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Markets Policy

Guidance for Persons wishing to hold private, commercial, charity markets, car boot sales or similar across the District of Ashfield

**Ashfield District Council**

**Markets Policy**

**1. Introduction**

1.1. Ashfield District 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 the district of Ashfield and ensuring there is consistency in the way markets are operated. Accordingly, the Council has decided to implement this markets policy which sets out the basis upon which markets not run by the Council are held and the process by which applications for holding such markets shall be made and considered.

1.4. Any market that is operated, other than by Ashfield District Council, within a radius of 62/3 miles of any Council operated market will be subject to this Markets Policy.

1.5. The markets policy enables Ashfield District Council to regulate markets within the district that are not organised by the Council, to ensure they do not become a nuisance to residents, neighbouring businesses and are operated in an appropriate manner.

1.6. 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.

**2. Ashfield District Council’s Market Rights**

2.1. The Council, by virtue of its statutory powers, enjoys market rights throughout the district of Ashfield. Any market that is operated within a radius of 62/3 miles of a Council market will be subject to the markets policy.

2.2. All markets held in district of Ashfield are licensed and operated in accordance with the provisions of Part III of the Food Act 1984.

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

2.3.1. Operate markets within the district of Ashfield

2.3.2. Implement a markets policy within its area;

2.3.3. Licence markets operated within the district of Ashfield in accordance with the markets policy

**3. What is a market and who does the market policy apply to?**

3.1. The Markets Policy is intended to apply to all market events held in the district of Ashfield that are operated, other than by Ashfield District Council.

3.2. The legal definition of a market is a ‘concourse of buyers and sellers’.

**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.**

3.3. A market may be held either outdoors or indoors and on public or private land.

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

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

3.6. A market operator means the person, body or organisation to which a market licence is granted by the Council. A market licence, once granted, is not transferrable.

3.7. 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 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, this requirement shall be determined on a case-by-case basis.

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

3.9. 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.

3.10. Community-based markets are organised by local communities or organisations with the intention of raising funds for a specific charity, good cause such as a community organisation 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 community element in the way the event is organised.

3.11. This Markets Policy does not apply to street trading activities where applications are made by individuals to stand a stall on a street designated by the Council as a consent or licence street.

3.12. Street trading is controlled by a different licensing process and relates to the granting of individual trading licences for identified streets.

3.13. Further information about street trading activities and licences can be found on the Ashfield District Council website: <https://www.ashfield.gov.uk/visiting/markets-and-town-centres/ashfield-district-council-markets-policy/>

3.14. Alternatively, you can contact the Council’s Licensing Team either at licensing@ashfield.gov.uk or by telephoning [01623] 457589.

**4. Council’s Markets**

4.1. The following markets are operated by the Council:

Kirkby in Ashfield: Tuesday, Thursday, Friday and Saturday.

Sutton in Ashfield: Monday, Wednesday, Friday and Saturday.

Hucknall: Friday, Saturday

4.2. The Council also operates an Indoor Market at Sutton in Ashfield, Monday to Saturday inclusive.

4.3. In addition to the regular Council markets listed above, the Council also operates occasional market events, such as Plant and Craft Fairs, Christmas Festivals and other themed markets across the district.

4.4. 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 Council’s Markets Policy.

**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 11 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:

Commercial markets; and

Community-based markets operated for a good cause or special event.

5.5. Applications in respect of both commercial markets and community based markets should be made to:

ASHFIELD DISTRICT COUNCIL [MARKETS SECTION]

INDOOR MARKET HALL,

IDLEWELLS SHOPPING CENTRE

SUTTON IN ASHFIELD

NOTTINGHAMSHIRE

NG17 1BP

markets@ashfield.gov.uk / 01623 551385

**5.6. Commercial Markets**

5.6.1. 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:

5.6.2. No market shall be authorised within 62/3 miles of an existing licensed market unless it can be demonstrated that the proposed market complements existing retail activity in the local area and supports the Council’s objective of helping to create a thriving local economy that is attractive and welcoming and does not prejudice the overall market offer.

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

5.6.4. 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.

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

5.6.6. Fees must be paid in respect of any application to the Council for a markets licence. The licence fees for any markets licence consist of a non refundable fixed application fee and a sliding scale fee based on both the size of the market and the frequency with which the market is held. The application fee must be paid at the time the application for the licence is made before the application will be considered. Please refer to Appendix 2 for a list of the current fees.

5.6.7. In respect of any consent the Market Operator must have adequate insurances in place (including a **minimum of £5 million public liability insurance**) and ensure that all stallholders have their own adequate insurances in place, also including a minimum of £5 million public liability insurance. 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.

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

5.6.9. 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:

Waste disposal arrangements

Road closures and traffic management

Noise and nuisance

Health and safety issues

Power usage

5.6.10. The Council shall insist on any other requirements as are deemed appropriate.

**5.7. Community-Based Markets**

5.7.1. Community-based markets are normally organised by local communities or groups with the intention of raising funds.

5.7.2. No market shall be authorised within 62/3 miles of an existing licensed market unless it can be demonstrated that the proposed market complements existing retail activity in the local area and supports the Council’s objective of helping to create a thriving local economy that is attractive and welcoming and does not prejudice the overall market offer.

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

5.7.4. 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 community element in the way the event is organised.

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

5.7.6. 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.

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

5.7.8. Where the market is to be operated on a non-profit making basis and the number of stalls is 15 or less and there are 4 or fewer events per 12 months, then the application fee will be waived. For all other markets, the application fee must be paid before the consideration of the market application. Please refer to Appendix 2 for a list of the current fees.

5.7.9. In respect of any consent the Market Operator must have adequate insurances (including a **minimum of £5 million public liability insurance**) 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.

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

5.7.11. 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:

Waste disposal arrangements

Road closures and traffic management

Noise and nuisance

Health and safety issues

Power usage

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

**6. Process for determining market licence applications**

6.1. An electronic version of the Council’s Markets Policy, together with the relevant market licence application form, can be viewed and downloaded from <https://www.ashfield.gov.uk/visiting/markets-and-town-centres/ashfield-district-council-markets-policy/> A market licence application form can be found at Appendix 1. An example market licence agreement can be found at Appendix 3.

6.2. 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 of the issues set out in paragraphs 5.6.9. and 5.7.11. and those issues covered on the application form. Failure to provide such information is likely to lead to a delay in the Council coming to a decision.

6.3. When the Council receives an application it will liaise with, and share information with, other agencies as appropriate.

6.4. The following guidelines will be applied when an application is received by the Council:

6.4.1. No market shall be authorised within 62/3 miles of an existing licensed market unless it can be demonstrated that the proposed market compliments existing retail activity in the local area and supports the Council’s objective of helping to create a thriving local economy that is attractive and welcoming and does not prejudice the overall market offer

6.5. The authority to grant a market licence is held by the Service Director - Economy with this power being delegated under the Council’s constitution and scheme of delegation.

6.6. All decisions to grant market licenses are made at the discretion of Ashfield District Council.

**7. Commercial Market Licence Fees**

7.1. A licence fee is payable once an application for a commercial market licence has been granted by the Council. A licence agreement for the identified events will be drawn-up by the Council and will require a statistical return and appropriate fee to be received within 7 days of an event being held.

7.2. The licence fee for commercial markets will be based on the size of the market and the frequency of the market. Please see Appendix 2 for the current list of fees

7.3. All fees are payable to Ashfield District Council.

**8. Appeal process**

8.1. 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.

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

8.3. 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.

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

**9. Renewing a market licence**

9.1. 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.

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

9.3. Lapsed market licences will be dealt with as new applications.

**10. Other Approvals**

10.1. 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.

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

10.3. 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. Nottinghamshire County Council has legal powers to temporarily close roads and divert traffic in order to facilitate various types of event, applications for temporary road closures in relation to markets should, in the first instance, be addressed to Nottinghamshire County Council (see [www.nottinghamshire.gov.uk](http://www.nottinghamshire.gov.uk) for more information).

10.4. 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. Contact: Planning.Admin@ashfield.gov.uk / 01623 450000

10.5. Attention is also drawn to the provisions of the Licensing Act 2003 in respect of any entertainment provided at the market or where a Temporary Events Notice might be required in respect of the sale of hot food or alcohol. Contact: licensing@ashfield.gov.uk / 01623 457589

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

**11. Enforcement**

11.1. 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.

11.2. 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.

11.3. 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.

11.4. 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.

**12. Review**

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