



Derby City Council

COUNCIL CABINET
11 September 2013

ITEM 7

Report of the Cabinet Member for Planning,
Environment and Public Protection

UPDATING DERBY'S MARKET RIGHTS

SUMMARY

- 1.1 Derby can trace the history of providing markets in the city back to 1154, when King Henry II bestowed on the burgesses of the city a Royal Charter, including in which was enshrined the enduring right to stage markets. The privilege was further endorsed in 1204, by King John when a further Charter was granted establishing a market from the evening (vespers) on Thursday to the evening (vespers) on Friday. The rights were extended in 1229, when King Henry III granted the right to hold a fair during Whitsun week and on eight days either side of the feast of St James the Apostle. Finally, in 1330, the right to hold a market was extended to include Sunday, Monday and Wednesday.
- 1.2 The Charter gave the City of Derby rights to provide markets and limit the ability of others to provide them within the area of its jurisdiction. This is taken as 6 2/3rd miles from the site(s) of an existing charter based market(s).
- 1.3 Recently however, the HM Land Registry has placed in question the legitimacy of these ancient rights on the grounds of their interpretation of Section 117 of the Land Registration Act 2002. The Land Registry contends that the 2002 Act has an overriding effect of removing Market Rights, despite any royal patronage or historic significance of them. Legal advice received is that the Land Registry contention is valid. This overriding right becomes effective from 12 October 2013.
- 1.4 This would mean that Derby would lose its long established market rights from that date and would therefore, be no longer able to resist applications from 3rd parties to establish additional markets or impose reasonable management conditions on the tenants of the existing markets. The provision of markets in the city would in effect become unregulated.
- 1.5 The proposal is therefore to adopt Part III of the Food Act 1984 as the basis for the provision of the markets in the future

RECOMMENDATION

2.1 That Cabinet:

- a) recommends Council to adopt Part III of the Food Act 1984 as the basis for the provision of the markets set out in Appendix 2 to this report.
- b) receives within 6 months of this report a further report setting the details of the proposed byelaws
- c) receives and considers for approval within 3 months a report setting out the proposed schedule of fees and charges, to become effective from 1 April 2014.
- d) authorises, in the interim as a protective measure, the submission of an application to HM Land Registry by no later than 12 October 2013 to register the original market rights.

REASONS FOR RECOMMENDATION

- 3.1 To enable Derby City Council to continue to provide and regulate the existing markets and to protect the continued viability of them by resisting further applications to establish additional markets within the city.
- 3.2 To ensure that there is an effective regulatory system in place within the Council's administrative area.

SUPPORTING INFORMATION

- 4.1 Working closely with the National Association of British Market Authorities (NABMA), of which Derby is a member, your officers having been seeking to establish and understand the position as it relates to the existing markets offering in Derby. The legal position is complex and open to differing interpretation. Therefore, the advice from NABMA is that due to Derby's long history in providing markets and the presumption that Derby would wish to retain its status as a 'Market City', it adopts the provisions of Part III of the Food Act 1984.

- 4.2 The adoption of the 1984 Food Act, would enable :
- The establishment or acquisition of markets (Section 60)
 - The appointment of market days and hours (Section 52)
 - The determination of charges (Section 53)
 - The regulation of markets by the adoption of market bye-laws (Section 60)
- 4.3 The adoption of this modern legislative framework for the future management of the markets, would serve to underpin and maintain the historical links with the ancient market rights that have been in place for over 850 years.

OTHER OPTIONS CONSIDERED

- 5.1 It is possible to seek to register Derby's original market rights with HM Land Registry on the basis that they are a 'franchise' drawn from the original Market Charters. However, adopting this approach is far more complex and time consuming. In addition, Derby would still be relying on ancient market rights, some of which are out of date, for the provision and management of markets rather than the modern legislative framework that the Food Act 1984 provides.
- 5.2 Despite this it is proposed to retain and formalise the strong link with the original rights and the long history of Derby as a Market Town by seeking to register them with the Land Registry so that they can run parallel with the modern legislative framework of the Food Act 1984.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Olu Idowu N/A N/A Steve Meynell John Tomlinson Julian deMowbray Melinda Kirkland
For more information contact: Background papers: List of appendices:	Gary Marshall 01332 341012 gary.marshall@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Market Schedule

IMPLICATIONS

Financial and Value for Money

- 1.1 There would be costs associated both with public consultation and making the byelaws themselves; neither of which are quantifiable at this stage, but may be substantial

Legal

- 2.1 In the absence of registration of the existing charter rights, they would lapse after 16 October 2013. Beyond that date and pending any new rights being brought into force by virtue of the adoption of Part III of the Food Act 1984, Derby would end up with unregulated markets within its area.
- 2.2 There is a high degree of uncertainty around the legitimacy of the continued reliance on those rights, and their extent, in any event.
- 2.3 Leaving either of these concerns unresolved would not be in the public interest.

Personnel

- 3.1 No specific implications

Equalities Impact

- 4.1 No impact

Health and Safety

- 5.1 No specific implications

Environmental Sustainability

- 6.1 No specific implications

Property and Asset Management

- 7.1 The markets are a significant asset in terms of the property.

Risk Management

8.1 No specific implications

Corporate objectives and priorities for change

- 9.1 The information set out in this report supports the corporate priorities to ensure the people in Derby will **enjoy good quality services that meet local needs**

Appendix 2

Markets Schedule

In accordance with the provision of Part 111 of the 1984 Food Act Derby City Council provides and regulate markets at the following locations:

Market	Market Hall
Address	
Contact	
Trading Days	Monday to Saturday
Trading Times	
Market Traders Committee Chair	Mrs Linda Ashton

Market	Eagle Market
Address	
Contact	
Trading Days	Monday to Saturday
Trading Times	
Market Traders Committee Chair	Mrs K Woodhouse

Market	Allenton
Address	
Contact	
Trading Days	
Trading Times	
Market Traders Committee Chair	N/A

Market	Livestock Market
Address	Chequers Road
Contact	
Trading Days	General Livestock Thursday Horses Saturday (fortnightly)
Trading Times	
Market Traders Committee Chair	N/A

Market	Wholesale Market
Address	Chequers Road

Contact	
Trading Days	
Trading Times	
Market Traders Committee Chair	N/A