

Report of the Markets Service

Report to the Chief Economic Development Officer

Date: 9 April 2014

Subject: Street trading – Leeds City Centre

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): City and Hunslet	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This report outlines the proposals and rationale for street trading in the city centre in the future

Recommendations

2. The Chief Economic Development Officer is recommended to approve the proposals and rationale for street trading in the city centre in the future as set out in the report.

1.0 Purpose of this report

1.1 The purpose of this report is to advise the Chief Economic Development Officer on the proposed changes to street trading in the city centre; specifically to:

- (i) Use different legal powers to those currently employed
- (ii) Set pricing zones for the various sites
- (iii) Remove competitive bidding for sites and
- (iv) Amend the selection criteria to more accurately reflect LCC's aspirations for the city centre.

2.0 Background Information

2.1 The street food movement is a well-established global phenomenon and in the UK is an exciting development in the culinary offer of towns and cities, with gifted food entrepreneurs choosing to bring their menus to the streets rather than through the more traditional route of a restaurant kitchen. Many cities in particular London, Manchester and Leeds have bought into the ethos of quality street food. The aspiration is to ensure Leeds as one of the UK's foremost cities does not get left behind in this area. The Markets service currently holds its own events for quality independent food retailers such as Handmade in Yorkshire (part of the Leeds Food and Drink Festival in June) and World Feast (a monthly 'foodie' event on Briggate) and through its licensing regime also permits and supports private events. The time is right to increase quality to ensure we do not lose trade to other cities.

Recognising this, the Council is to create an incubator project for street food with a budget of c£20,000. This project will have several aims which may include development support towards existing traders obtaining NCASS registration and for workshops with street trading experts looking at quality, presentation, food 'theatre' and business viability and planning.

2.2 However the recent test case of Hemming V Westminster City Council in May 2013 established that local authorities could only charge for costs of the trading authorisation procedure and its formalities – essentially, administration but not enforcement, which is the most costly part of the operation. The challenge for LCC therefore, is to find a way to sustainably operate a high quality street trading regime in the central retail core, which can add to the vitality and viability of the street scene, draw visitors between the sites and crucially, increase their dwell time and spend in the city, whilst ensuring the income generated for LCC is sufficient to reflect our costs and meet our income targets.

3.0 Main Issues

3.1 The proposals for street trading applications from April 2014 are:

(i) Cease issuing consent to trade under the Local Government Act 1982

The Council has franchise and statutory rights to hold Markets in the Leeds Metropolitan District, and this authority is delegated through its Markets service. It is proposed to use these rights to hold a daily city centre street food market which will take place in an area equivalent to the designated area for street trading as set out in the Leeds Act 2013. Traders would trade under a *daily* Market Licence rather than consent to trade.

The market would take place at eleven existing sites with a possibility for expansion subject to consultation. The area would be bordered by Boar Lane in the South, Park Row and Calverley Street in the West, Claypit Lane to the North via Woodhouse Lane and Queens Square and the Inner Ring Road and Vicar Lane to the East and would therefore link

seamlessly with any sites at or near the Arena.

The advantage of utilising the markets licence is that it can create trading zones to reflect the popularity and footfall of each site when setting fees whilst overall charging only for the costs of the scheme. Legal services have been consulted and have confirmed this would be an acceptable use of Market rights.

Critically, whereas the existing regime of street trading consents permit the same trader use of the same spot for a period not less than 3 months (and traditionally issued by us for a 12 month period) using market licences will allow for a much more flexible situation where traders can move around, and different food offers can be introduced.

3.2 *(ii) Create pricing zones to reflect footfall at each site*

Traders have paid vastly differing prices through the years due to the tendering scheme. To make it more equitable and ensure traders can more accurately calculate the viability of a pitch before taking it on, fixed charges which reflect costs will be used.

By far the most popular trading street is Briggate, Leeds city centre's main pedestrian retail street. Sites on this street will be classed as zone A and be offered at a daily rate of £95 equivalent to a charge of £20,000 per annum at current attendance. With the exception of sites at East Parade Triangle and Bond Street which are on the periphery of the centre and Dortmund Square which is a small non-food site the rest will form zone B and attract a daily rate on licence of £35 equivalent to an annual charge of £8500 per annum at current attendance. The three mentioned above will form zone C and attract a daily rate of £25 equivalent to an annual charge of £6500 per annum at current attendance.

The charges above would provide an income of c£90,500 per annum if fully occupied throughout the year. As some of the sites are from time to time empty it is likely that income would be slightly less and our charges have been calculated at £88,000, the charges are therefore proportionate and as reasonable as possible matched against our costs. However the use of a daily market licence will enable us to fill any empty spaces very quickly from our waiting lists thus providing a comprehensive and also refreshed offer for customers.

3.3 *(iii) Remove competitive bidding for sites and amend the selection criteria*

It is no longer an option due to the case law mentioned above to allow traders to tender a financial offer for a site. This will enable the Markets Service to place even more emphasis on qualitative criteria. This will allow us to drive up the quality of street food on offer in the city centre and make Leeds a real 'foodie' destination.

An organisation known as NCASS (The Nationwide Caterers Association) is a National Trade Association who is 'dedicated to providing caterers with the information, systems and support to be safe, legal and profitable'. Membership of this group along with a minimum hygiene rating of three stars will be a requirement. There may be some financial assistance available to existing traders from our street food incubator fund to join this group.

The qualitative criteria will consider, in addition to the appearance of the unit which must relate closely to the nature of the food offered, the applicants menu including its quality, availability of healthy options and uniqueness of the offer, their social media presence and general marketing, and if they have won any awards. These are similar to the criteria used to select 'mobilers' for the unique and successful Trinity Kitchen, with which the Markets service have developed a good working relationship. How the applicant co-exists with the environment will also be considered, for example do they recycle and how much fuel/power do they consume. Previous experience of working in large city centres will also be beneficial.

The applicants will be asked what days and times they wish to trade with preference being that they trade until 7pm in the evening to reflect the new Traffic Regulations, although an exemption is in place at 4.30pm. The more days they wish to trade represents an increased offer for consumers.

Implication for existing consent holders

One of the barriers to implementing change has been the need to consider the existing small business owners who are occupying the street vending pitches under the existing consent scheme. Whilst their 12 month consent has no right of extension, they have no occupancy rights and can be served notice of 7 days to quit, in practice many have been in occupation for several years concurrently and have built up a following of customers. Whilst, clearly, in order to continue these traders will need to work towards the aspirational criteria set out by the new regime, and will need to be licensed under Market Rights from its introduction, a period of grace of 6 months will be allowed during which

- a) They will be able to occupy their existing pitch;
- b) The Markets service will work closely with them to get them NCASS accredited as achieving accreditation will be a mandatory requirement to continue trading after that time;
- c) They will be given priority for places on the incubator scheme should they wish to take these up.

Timescale

The change from street trading consents to Market licensing is proposed to take place from 1 April 2014. The incubator project will be launched during the Leeds Food and Drink Festival 2014, which takes place from 22 May to 8 June 2014. Close links will be developed with Trinity Kitchen and the British Street Food Awards which will take place for the first time in Leeds in September 2014.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 All existing city centre street traders were invited to a meeting 18 March and were supportive of proposals.

Lead members have been consulted and are supportive of proposals.

There is no change to the way traders currently co-exist with retailers and other stakeholders and therefore no requirement to undertake consultation with them. However should we propose new trading sites this will have to be considered.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no equality and diversity or cohesion and integration issues associated with these proposals.

4.3 Council policies and City priorities

- 4.3.1 Updating trading arrangements to reflect current legislation and case law will provide further tangible evidence that the City is committed to ensuring the sustainability and quality of street food offer in Leeds.

4.4 Resources and value for money

- 4.4.1 As stated the overriding objective of these changes is to drive up the quality of our offer and maintain an income that covers our costs of c£88,000.

There is potential to add to these sites in the future thus providing more income for the Council.

4.5 Legal Implications, Access to Information and Call in

- 4.5.1 In respect of the work to be undertaken in this report no legal issues are anticipated. Not carrying out the work would leave the Council in a legally vulnerable position.

4.6 Risk Management

- 4.6.1 If the changes proposed are not implemented, given the implications of the Hemmings v Westminster ruling, markets income from these sites will be severely constrained in the future. There is also risk of legal challenge.
- 4.6.2 There is a risk if sites are unoccupied that we may not cover costs however the expectation is that as demand is high and the new proposals introduce the ability to quickly and easily fill any vacant pitches this should not materialise. Any shortfall could be addressed by income from future additional sites.

5 Conclusions

- 5.1 The changes suggested will provide sound legal footing for the future. Opportunities for traders will be more equitable with an emphasis on increased quality. Existing long term traders will benefit from the changes and not be disadvantaged.

6 Recommendations

- 6.1 The Chief Economic Development Officer is recommended to approve the proposals and rationale for street trading in the city centre in the future as set out in the report.

7 Background documents¹

- 7.1 There are no related background documents

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.