

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 or is available from 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.

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 & Country Planning Acts and related legislation and guidance.