

Item No. 14.	Classification: Open	Date: 21 September 2010	Meeting Name: Cabinet
Report title:		Southwark Markets and Street Trading Strategy 2010-2013	
Ward(s) or groups affected:		Borough-Wide	
Cabinet Member:		Councillor Barrie Hargrove, Environment, Transport and Recycling	

FOREWORD - COUNCILLOR BARRIE HARGROVE, ENVIRONMENT, TRANSPORT AND RECYCLING

1. In 2008 the Council commissioned a strategic review of markets and street trading in our borough. Amongst the conclusions were that although traditional retail markets are in most cases in decline, there is potential for Southwark's markets to become more vibrant and attractive to a greater number of both shoppers and traders.
2. This report seeks to initiate the findings of that study. I am therefore proposing that the strategy is agreed, the delayed action plan is now implemented, including the long awaited resurfacing of East Street, the consultation of the proposed change in the legislative framework is commenced. I am also agreeing to a relaxation of the five stall away rule operated in East Street market, albeit only on the basis of clearly understood business requirement needs under which it can be relaxed.
3. I am also very keen that a lead member-trader-officer quarterly forum is reinstated and I have asked officers to take this forward.

RECOMMENDATIONS

4. That the Cabinet agrees the Southwark Markets and Street Trading Strategy (summarised in paragraph 10 below) and attached as **Appendix 1**.
5. That the Cabinet authorises officers to begin implementing an improvement action plan outlined in **Appendix 2**.
6. That the Cabinet approves the commencement of further consultation on changing the legislative framework from London Local Authorities Act 1990 as amended to Part 111 of the Food Act 1984.
7. That the Cabinet agrees that the five stall away rule can be relaxed only under the following circumstances: Either when a temporary trader wishes to trade and enforcing the 5 stall away rule would mean the trader would be unable to trade on that day; or if an existing licenced permanent trader wishes to expand by taking on an adjacent vacant stall. A minimum of 1 stall away would always remain.

8. That the Cabinet seeks to further invigorate participation in market development by creating a strategic quarterly forum with the Lead Member, Officers, Southwark Association of Street Traders (SAST), and any other relevant parties.

BACKGROUND INFORMATION

9. 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. This review was completed at the end of January 2009. One of the main recommendations of the review was the development of a Markets and Street Trading Strategy.
10. The aim of the Strategy is to chart the way forward to revitalizing 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.
11. The 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.
12. A key objective set out in the strategy is the reduction of the Street trading deficit. There is a significant deficit of £820K on the account which the Strategy must address and attempt to reduce and clear.

KEY ISSUES FOR CONSIDERATION

13. The Strategy has two main aims. These are to:
14. 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.
15. Identify opportunities for establishing new markets in Southwark that contribute economically, socially and culturally to the borough.
16. 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.
17. The key elements of the strategy focus on eight key areas that will contribute to revitalizing and transforming our markets. These are:

Markets Playing a Full Part in Regeneration

18. 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 an uncoordinated expansion of private markets in the borough.

19. 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.
20. 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.
21. 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.
22. To succeed the role of markets in regenerating the Borough needs to be recognized and incorporated into relevant regeneration and planning policies and action plans. The Strategy proposes that this will recognize 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

23. 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 to 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.
24. The Council recognizes 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 Black, Minority and Ethnic business support organisations to increase the diversity of street trading in the Borough.
25. 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

26. 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 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

27. 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

28. 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

29. 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

30. The Council will modernize 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 and bring in the expertise to transform and modernize 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.
31. The review considered a number of options for the future provision of the Service as follows:
- Private licensed operator with internal monitoring team and market champion. The Council retains the strategic management of the portfolio, and creates a small client team; it then seeks a private operator to manage the day to day operation.

- Partnership with the private sector. The Council seeks a full strategic and operational partner to transform the markets.
 - Operate the markets in-house. The Council retains the strategic and operational management of the markets by recruiting the necessary staff and skills.
 - Trader managed operations. The Council explores the option of market traders directly managing the day-to-day operation.
 - A Gateway report to Cabinet outlines these options for decision.
32. 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 and key stakeholders, we will bring a more commercial approach focused on retail, marketing and customer focus. We will also promote the social value of markets.
33. 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 operates markets and street trading.
34. 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 Act 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.
35. 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 organizing markets in Southwark in a more structured way.
36. 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.

37. 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. The 1984 Food Act legislation 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 enables the Council to apply further commercial considerations to market activities not currently available under the existing legislative framework.
38. 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 and recommendation 6 proposes that consultation is initiated with a view to changing the legislative basis for markets in Southwark.
39. 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. Further consultation will be carried out on this proposal.
40. The current allocations policy stipulates that traders with similar goods are kept a minimum of five stalls apart. This stipulation is long standing and was put in place at a time when Street Markets were full, with a long Temporary trader list seeking a days trading. However, Street Markets are now running at 56% occupancy levels, carrying a financial deficit of £820K that is rising year on year. There is a need to review this rule, and to give Managers the ability to relax this rule on any given market day to ensure we can fill as many stalls as possible and not turning traders away. We also need to be able to give an additional stall to an existing trader if the stall next door is empty that would put them less than five stalls away. Therefore, recommendation 7 proposes that we relax this rule to ensure we are able to maximise occupancy levels, without detriment to existing traders.
41. 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

42. 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.

Policy implications

43. The Markets and 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, including the LDF and Southwark Employment and Enterprise Strategies as outlined in the comments from Regeneration and Neighbourhoods.
44. 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.
45. 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

46. 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. The Strategy will seek to change current Street Trading operational policies and practices that hinder the ability of some new traders to establish themselves on Southwark Markets, to ensure that Markets and street trading have a positive impact on the community. The Strategy also aims to develop these opportunities 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

47. 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 be made through the Council's policy and resourcing strategy and this report does not attempt to pre-empt that process.
48. 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.
49. 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 as part of the Strategy implementation plan, and is significant for a number of reasons set out in the Strategy.
50. A separate Cabinet Gateway report sets out the options for the best and most efficient way to operate Southwark's Markets and Street trading activities.

Legal/Financial implications

51. 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 a significant deficit on the account which the service must attempt to reduce and clear. This has arisen because the 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. A key objective set out in the strategy is the reduction of the Street trading deficit. A detailed financial recovery plan to reduce the current deficit is in place to bring the 2010/11 trading account back to a break even position, but these actions will not be able to reduce the existing deficit of £820K.
52. Comments by the Finance Director and Strategic Director of Communities, Law & Governance are set out below.

Consultation

53. Consultation was undertaken with traders and other key stakeholders on the draft Markets Strategy throughout October and November 2009, and as part of the Strategic Review of the markets completed in January 2009.
54. Consultation has taken place with all traders in Southwark and with bodies representing traders in the borough. We also consulted with ward councillors, local businesses and residents in areas where there are markets.
55. The consultation is now completed and the completed summary of results is contained in **Appendix 3**.
56. Respondents felt the most important issues facing Southwark's markets were:-
 - Lack of trade, inability to keep traders, lack of promotion, awareness

- Impact of regeneration and the immediate environment (realm),
- developments in retail environments, supermarkets, people shop elsewhere
- Access – lack of parking or high cost of parking
- Poor management – lack of trust, ineffective, disinterested management

57. Respondents perceived this being tackled through making markets safe, welcoming and happy places to shop and work with bargains to be found. Parking issues need to be addressed. Step up advertising and promotion of markets which could be delivered by partnership working and investment.
58. The main findings support the general themes contained in the strategy with only some concerns expressed by consultees on the market testing of the market operations and designation of markets under Food Act 1984. There were also concerns raised by SAST in respect to altering the five stall away rule. The strategic review concluded that Southwark markets cannot continue operating in the same manner as before, so the adoption of these elements of the strategy are vital to ensure the present street trading deficit is tackled and reduced, together with providing a vibrant future for Southwark Markets over the next decade and beyond.
59. The Markets and Street Trading Strategy will continue to explore these options for change over the next five years, ensuring the best sustainable solution is pursued to enhance Markets in Southwark for future generations.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

60. The Strategic Director of Communities, Law & Governance (acting through the Contracts Section) notes the content of this report and confirms that internal and external legal advice has been sought and obtained by the report author in connection with the proposed Strategy and, in particular the legal framework within which the markets are intended to operate and be managed.
61. The report confirms that the Strategy is consistent with corporate policy and objectives and the SDCLG advises that it is also consistent with the power conferred upon the Council under section 2 of the Local Government Act 2000 to do anything which it considers likely to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

Finance Director (Env/ET/300610)

62. The proposed Strategy and implementation plan has been developed to recover the trading account deficit and put the trading account in a better financial footing to at least break even in the long term. The market testing to operate markets and street trading activities is one of main items in the Implementation Plan that will ensure that the most economically advantageous option is chosen that will ensure the deficit is cleared over the term of the contract.
63. The Head of Service has confirmed that the cost of implementing the proposed strategy will be contained within existing resources.

Strategic Director of Regeneration & Neighbourhoods

64. The economic development and planning policy teams in the council's regeneration and neighbourhoods department welcome the opportunity to further support the development of a Southwark Market and Street Trading strategy action plan(SMST) following our involvement in the 2008 Strategic Review of Street Markets & Street Trading Service.
65. Planning policy and economic development will work closely in developing strategies that take forward Southwark 2016 priorities for the local economy and the economic well-being of residents. There are several key issues emerging throughout the review which will impact on the SMST strategy, particularly how aspirations and land-use policy set out in the LDF are translated and delivered, securing the commercial viability of the boroughs town centres particularly those that are not within planned development schemes, and how the development of the local business base can be directed to address worklessness and income deprivation.

BACKGROUND DOCUMENTS

Background Papers	66. Held At	67. Contact
Strategic Review of Southwark Markets & Street Trading Service, October –December 2008. (nabma consultancy services). Draft Markets Strategy document 2009	160 Tooley Street	John McHenry 020 75252105

APPENDICES

No.	68. Title
Appendix 1	Markets Strategy Document
Appendix 2	Implementation Plan for Markets Strategy
Appendix 3	Results of Consultation on Markets Strategy

AUDIT TRAIL

Cabinet Member	Councillor Barrie Hargrove, Environment, Transport and Recycling	
Lead Officer	Gill Davies, Strategic Director, Environment and Housing	
Report Author	Des Waters, Head of Public Realm	
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CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Strategic Director of Regeneration & Neighbourhoods	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional/Community Council/Scrutiny Team	9 September 2010	