. Where a premises licence under the Licensing Act 2003 for a wider event (which includes a market element) has been issued by the Council then a separate market licence may not be required. However the operator would need to provide all consents and licenses required from the Council. This shall be determined on a case-by-case basis.

2.2 The Markets Policy differentiates between markets of a commercial nature and community-based markets which have a strong charitable element.

i. 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.

ii. **Community-based markets** are organised by local communities or organisations with the intention of raising funds for a specific charity or celebrating a special event. The market must be operated on a non-profit making basis and the operator shall, if requested, supply relevant information as proof of this to the Council. While it is recognised and acknowledged that some traders may be selling goods for their own purposes, the Council shall expect there to be a strong charitable element in the way the event is organised.

2.3 This Markets Policy does not apply to street trading activities. Street trading is controlled by a different licensing process and relates to the granting of individual trading licences for identified streets.

3. Market Rights

3.1 The Council, by virtue of its statutory powers, enjoys market rights throughout Southwark.

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

3.3 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 Southwark;
c) consider applications for other markets; and
d) determine whether such markets can be held by way of consent.

4. Council's Markets

4.1 The Council licence and operate regular weekly markets under The Food Act 1984. These are

- East Street Market
- Choumert Road
- Highshore Road
- London Bridge
- Parkstone Road
- North Cross Road
- Blue – Southwark Park Road
- Albion Street
- Atwell Road
- Blackwood Street Flower Market
- Westmoreland Road
- Deal Porter Square

Southwark Markets Team also licence private operators to operate markets under The Food Act 1984:

- Bermondsey Square Antiques Market
- Camberwell Green (Farmers Market)
- Peckham Square (Farmers Market)
- Druid Street market
- Camberwell Green (Food Market)

4.2 In addition to the regular Council markets listed above, the Council also licences occasional market events, such as Christmas Markets, Spring Markets and Summer Markets. When an event coincides with a regular Council licenced market there may be an added cost to the trader to support the cost of the event.

4.3 The Council has the power to establish new markets if it so wishes – as either regular or occasional events. Accordingly, the above list is subject to change and shall be updated as part of a periodic review of the Councils Markets Policy. The Council will operate any new markets under the provisions of Part III of the Food Act 1984.

4.4 There are a number of isolated pitches (less than 5 pitches) located in the Borough of Southwark. The Council licence these under the London Local Authority Act 1990 (as amended)

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

5.1 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.

5.2 Markets shall only be licensed once an application for a markets licence has been approved (and signed by both the Council and the Market Operator) and the appropriate fee received by the Council.

5.3 Market licenses are issued to the market operator identified in the application ("the Market Operator") and are not transferrable.

5.4 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.

i) Commercial markets

5.5 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 shall consider applications in respect of commercial markets having regard to the following matters:

a) No market shall be authorised within 6 2/3 miles of an existing licensed market unless it can be demonstrated that the new market shall not undermine the existing market and not prejudice the overall market offer.

b) The applicant is required to provide a site plan showing the extent of the proposed market area and proposed layout of stalls.

c) 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.

d) The applicant must ensure that all other necessary consents and licences have been obtained prior to the market taking place.

e) A fee must be paid in respect of any consent given by the Council, which shall be based on both the size of the market and the frequency with which the market is held. The fee must be paid before the market is held.

f) Fees and charges are reviewed annually and are available on the Southwark Council website.

g) In respect of any consent the Market Operator must have adequate insurances in place and ensure that all stallholders have their own adequate insurances in place (this should the **minimum of £5 million**).

h) All trading standards guidelines, health and safety requirements and any other relevant legislation must be adhered to.

i) The Council shall look for the proposed market to complement existing retail activity in the local area and support the Council's objective of helping to create thriving town centres that are attractive and welcoming.

j) Following outline approval of an application a licensing agreement must be entered into between the Operator and the Council and such licensing agreement must be signed by both the Council and the Operator before the market takes place. The licence agreement will cover the issues set out in this section and all other matters the Council deems to be relevant including the following:

   i. Waste disposal arrangements
   ii. Road closures and traffic management
   iii. Noise and nuisance
   iv. Health and safety issues
   v. Power usage

k) The Council shall insist on any other requirements as are deemed appropriate

ii) Community-Based Markets with a Strong Charitable Element

5.6 Community-based markets are normally organised by local communities or organisations with the intention of raising funds for a specific charity or celebrating a special event.

5.6.1 The Council shall consider applications in respect of community-based markets having regard to the following requirements:

a) 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.

b) The applicant shall be required to provide a site plan showing the extent of the proposed market area and proposed layout of stalls.

c) The applicant shall be 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.

d) The applicant must ensure that all necessary consents (e.g. planning) have been obtained prior to a market taking place.

e) Where the market is to be operated on a non-profit making basis to assist a charity or community event then the licence fee may be waived.

f) In respect of any consent the Market Operator must have adequate insurances and all stallholders should have a minimum of £5 million public liability insurance cover in place. Where individual stallholders do not have their own public liability insurance cover in place the insurance cover held by the Market Operator should cover the activities of these stallholders.

g) All trading standards guidelines, health and safety requirements and any other relevant legislation must be adhered to.

h) Following outline approval of an application a licensing agreement must be entered into between the Operator and the Council and such licensing agreement must be signed by both the Council and the Operator before the market takes place. The licence agreement will cover the issues set out in this section and all other matters the Council deems to be relevant including the following:

   i. Waste disposal arrangements
   ii. Road closures and traffic management
   iii. Noise and nuisance
   iv. Health and safety issues
   v. Power usage

i) The Council will insist on any other requirements as are deemed appropriate.

5.8 Applications in respect of both commercial markets and community-based markets should be made to:
Markets and Street Trading
47 – 53 Dawes Street (SAST House)
London
SE17 1EL or online at streettrading@southwark.gov

iii) Process for determining market licence applications

5.9 An electronic version of the Council's Markets Policy, together with the relevant market licence application form, can be viewed and downloaded from : streettrading@southwark.gov.uk

5.10 The Council will endeavour to deal with applications for a markets licence within a period of twenty working days from receipt of the application. Applicants are 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 also covered on the application form. Failure to provide such information is likely to lead to a delay in the Council coming to a decision.

5.11 If the Council fail to respond to a licence application after a minimum of 20 days after the application has been received the licence will be granted by way of a tacit consent. A licence application can only be considered once the Markets and Street Trading department are in receipt of an application and all required consents.

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

5.13 All decisions to grant market licenses are made at the discretion of Southwark Council.

5.14 Once a licence is issued the licence holder will sign the licensing conditions to ensure compliancy while trading on all Southwark markets and isolated pitches.

5.15 The licence issued will be either a temporary or permanent licence.

5.16 A temporary or permanent market licence will be issued under the Food Act part lll (1984).

5.17 A temporary or permanent street trading licence will be issued under the London Local Authorities Act 1990 (as amended).

iv) Appeal process

5.18 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.

5.19 There is no statutory right of appeal against refusal to issue a market licence, however, you may appeal against the decision through the Southwark Council Complaints Procedure.

5.20 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.

5.21 On receipt of an appeal request the decision to refuse the market will be reviewed and the applicant informed of the outcome. The decision will be made by the Markets and Street Trading Manager.

5.22 A temporary market licence holder or temporary street trading licence holder does not have the right of appeal to Licensing Committee if the licence conditions are breached. The licence holder will be subject to the licensing conditions and will refer to Appendix 1 penalty points system procedure.

5.23 Any disputes regarding the penalty points procedure shall be reviewed by the Markets and Street Trading Manager.

v) Renewing a market licence

5.24 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.

5.25 The Council will not send out reminders for renewals. It is up to the operator to renew their application on time. Lapsed market licenses will be treated as a new application.

6. Market Licence Fees

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

6.2 The licence fee will be dependent on the type of market being held:

i) Commercial Markets - The licence fee for commercial markets will be based on the size of the market and the frequency of the market.

ii) Community-based Markets - Where the market is to be operated on a non-profit making basis to assist a charity or community event then the licence fee may be waived.

6.3 Please refer to paragraph 5.5 (f)

7. Other Approvals

7.1 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.

7.2 Where the market is being held on private land the Market Operator must sure that the prior approval of the relevant landowner is obtained.

7.3 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.

7.4 The Market Operator should consult with the 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.

7.5 Attention is also drawn to the provisions of the Licensing Act 2003 a Temporary Events Notice might be required in respect of the sale of alcohol.

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

8. Enforcement

8.1 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 and byelaws.

8.2 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.

8.3 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.

8.4 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.

9. Review

9.1 We will review this policy as necessary. We will continue to evaluate the policy and may update it at any time.

Southwark
Council
southwark.gov.uk