

# Markets Forum

A meeting of Markets Forum was held on Wednesday, 27th January, 2010.

**Present:** Cllr Robert Cook (Chairman), Cllr Mrs Jennie Beaumont, Cllr Mrs Suzanne Fletcher, Cllr Bill Noble, C Higgins (Market Trader Representative), Ms E Hutchinson

**Officers:** Mrs S Daniels, N Laws, G McDonald (DNS); Mrs T Harrison (LD)

**Also in attendance:** Market Traders

**Apologies:** Cllr Dalgarno, Mr P Johnson (Market Trader Representative)

## **M       Declarations of Interest**

**41/09**

There were no declarations of interest.

## **M       Minutes of the meeting held on 25th November 2009**

**42/09**

Consideration was given to the minutes of the meeting held on 25th November 2009.

AGREED that the minutes of the meeting held on 25th November 2009 be agreed as a correct record.

## **M       Thornaby Market Update**

**43/09**

Officers met with representatives of Thornfield on 27th November 2009 to discuss the future of Thornaby market. Thornfield continued to raise concerns about the layout and appearance of the market, the persistent breaching of the studs in St Peters' Square and the potential for the market traders to take up permanent residence in a newly refurbished In Shops. Officers stressed that the market in Thornaby was expanding and that the extent of space within the 4 studs was no longer sufficient to accommodate all interested traders.

The allocation of space along the new retail mall, as prescribed in the Markets Development Agreement, was then discussed but it was agreed that the Markets team would design a number of alternative layouts in St Peters' Square and extension in front of Lidl for discussion at a meeting in February. In the meantime there would be an embargo on seeking to terminate the markets agreement and taking photographs of any breaches.

Officers reported that Thornfield Ventures, who owned Thornaby Town Centre, had gone into administration. Lloyds Bank had appointed asset managers, Hammersons to run the centre and fill the empty shops and then the product would be sold.

Market Traders were advised that the future of the market in Thornaby was still very much on the Thornaby agenda and that legal services were working on protecting the markets standing.

Members requested that the information provided at the Markets Forum meeting regarding Thornaby Town Centre be summarised in writing and sent to all Members.

AGREED that:

1. The report be noted.
2. The Regeneration Projects Manager summarise in writing, the information that was provided at the meeting and send it to all Members.

**M**  
**44/09**      **Stockton Sparkles Christmas Festival Update**

Members were advised that officers were awaiting feedback from traders who attended the festival along with customer satisfaction results analysed by Proportion Marketing.

Although no official comments had yet been received, the traders from Parish Gardens all enjoyed the festival but suggested it be held earlier in 2010 as many people had already purchased gifts for Christmas.

Market Square Group providers of the World Market located outside Castlegate Centre had a good location and high footfall, however it was understood that spend was low. Certain traders experienced better trade than others particularly food related products.

It was acknowledged that due to the adverse weather conditions market traders had lost business.

AGREED that the report be noted.

**M**  
**45/09**      **Stockton International Riverside Festival**

Further to the agreement from Market Traders at the previous meeting, Markets Forum was provided with a plan of the area that had been identified by Stockton International Riverside Festival (SIRF) organisers, which would not be subject to change. Following the presentation of the plan at Markets Forum it had previously been agreed that all market traders would be informed in writing in January 2010 as to the extent of this area with each trader being required to sign for receipt of the letter.

It had been agreed that no traders would stand within this footprint on either Friday or Saturday of SIRF thereby enabling affected traders to plan either for relocation elsewhere in the market (including the Castlegate frontage) or not to take stand at all. However market traders attending the current meeting raised concerns regarding the displacement of traders, the requirement to use holiday if they chose not to trade and the integrity of the SIRF team. Issues relating to the attitude of the SIRF team were also raised.

Traders were advised that if they chose not to stand they would not be charged back rent and would not have to use annual leave from their existing entitlement. Traders advised that they would consult with the other traders and consider not standing during SIRF.

Discussion took place regarding Casper & Gambion that occupied the area originally allocated for entertainment. Discussion ensued around the planning

application which allegedly stated that the cafe could be dismantled within 45 minutes. Traders felt that the cafe should be moved rather than Traders.

Officers advised that the opinions of all market traders would be sought via a response to the letter that each trader would have to provide a signature.

It was acknowledged that the SIRF team had apologised for the changes made at the last minute for 2009 SIRF and they had approved a fixed plan very early for SIRF in 2010.

AGREED that:

1. The report be noted.
2. The opinions of all market traders will be sought via a response to a letter that each trader will receive after providing a signature.
3. Officers would investigate the reports regarding the attitude of the SIRF team.

**M**  
**46/09**

### **2010 Markets/Events Update**

Members were reminded that a possible programme of markets to help celebrate the 700th Anniversary of the Market Charter was discussed at the last meeting. After further discussions with market operators who explained that given the current economic climate they would only be interested in attending larger established centres where both footfall and spend could be guaranteed such as Newcastle and Leeds, and that for now they considered Stockton to represent a risk. As a consequence it was proposed that Stockton Council hold 2 large scale market festivals so as to create sufficient critical mass to stimulate footfall and spend along side the farmers market and ethical market in summer mainly to mitigate any risk or apprehension the operators had and create a heavily advertised marketing campaign.

The proposed dates for markets/events throughout the year were as follows:

Saturday April 3rd - Farmers Market

Saturday 29th-Monday 31st May - Large Scale Market Festival

July (During SIRF) - Keen Green & Ethical Market (Market Square Group)

August 7th or 28th - Farmers Market

Saturday 23rd-Monday 25th October - Large scale Market Festival including Farmers Market

December - Christmas Market Festival

All the proposed dates had been strategically planned in consultation with the internal events team and with events teams across the Tees Valley to ensure there was no competition.

It was proposed that Saturday 29th May would be the big celebratory day with markets, entertainment and town crier. Town Centre Management would welcome any trader's suggestions on how they could get involved. The Council's Marketing team were working on a brand for marketing the above events. Members suggested that a sub group be established to develop ideas for the 700th Anniversary in May.

AGREED that:

1. The report be noted.
2. All suggestions will be considered.
3. A sub group be set up to develop proposals for the 700th Anniversary in May 2010.

**M**  
**47/09**

### **EU Services Directive Update**

Members were advised that the European Services Directive became legislation on 28th December 2009 and affected a number of services operated by local authorities. Markets were affected by the Directive with a requirement to provide online information and application forms relating to the letting of market stalls. Over the previous six months there had also been considerable discussion regarding the potential impact of the Directive on market rights.

The Department for Business, Innovation and Skills (BIS), responsible for the oversight of the implementation arrangements, felt that market rights were caught by the Directive and indicated that local authorities seeking to rely on their market rights were required to screen the legislation they relied on to enforce their market rights to ensure compliance with the Directive. There was considerable concern that if market rights were truly caught by the Directive then the ability of the Council to control and license car boot/sales and private markets would be significantly eroded.

NABMA took an early view that market rights were outside of the Directive because of their lack of substance and the fact that market rights had a monopolistic character which was already covered by EC competition law. NABMA was unable to persuade BIS that their approach was correct so NABMA, on behalf of its membership, took legal advice on the terms of the Directive and its relationship to market rights.

The legal advice received supported the initial view taken by NABMA and indicated that 'it was very arguable that the Directive did not apply to market rights generally and the 6 2/3 miles rule specifically...' Copies of the legal advice obtained by NABMA were made available to all members and the arguments set out by the barrister were provided in considerable detail yet BIS still maintained their view that market rights were caught by the Directive. However, after efforts from NABMA, BIS accepted that whether market rights were caught by the Directive was a matter for each local authority to determine and if a local authority felt that the Directive did not apply then there was no further action for the local authority to take.

The most recent case on market rights and the European dimension was Leeds City Council v Watkins and Another which concerned a refusal by Leeds to grant a licence for a car boot sale. The case examined the nature and extent of market rights and the impact of European legislation. As NABMA's barrister pointed out in this case "the court heard extensive arguments and implicitly accepted that market franchise rights were the subject of (by then) Articles 81 and 82 and EC Competition law".

NABMA believed that BIS' whole approach to market rights had been flawed and NABMA's barrister consistently made the point that 'the precise basis of government opposition to market rights and their assertion that the Directive operated to restrict them was unclear'.

It was therefore a matter for the Council to consider whether it accepted the advice from NABMA and its barrister that the Directive did not apply to market rights. If this was the case there was no further action to take and the Council could continue to operate its licensing policy in the same way. If challenged the Council would be able to demonstrate that proper consideration had been given to the issue and it would then be a matter for the courts to determine. However, if the Council felt that the Directive applied, as BIS suggested, then it was necessary to make application to BIS, using form IPM A15, and seek an exemption from the Directive on policy grounds. If the Council took this view, further advice was available from NABMA on the process to be followed using form IPM A15.

A detailed assessment of the Directive's effect on market rights using in house legal advice was presented at the Markets Forum. It was proposed that the right to hold Wednesday and Saturday markets in Stockton were not affected by the ESD, but that other markets in the Borough could result in potential challenges. The current policy should continue to apply however, a review of SBC's market policy should be undertaken to assist if challenge were to be pursued.

It was suggested that other markets and car boot sales could be allowed to stand but the compensation gained from them could be passed on to Stockton Council's market traders; Another suggestion was that the markets could work in collaboration.

The views of all markets traders would be sought.

AGREED that:

1. The report be noted.
2. The views of all the market traders will be sought.

**M**  
**48/09**      **Market Traders Promotion Fund**

Officers were not able to provide the current balance of the Market Traders Promotional Fund.

It was requested that the current balance be entered in the minutes when figures were provided.

AGREED that the balance will be shown in the minutes when figures were provided.

**M**  
**49/09**      **Any Other Business**

BOLLARDS

Market traders requested that the bollards that had been re-introduced in Stockton High Street be removed as they had been spaced closer together and were causing damage to the trader's vehicles when they had to drive between them to gain access to their stalls.

AGREED that the bollards would be investigated.