

Kirkgate Indoor Market Lettings Policy and Process

1. Introduction

Information about our markets and stalls can be found on our website <http://www.leedsmarkets.co.uk> or by telephoning the markets service telephone: 0113 214 5162 or by email: markets@leeds.gov.uk

2. Council Lettings policy

It is the Council's aim to ensure our markets are diverse and meet the needs of Leeds residents and shoppers. It is our policy to deal with all applications in a fair and open way, to ensure our markets are diverse, to ensure that products and services sold comply with trading standards and to make the application process as simple as possible.

2.1 Factors determining the suitability of applications

As is common practice in Local Authority markets, private markets and commercial retail centres, a range of factors governing the quality and mix of products and services on offer in the market are considered when determining applications for a new business, extension to existing businesses, or relocation to another part of the indoor market. The factors considered by LCC Markets Service in determining an application are as follows:-

1. The rental offer where applicable.
2. The quality of product/service offered.
3. How the proposed business fits with service plan objectives. The service plan is a public document published on the website www.leeds.gov.uk
4. Products or services which are currently under represented within the existing market will be encouraged while over-representation will be discouraged.
5. The extent of differentiation – where similar businesses already exist, what is different about the product or service proposed which will enhance the existing offer for customers and increase their choice?
6. The business experience of the applicant, or where a new business, evidence of a sound, well researched and market tested business plan.
7. Level of investment proposed by the incoming tenant, in fit out, branding, marketing, staffing and promotion.
8. Any additional benefits proposed. Examples of this would be Jamie's Ministry of Food which teaches people how to cook and eat healthily,

or The Source, which helps new food entrepreneurs market test and develop their business idea.

9. In addition, we look favourably on applications from existing open market traders, or businesses on our start-up schemes, to take permanent units in the indoor market. However, criteria 1 – 7 will still be taken into consideration in determining whether to offer a tenancy as we must also ensure we protect our existing businesses from product or service saturation.

2.2 The Tenancy Process

Tenancies are offered in two ways: either on the basis of individual applications, or as the result of a formal tendering process.

The process is slightly different depending on the method of receipt of application but the criteria for assessment of applications, described above is the same.

The same criteria are also used in the assessment of applications from existing tenants to extend their user clause (the range of products they can sell), or move to a new location in the market. However, the fees charged differ between these categories of application.

The method used by LCC Markets Service to assess stall applications covered by the Landlord & Tenant Act 1954 is in line with that used by other Local Authorities.

This document is supported by the following attachments:-

Annex A – Application pack for stall enquiries

Annex B – Tender pack

Annex C – Schedule of fees and charges

3.0 Setting rents, the service charge, bonds and business rates

3.1 Setting base rental levels

The base rental price per square foot of each unit is set by an official rent review, which takes place every three years. The rent review takes into account the levels of rental achieved through tendering of stalls (see 3.2) as well as market forces and the rents previously achieved. For the purpose of this exercise, the indoor market is divided into zones based upon the different halls and prime retail locations within these. The last rent review conducted by the Markets Service was in 2008 and therefore, ordinarily, one would be due in 2011. However, at traders' request an independent review was conducted by the Valuation Office (VO) in 2010 and for this reason one has not been conducted this year.

The rent per square foot is set, therefore, for each zone and this is the **base rent**. There are a range of discounts or enhancements which are applied to this base rent, for example a fresh produce offer (fruit & veg, flowers, cakes) is discounted in recognition of higher levels of perishable stock; units with an upstairs floor or other storage area are naturally more expensive than ones without this facility. This is advised at the time of application.

After the 2005 rent review, it was agreed to offer some stalls on a 5 year lease contracted out of the protection offered by the Landlord and Tenant Act 1954 (ie. not liable for compensation and not a rolling tenancy). In recognition of this, a range of discounts off the base rent of between 5% and 20% depending on size of unit, were offered. Consequently some contracted out leaseholders will be paying less than their neighbours who have elected to take or remain on periodic tenancies with the protection afforded by the Landlord & Tenant Act 1954.

In summary, therefore, the level of base rent for the zone in question, plus any specific discounts or enhancements described above, is the rent at which the lease or licence on that unit is agreed. This information is freely available to applicants.

Rents in the indoor market have not been increased since 2005. It is worth noting that the independent review by the VO recommended increasing rents in some areas of the market; the Council chose not to do so at a loss of around £16,000 per annum of potential income.

3.2 Tendering

It has been the policy of the Markets Service to tender all vacant units, and those occupied on temporary licence, on a regular basis around 3 times per year. The bids achieved were instrumental in informing the rent review, as mentioned above. This process was last undertaken in October 2010 but has been temporarily suspended in 2011 because:-

- a) for all new tenants, it had not been possible to obtain the security of a periodic or contracted out lease other than through successful tender. This was found to be a barrier to more established businesses, or those wishing to invest significantly in their new unit as they had no security other than a six month lease with one month's notice and no guarantee of renewal (or successful tender). Therefore, requests to move straight to lease either on commencement of tenancy, or at the end of six months' licence without disruption to business, can be considered on a case by case basis. During these difficult times in the retail sector, the markets service has had to work harder to secure tenants, especially those with established interests elsewhere and the tender process has been an additional fetter in achieving this;
- b) The current proposals to determine the optimum size for the market may result in the need to relocate established businesses within the market whilst other areas are redeveloped. It would not be appropriate to tender

units externally when existing businesses may be at risk of displacement as a result. Once proposals are clearer, and certainly as part of a redevelopment strategy, it may be desirable to recommence tendering of units.

3.3 Rent-free or Assisted Terms

When a tenant takes on a new unit, there is a period where they will be fitting out their stall prior to commencement of trading, during which they are liable for rent, rates and service charge but are not actually taking any money. Often, very significant sums are invested by the tenant in the design, fit out and equipment for their unit. It is in the interest of the Markets Service to encourage tenants to invest in their unit as this enhances the overall offer in the market as well as the individual business. Therefore, by negotiation and agreement between the tenant and the landlord, a rent free period, or a period of time where rent rises to 100% on a sliding scale, may be agreed if the tenant requests it. It is not routinely offered. This is standard practice between commercial landlords and their tenants, and depends on the level of investment in the unit, the time taken to fit out and establish the business, and also the level of investment the landlord has had to make to accommodate the tenant, for example fitting 3-phase power, additional drainage, or removing walls to combine two units. Any agreement reached will always take account of the need for LCC to earn rental income from a stall letting which will at least cover the costs of implementing that tenancy during the period of lease agreed. Occasionally, tenants may approach the Markets management in to ask for temporary assistance with rent; each application is considered individually and any such arrangement is made confidentially.

3.4 The Bond

All new tenancy applications, whether on lease or licence, are subject to the payment of a bond equivalent to one month's full rent. This is held until satisfactory conclusion of the tenancy against damages or non payment of rent or other liability. In certain circumstances, for example where the tenant is a limited company, or where a credit check has raised concerns, the equivalent of two, or very occasionally more, months' rent is required as bond.

3.5 Service Charge

The service charge is the sum payable by tenants for the provision of services by the landlord, incurred by the latter in the management and day to day operation of the premises. It is based upon the *actual cost* of the provision of those services, apportioned between the indoor and outdoor market at Kirkgate as appropriate based upon actual usage. In addition, the landlord, under the terms of the tenancy agreement, makes a small percentage charge of the total as a managing agents' fee. The billing period for service charge is October to September. For the current year the service charge is 11.39% of rent. This is collected by the Markets Service. Traders have access to the full detail of what items are coded to the service charge and access to an LCC financial manager for clarification if needed.

3.6 Business Rates

Business rates are set by HM Revenue and Customs based on a percentage of the rental value, and are not collected by the Markets Service. It is the responsibility of the tenant to register for and pay any business rates due.

4.0 The letting process

When applying for a stall (unit) in the indoor market, applicants must take account of two elements. These are:-

- The cost of the unit, which includes rent, service charge and business rates, plus any bond required;
- The information required by the Markets service to determine whether or not to offer a tenancy.

Every application is discussed with the markets manager (or in the event of her absence, the Head of City Centre and Markets), who takes the final decision whether or not to offer a tenancy, and on what basis. The process of application and negotiation is managed by the commercial development manager with the help of the commercial development assistant. Overall responsibility for the delivery of the commercial lettings service rests with the markets manager.

Applications can be made via a form, available from the markets information centre or by post. A full information pack accompanies the form. An up to date list of vacant stalls is available from the information centre and vacant stalls are advertised both in their individual location and via a list in the Information Centre, which is open 0800 to 1800, Mon – Sat.

When an application is received it is processed as follows:-

1. Paper application assessed by the markets manager and the commercial development manager, using the criteria set out above. If more information is needed, the applicant is contacted by phone to discuss (or in person if already in the market). Once further information has been obtained, the application is reassessed with the markets manager.
2. If approved, the user clause (list of goods and services to be offered) and unit number is advertised prominently in the Information Centre to allow comment from other traders, for 7 days.
3. If comments are received, the application is reassessed, perhaps to obtain more information about the product range or differentiation – at this stage, the applicant may be invited for interview to provide supplementary information in support of their application. Sometimes as a result of this process, the user clause is modified to reduce the likelihood of conflict with existing goods and services. The final

decision whether or not to offer and on what basis, taking into account all information obtained and any comments, rests with the markets manager.

4. Once agreed with the markets manager, the commercial development team make the offer to the applicant and begin any negotiations regarding fit out etc. Appropriate checks are carried out before a lease or licence is concluded, and this must be in place, along with the bond payment, before the tenancy can commence.