

Report to Licensing Panel

Application for Permission to Hold a Car Boot Sale

Meeting Date: 10th July 2018

Portfolio Holder:

Councillor Shah, Cabinet Member for Neighbourhoods

Officer Contact: Helen Lockwood

Report Author: John Garforth

Ext. 5026

Reason for Decision

This report outlines an application received seeking permission to hold a temporary market for a car boot sale on land at Oldham Athletic Football Club, Oldham. Oldham Council holds the market rights within 6 2/3 miles from its market on Tommyfield and therefore has the right to withhold its consent. There have also been objections received to the application.

Recommendation

Members should consider the application and the objections and determine whether or not permission should be granted or not.

Application for Permission to hold a Car Boot Sale

1 Background

- 1.1 This report relates to an application to seek permission to hold a temporary market for the purposes of a car boot sale as follows:

Location: Land at Oldham Athletic Football Club

Date: Sunday 29th July 2018 from 10am – 4pm

Applicants: Dylan Leech and Jerome O'Malley of National Car Boot Sales

Details: Car boot sale for approximately 50 vehicles

2 Current Position

- 2.1 The rights of the owner of a market franchise to insist that no rival market takes place within 6 2/3 miles of his own are enshrined in Common Law. These franchises can be granted by royal charter, letters patent, or statute and once granted they exist indefinitely. The standard reasoning behind this rule is based on a market goer walking 20 miles in a day, and requires a third of the day to reach the market, a third to trade and a third to return home, 6 2/3 miles represents the longest distance he can travel to a market.

- 2.2 In the absence of any other sourced material the first reference to markets in legal text can be found in The Oldham Borough Improvement Act 1865 where section 170 gives the Corporation (now the Council) the power to establish markets and fairs.

- 2.3 Further reference to establishing markets was contained within the Food and Drugs Act 1955 and the Greater Manchester Act 1981 both subsequently repealed by the Food Act 1984.

3 Objections

- 3.1 Two objections have been received in relation to the permission sought. The first is from the Oldham Council Markets Manager who wishes to enforce the Council's Market Rights. The second is from a local Councillor who has issues with anti-social behaviour in the area and has concerns about the use of the land. The objections can be viewed at Appendix 1.

- 3.2 The application and Code of Practice for Car Boot Sales is attached at Appendix 2.

4 Recommendation

- 4.1 Members should consider the application and the objections and determine whether or not permission should be granted or not.

5 **Consultation**

5.1 Consultation took place with the Markets Manager and local ward Councillors.

6 **Financial Implications**

6.1 Should there be resistance to any refusal to permit the market to take place the Council would have to seek an injunction in the civil courts to stop the car boot sale taking place. This would be a cost to the Council and costs would have to be claimed back if an order was made in our favour.

7 **Legal Services Comments**

7.1 As Oldham Council claims market charter rights a person proposing to hold a temporary rival market within the prescribed distance must apply to the Council for permission. In determining the application for permission the Council should consider the merits of the application, the applicant's ability to meet the terms of the Council's Code of Practice for car boot sales and the objections received.

The Council can either grant the application (with or without additional reasonable and proportionate terms) or refuse the application. Reasons for the decision must be given.
(D. Joy)

8. **Co-operative Agenda**

8.1 Not applicable in this instance.

9 **Human Resources Comments**

9.1 None

10 **Risk Assessments**

10.1 None

11 **IT Implications**

11.1 None

12 **Property Implications**

12.1 None

13 **Procurement Implications**

13.1 None

14 **Environmental and Health & Safety Implications**

14.1 There are no such implications under the control of the Council.

15 **Equality, community cohesion and crime implications**

15.1 Concerns have been expressed about the location of the event and the impact it will have on the community.

16 **Equality Impact Assessment Completed?**

16.1 No

17 **Key Decision**

17.1 No

18 **Key Decision Reference**

18.1 N/A

19 **Background Papers**

19.1

The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

Records held at Licensing Office
Officer Name : John Garforth
Contact No : 5026

20 **Appendices**

20.1 The objections to the permission sought are outlined in Appendix 1.

Application and Code of Practice Appendix 2.

Objections

Hi John,

Yes, I would like to object on the grounds that we hold the rights to run the car boot on a Sunday in this area

Thanks,

Sara Hewitt
Markets and Town Centre Manager
Oldham Council

Tommyfield Market Hall
Albion Street, Oldham OL1 3BG
0161 770 4459
sara.hewitt@oldham.gov.uk

Hi

Until the issues with ASB on the carpark have been resolved we will oppose any such event.

3 weeks ago we finally managed to meet with Brassbank and they promised us, residents and police they would deal with the problems and outlined a course of action they would take

To date no action has taken place and residents are still subjected to the various problems on site.

Until the promises have been fulfilled and the various site problems deal with the Royton South cllrs will vigously oppose this as will local residents.

Regards

Steve Bashforth, Councillor