

HENLEY-ON-THAMES TOWN COUNCIL



MARKET PLACE USE POLICY

Version ID	Description of change	Version sponsor	Policy Owner	Creation date	Approval date	Next review date
2.1	Comprehensive review	Town Clerk	T&C Committee	08/10/2019	n/a	n/a
2.2	Minor amendments and rewording for clarification	Town Clerk	T&C Committee	21/10/2019	n/a	n/a
2.3	Minor amendments	Town Clerk	T&C Committee	28/10/2019	26/11/19	Nov 2021

INTRODUCTION

- 1.1 The Market Place is at the centre of the Henley community, providing a valuable resource for markets and events, as well as being an attractive amenity space for visitors to the town.
- 1.2 The Market Place has a long and complex history of ownership and responsibility. The Council's freehold of the Market Place extends to cover the entire pedestrianized area (see Appendix 1). However, it is also all part of the public highway, with the central triangle that existed when the road was two-way being dedicated as public highway during the pedestrianisation process.
- 1.3 In addition, when the market place was pedestrianized, the Town Council entered into agreements with the local highways authority, Oxfordshire County Council, for the Town Council to maintain and clean the site, and issue licences for the use of the Market Place.

SCOPE OF THE POLICY

- 2.1 The Policy looks to create an equitable and transparent guide for how the Council will regulate the use of the Market Place, to balance the requirements and rights of pedestrians, market stall holders, other hirers, and neighbouring properties with table and chair licences.

WHAT AND WHO IS COVERED BY THE POLICY

- 3.1 The policy covers the whole of the Council-owned area known as the Market Place (see the title plan – Appendix 1). The policy is for the use of councillors and staff in ascertaining the rights and responsibilities over the Market Place, and the rights and obligations of its users.
- 3.2 The policy will be accompanied by Market Place booking forms and model licence agreements, which go into more detail as to how the policy is implemented.

LEGAL FRAMEWORK

- 4.1 Under s101 of the Local Government Act 1972, Oxfordshire County Council delegated its functions under 115A to 115K of the Highways Act 1980 to the Town Council for the part of the Market Place outlined in green (see Appendix 2), in the agreement of 23rd June 2003.
- 4.2 Under s38(3) of the Highways Act 1980, the Town Council agreed with Oxfordshire County Council to dedicate the only non-public highway strip of land in the current Market Place as public highway, in its agreement of 22nd June 2004.
- 4.3 Under ss96(5), 115B(2) and 115E(1) of the Highways Act 1980, the Town Council agreed with Oxfordshire County Council to take on the maintenance of the whole of the central part of the pedestrianized area of the Market Place outlined in green (see Appendix 2), in its agreement of 22nd June 2004.

- 4.4 The 22nd June 2004 agreement also clarified that South Oxfordshire District Council retained responsibility for litter picking and street cleaning, in accordance with the Environmental Protection Act 1990.
- 4.5 As summarized in Clerk & Lindsell, *The Law of Torts*: “*the rights of the public in respect of a highway is limited to the use of it for the purpose of passing and repassing... if a member of the public uses it for any other purpose than that of passing and repassing he will be a trespasser.*”
- 4.6 The Council currently has licence agreements with charter market stall holders; a regular farmers market; and several neighbouring cafes / restaurants for the placing of tables and chairs on the Market Place.
- 4.7 There is no premises licence for the Market Place.

POLICY STATEMENT

- 5.1 The primary purpose of the Market Place is to provide an amenity space to those visiting the town centre, and an area for activities which promote community cohesion and the vitality of the town centre.
- 5.2 No commercial activity, other than tables and chairs licences, markets, and filming, shall be permitted unless the hirer can demonstrate a direct benefit for the residents and / or visitors to Henley.
- 5.3 The extent of the Council’s control for licencing activities on the Market Place is marked in green on the attached Appendix 2, and no licence / hire of the Market Place shall be permitted to extend beyond these boundaries.
- 5.4 All licencees / hirers shall ensure that they do not obstruct the passage of pedestrians along the footways along the northern and eastern boundary, coloured yellow outside the green line on the attached Appendix 2.
- 5.5 All licencees / hirers shall ensure they obtain, and abide by, any relevant licence required e.g. temporary event notice.
- 5.6 The Council will continue to promote and maintain its charter market, and shall not permit any other event to unduly interfere with it.
- 5.7 Any licence granted for the placing of tables and chairs on the Market Place shall include stipulations that they must not interfere with any regular markets, and that use of the space is only when not required for other purposes by the Council.

- 5.8 In consideration of the above item, the Council shall prohibit its tables and chairs licencees from using the Market Place for *not more* than 15 days per year, in addition to market days.
- 5.9 Henley-based not-for-profit organisations, including schools and charities, as well as public service information (e.g. Police stalls) shall be permitted to use the Market Place without charge, save for a security deposit. However, any such free use shall exclude those areas used by tables and chairs licencees. Determining eligibility for free use shall be at the discretion of the Town Clerk.
- 5.10 All licencees and hirers shall be required to provide the Council with proof of current public liability insurance and a risk assessment.
- 5.11 All hirers, including for filming or free use, shall be required to complete a booking form and agree to abide by the terms and conditions of use.
- 5.12 The Council shall not allow any use of the Market Place for the promotion of any activity contrary to the aims and principles of the Council.
- 5.13 All filming shall be treated as a commercial hire, and the relevant day rate charges applied. For filming of 3 hours or less, a half day rate may be applied at the Town Clerk's discretion.
- 5.14 The costs for any removal of street furniture to accommodate a hire will be recharged back to the hirer.
- 5.15 As with all facilities bookings, a member of Council staff shall be on call throughout any hire, the costs of which will be included within the hire charge.
- 5.16 No street trader, busker or charity fundraiser shall be permitted to operate anywhere on the Market Place, without the express permission of the Town Clerk.
- 5.17 The Council shall not do anything so as to obstruct the public right to pass and repass along any of the Market Place.
- 5.18 Any commercial use of the Market Place shall be at the discretion of the Town Clerk, in consultation with the Chair and Vice-Chair of the Town & Community Committee, and being satisfied that it meets the criteria outlined above.
- 5.19 The Council will draw up a full list of terms and conditions of hire to ensure the safety and security of the Market Place, by which all users must abide.
- 5.20 Any use of the public highway outside of the green line on Appendix 2 is the responsibility of the local highways authority, Oxfordshire County Council, and any issues will be referred directly to them.

APPENDIX 1 – MARKET PLACE TITLE PLANS



