

**WYRE FOREST DISTRICT COUNCIL**

**CABINET**  
**15<sup>TH</sup> FEBRUARY 2011**

**Procedure for Determining Applications to hold Car Boot Sales and Other Temporary Markets**

<b>OPEN</b>	
<b>SUSTAINABLE COMMUNITY STRATEGY THEME:</b>	Economic Success Shared by All
<b>CORPORATE PLAN AIM:</b>	A Vibrant Local Economy
<b>CABINET MEMBER:</b>	Councillor M J Hart
<b>DIRECTOR:</b>	Director of Planning and Regulatory Services
<b>CONTACT OFFICER:</b>	Mike Parker - Ext. 2500 Mike.parker@wyreforestdc.gov.uk
<b>APPENDICES:</b>	Appendix 1 - Procedure for determining applications to hold Car Boot Sales and Other Temporary Markets

**1. PURPOSE OF REPORT**

- 1.1 To agree a procedure for determining applications to hold car boot sales and other temporary markets.

**2. RECOMMENDATION**

**Cabinet is asked to DECIDE:**

- 2.1 **To agree the procedure of determining applications to hold car boot sales and other temporary markets as set out in Appendix 1 to this report.**

**3. BACKGROUND**

- 3.1 Every year the Council receives a number of applications to hold car boot sales and other similar temporary markets. The applications are determined by the Council's Environmental Maintenance Team at Green Street and follow some informal procedural guidance that was issued in 2000 by the then Legal & Democratic Services Division. This procedure updates and refreshes that guidance.

**4. KEY ISSUES**

- 4.1 There are three different means of controlling temporary events such as car boot sales and temporary markets and this procedure streamlines and clarifies those different elements.
- 4.2 The Local Government (Miscellaneous Provisions) Act 1982 ('The Act') requires the occupiers of land to give the Council a month's notice of their intention to hold a temporary market. The Town & Country Planning (General Permitted Development) Order 1995 ('The Order') allows 14 such temporary events to be held within any

calendar year on certain land without the need to apply for planning permission. Finally, the Council also has discretion to permit or refuse markets held within 6.67 miles of the former Kidderminster or Bewdley borough boundaries (i.e. all of the District) under the Market Charter that exists. In the past there has been some confusion regarding the way these three means of controlling temporary markets have worked together. This revised procedure streamlines them into a single consistent approach.

- 4.3 Although previously consultation has been carried out with the County Council and West Mercia Police regarding traffic impact, no other consultation took place. The new procedure proposes that local Ward Members and Parish/Town Council views are also canvassed.
- 4.4 The revised procedure makes clear the Council's consideration of applications and the criteria it will use to ensure that temporary markets can take place with minimal impact on the surrounding land uses and neighbours.
- 4.5 In order to meet the cost of administering applications it is also proposed to introduce a charge. This is part of a budget proposal to be considered at Council on 23<sup>rd</sup> February 2011 and will only be applied if agreed at that meeting as part of the budget.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 It is proposed that the administrative cost of determining applications to hold such temporary markets be met through the introduction of a fee which shall be determined annually by Council.

## **6. LEGAL AND POLICY IMPLICATIONS**

- 6.1 The Council is able to exercise its power under S37 of the Local Government (Miscellaneous Provisions) Act 1982, the Market Charter and the Town & Country Planning (General Permitted Development) Order 1995 in deciding whether or not to permit temporary markets, including car boot sales, to be held within the district boundaries.

## **7. EQUALITY IMPACT NEEDS ASSESSMENT**

- 7.1 There are no equality impact implications arising from this report.

## **8. RISK MANAGEMENT**

- 8.1 Without clear procedural guidance in place there is the potential for an inconsistent approach to be taken.

## **9. CONCLUSION**

- 9.1 The proposed procedure note will give clarity to those wishing to hold temporary markets or car boot sales about the Council's approach to dealing with such proposals.

**10. CONSULTEES**

10.1 Director of Legal & Corporate Services.

10.2 Environmental Maintenance Manager.

**11. BACKGROUND PAPERS**

11.1 Legal & Democratic Services Briefing Note 2000 on holding Temporary Markets and Car Boot Sales.

**Wyre Forest District Council**

**Procedure for Determining Applications to hold Car Boot Sales and Other Temporary Markets**

**Background**

A market is defined in law as ‘a concourse of buyers and sellers’; anyone therefore who lets ground, pitches or premises to stallholders, traders or sellers with a view to them offering articles for sale is likely to be operating a market by this definition. There is a main market in Kidderminster town centre every Thursday and Saturday which is run for the Council by an operator under contract with the Council. The Council has also agreed to a market being held in Bewdley on land at Severnside South adjacent to the quayside. The Council has delegated responsibility for the running of this market to Bewdley Development Trust. From time to time though the Council is asked to consider proposals for specialist markets to be held, e.g. farmers’ markets. This procedure would cover such requests.

Car boot sales are popular fund raising and leisure events and these usually fall into the definition of a ‘temporary market’ which is held on land that is outside the curtilage of a building and not on the highway and comprises at least five stalls, stands, vehicles or pitches.

The use of land for the holding of temporary markets requires planning permission unless it falls within the provision of The Town & Country Planning (General Permitted Development) Order 1995, Part 4, which deals with ‘Temporary Buildings & Uses’. In short, planning permission is not required for temporary markets as long as they are not held within a building, within the curtilage of a building or on land in an area designated as a Site of Special Scientific Interest and are held for not more than 14 days in any calendar year.

Within the Wyre Forest district, by virtue of its rights under the Market Charter that exists, the Council has a discretionary power to allow or refuse markets to be held within 6.67 miles of the former Kidderminster or Bewdley Borough boundaries (‘The Protected Area’). This, in effect, means that the entire district falls within The Protected Area. The Charter gives the Council rights which are enforceable in the civil courts to prevent anyone from holding a market or fair within the district without first obtaining the Council’s permission.

**Applying for Permission to hold a Market**

The Council will require applicants to complete an application form to hold a market or car boot sale (Appendix 1). The form is available on the website at [www.wyreforestdc.gov.uk](http://www.wyreforestdc.gov.uk) or is available from the Environmental Maintenance Team at the Council’s offices at Green Street, Kidderminster DY10 1HA or at the Council’s Hubs. In order to carry out the necessary consultations (see below) the Council will require applications to be submitted no less than 42 days (six weeks) before the market or car boot sale is due to be held.

In order to cover the costs of administering applications, the Council charges a fee which is payable at the time the application is submitted, as follows:

- Less than 500 stalls/vehicles - £35 per application
- More than 500 stalls/vehicles - £50 per application

Applications without a fee will not be processed. The event may only proceed when written approval from Wyre Forest District Council is obtained.

### **Process for Determining Applications**

The 42 day notice period will commence from the time the Council receives the completed application forms and correct fee. The Council will then consult with the following, allowing 14 days to respond:

- The District Council Ward Councillors for the area within which the event is due to be held.
- The Parish or Town Council for the area within which the event is due to be held.
- Worcestershire County Council (Highways).
- West Mercia Police (Traffic).

The Council will then consider any representations made within the 14 day period and will determine the application using the criteria set out below and will normally notify the applicant within 28 days of receipt of the application whether permission has been granted or refused. The Council may impose conditions on the grant of permission, with a view to regulating matters including, but not limited to:

- Traffic & parking control
- Disposal of litter
- Provision of toilets

### **Criteria for Determining Applications**

As well as considering responses received from the consultees described above, the Council will take the following into consideration when determining applications:

- The number of temporary events held at the same location in the calendar year to date. The Council will not permit more than 14 temporary markets or car boot sales to be held from the same location in any calendar year.
- Temporary events already planned in the vicinity of the area proposed. The Council will not permit more than one temporary event to be held within a three mile radius of an already permitted temporary event on the same day.
- Other events already planned. The Council will take into consideration the proximity of the proposed event to any already planned event so as not to cause additional traffic congestion problems or additional nuisance to neighbouring properties.
- Impact on neighbouring residential properties. The Council will consider the likely impact of the proposed event on neighbouring properties and will not permit events to take place that would unreasonably impact on the peaceful enjoyment of those properties.
- Impact on 'protected' land. The Council will consider the environmental impact of the proposed event and will not permit events to take place on land designated as a site of Special Scientific Interest, a wildlife site or any other similarly environmentally significant sites.

**The Council's Enforcement Powers**

By virtue of S37 of the Local Government (Miscellaneous Provisions) Act 1982 ('The Act'), anyone who permits or holds a temporary market on their land and fails to give the Council at least a month's written notice, is guilty of a criminal offence which may be prosecuted in the magistrates' court with a maximum penalty of £2,500 fine.

Anyone holding an unauthorised market in The Protected Area is subject to the Council enforcing its rights under the Markets Charter by the Council applying to the civil courts for an injunction; under such circumstances, the Council will seek to recover its costs in full of bringing such legal action from the offending party.

Failure to comply with the limitations on temporary uses of land set out within the Town & Country Planning (General Permitted Development) Order 1995 as described above, may also be subject to the Council instigating enforcement proceedings under the Town & County Planning Acts and related legislation and guidance.

<b>Wyre Forest District Council</b>	
<b>Application for Permission to Hold a Temporary Market or Car Boot Sale</b>	
<b>To:</b>	The Environmental Maintenance Team, Green Street, Kidderminster, Worcestershire, DY10 1HA

<b>PLEASE USE BLOCK CAPITALS:</b>
I hereby request permission to hold a temporary market/car boot sale and give the following information:-

Operators Name	Tel No:
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Address:	
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Date of Proposed Sale:	Start Time:	
	End Time:	

Proposed Venue of Sale:	
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Name and Address of Owner of site, if different from the operator	
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Number of stalls/cars expected to attend:	Charge per stall/car:	£
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Have you been granted permission by the Parish/Town Council or land owner to use this site? (Please Circle)	Yes	No
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Number of other vehicles expected to attend (e.g. Vans, Lorries, Trailers):	
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Details of charges per van, lorry, trailer etc	
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Purpose of Event (i.e. Charity, Commercial etc)	
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Title of Charity (and registered charity number) or club benefiting from event (if applicable)	
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Address of Charity or club benefiting from event (if applicable)

Details of all Car Boot Sales or Markets held in the last 12 months by the applicant within Wyre Forest District boundary - dates, locations etc

Details of any other events held at this venue during the last 12 months:

<b>42 DAYS NOTICE OF YOUR INTENTION TO HOLD A TEMPORARY MARKET/CAR BOOT SALE IS REQUIRED</b>		
Signed:	(Operator)	Date:
	Advisory:	

<b>Please note that it is important to have the following whilst holding a temporary market/car boot sale for any of the patrons or council officers to view upon request before, during and after the event:</b>
Public Liability Insurance
Health & Safety Risk Assessments
Operators License