

Cheltenham Borough Council

Full Council – 17 November 2025

Cheltenham Borough Council (Markets) Bill

Accountable member:

Councillor Izaac Tailford, Cabinet Member for Economic Development, Wellbeing, Culture and Public Realm

Accountable officer:

Louis Krog, Head of Public Protection

Ward(s) affected:

All

Key Decision: Yes**Executive summary:**

The purpose of this report is to seek a resolution (set out in paragraphs 1 and 2 under the heading “Recommendations”) in accordance with section 239 of the Local Government Act 1972 (the “1972 Act”) to promote a new private bill before Parliament, the Cheltenham Borough Council (Markets) Bill. The Bill will repeal section 83 of the Cheltenham Improvement Act 1852 (the “1852 Act”), empower the authority to adopt local market byelaws and give the authority new enforcement powers.

The 1852 Act provides the authority with the power to create markets. However, section 83 makes it a criminal offence for a "Fair, Market, Mop or Hiring" and any other related activities to be held upon the High Street or any other street within the Borough of Cheltenham. This therefore complicates the process for holding “markets” on the public highway in Cheltenham, requiring the authority to adopt a cumbersome alternative approach for the licensing of individual street trading consents.

Recommendations:

1. That in the judgment of the Cheltenham Borough Council it is expedient to promote a Bill for effecting all or some of the purposes mentioned below and that such a bill be promoted accordingly by the authority. The purposes are:
 - a. Repealing section 83 of the Cheltenham Improvement Act 1852;
 - b. Applying Part III of the Food Act 1984 to any market in the borough; and
 - c. Introducing a power for an authorised person to issue a fixed penalty notice to any person who the authorised person has reason to believe has committed an offence contrary to byelaws made under section 60 of the Food Act 1984.
 - d. Such other purposes as may be determined by the Council.
2. Delegate authority to the Head of Public Protection, in consultation with the S.151 Officer, Director of One Legal and Cabinet Member for Economic Development, Wellbeing, Culture and Public Realm, to:
 - a. address procedural matters which may arise in relation to the promotion of the Bill and to enter undertakings or commitments in relation to it;
 - b. agree to the making of any necessary amendments to the Bill that may arise during the promotion of the Bill; and
 - c. affix the Common Seal to the Petition for the Bill and to any other necessary documents.

Implications

1.1 Financial, Property and Asset implications

Estimate for the work is between £40k (best) to £100k (worst) case. This broad range estimate is due to the many stages and scrutiny the bill must go through, which may require various resources to be paid for during the assessment process. Costs are to be charged to the licensing cost centre and funded through general balances. It is expected that the expenditure committed to this process will be recovered and paid back to the general fund over the 2-3 years, through income generated from revised licence fees, following the implementation of the amended bill. This resolution was agreed by Council in May 2023.

Signed off by: Ela Jankowska – Finance Business Partner **Date:** 04.11.2025

ela.jankowska@cheltenham.gov.uk

1.2 Legal implications

As outlined in the body of the report.

Signed off by: One Legal – legalservices@onelegal.org.uk

1.3 Environmental and climate change implications

N/A

1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Reducing inequalities, supporting better outcomes
- Taking care of your money

1.5 Equality, Diversity and Inclusion Implications

As outlined in Appendix 2.

1.6 Performance management – monitoring and review

As outlined in the report.

2 Background

2.1 On 24 July 2023 Council passed a resolution to approve work to repeal section 83 of the 1852 Act. It further resolved to delegate authority to the Head of Public Protection to undertake the necessary work and steps to repeal section 83.

2.2 This report updates Council on this work and seeks approval from Council to formally deposit the necessary Bill before Parliament.

2.3 As outlined already, Cheltenham has a piece local of legislation in force, the 1852 Act. A review of the status of this legislation has led to the conclusion that section 83 of the local legislation is still in force. The existence of this legislation has a direct impact on the delivery of operation of markets.

2.4 The 1852 Act provides the authority with the power to create markets. However, section 83 of the 1852 Act makes it an offence for a "Fair, Market, Mop or Hiring" and any other related activities to be held upon the High Street or any other street within the Borough of Cheltenham.

2.5 Members will be aware that, notwithstanding the position with regards to the 1852 Act, "markets" continue to operate on streets in the Borough. This is only possible through an alternative means of granting individual street trading consents under the Local Government (Miscellaneous Provisions) Act 1982. The consequence of the alternative means of granting individual street trading consents, rather than single market consents, is that the number of market

trading consents have risen from less than 20 annually (2017/18) to, on average, over 330 annually.

2.6 It is important to point out therefore, that the alternative licensing approach is unwieldy and expensive for both the authority and traders and is not sustainable.

2.7 Markets are hugely important for the town, promoting economic and social wellbeing. It was therefore important that the authority takes the necessary steps to address the issues created by 1852 Act.

Cheltenham Borough Council (Markets) Bill

2.8 The proposed bill will:

2.8.1 Repeal section 83 of the 1852 Act;

2.8.2 Apply Part III of the Food Act 1984 to any market in the borough; and

2.8.3 Introduce a power for an authorised person to issue a fixed penalty notice to any person who the authorised person has reason to believe has committed an offence contrary to byelaws made under section 60 of the Food Act 1984.

2.9 Part III of the Food Act 1984 (Sections 50-61) grants local authorities powers to establish, acquire, and regulate markets, covering market places, days, hours, and the recovery of charges for market use, including weighing services. These powers extend to controlling existing market undertakings and allowing the creation of byelaws to regulate conduct, prevent nuisances, and manage the sale of goods to ensure orderly market operations. While that act itself provides the foundational powers, specific market regulations are enacted through byelaws made by the local authority under these powers.

Procedure

2.10 In order to promote the Bill, the authority must comply with the provisions of section 239 of the 1972 Act.

2.11 The first resolution recommended via this report is to consider whether it is expedient to promote the new Bill. Section 239(2)(a) of the 1972 Act requires the authority to pass a resolution to promote the new Bill. The resolution needs to be passed by a majority of the whole number of the members of the authority at a meeting of the authority held after the requisite notice of the meeting and of its purpose has been given by advertisement in one or more local newspapers circulating in the area of the authority. The notice of the meeting was published in the Gloucestershire Echo on 16 October 2025.

- 2.12 If a majority is secured, the new Bill will be deposited in Parliament by 27 November 2025 securing Parliamentary time during 2025/26 session. Failure to secure this timetable would put the Bill back 12 months because a private Bill can only be deposited in Parliament on one day each year (i.e. the 27 November).
- 2.13 There will be various stages of the Bill process through Parliament which will be facilitated by the authority's parliamentary agents.
- 2.14 By section 239(2)(b) of the 1972 Act, Council will need to pass a confirmatory resolution after the Bill has been deposited.
- 2.15 A draft copy of the Bill is appended to this report.

3 Reasons for recommendations

- 3.1 Securing the s.239 resolution is a pre-condition to depositing a private bill in Parliament, as outlined in this report.

4 Alternative options considered

- 4.1 Council can resolve not to promote a Bill as outlined in this report.

5 Consultation and feedback

- 5.1 In accordance with good practice, the authority undertook a public consultation exercise between the 8 of September 2025 and 17 October 2025. The authority conducted an online survey to capture feedback that was open to all stakeholders and members of the public.
- 5.2 The authority received 89 responses with a copy of the consultation report attached at appendix 3.
- 5.3 Members will note, in relation to the questions specifically seeking views on the proposed changes that the Bill will seek to introduce, that the majority of respondents were in support of the changes. (Questions 10 to 12).

6 Key risks

- 6.1 As outlined in Appendix 1.

Report author:

Louis Krog, Head of Public Protection, louis.krog@cheltenham.gov.uk.

Appendices:

- i. Risk Assessment
- ii. Equality Impact Assessment – Screening
- iii. Feedback from public consultation
- iv. Cheltenham Borough Council (Markets) Bill

Background information:

- [Exempt item - Cheltenham Improvement Act 1852, Meeting: 24/07/2023 - Council \(Item 16\)](#)

Appendix 1: Risk Assessment

Risk ref	Risk description	Risk owner	Impact score (1-5)	Likelihood score (1-5)	Initial raw risk score (1 - 25)	Risk response	Controls / Mitigating actions	Control / Action owner	Deadline for controls/ actions
	If Council does not resolve to repeal section 83 of the 1852 Act, the authority risks an operationally and financially unsustainable approach to licensing markets which is likely to jeopardise the economic and social value attached to markets.	Head of Public Protection	3	5	15	Reduce the risk	As outlined in the report and resolution.	Head of Public Protection	As outlined in the report.
	If Council does not resolve to repeal section 83 of the 1852 Act and continues to rely on the alternative licensing approach, it risks reputational damage for being overly bureaucratic in its approach. This, in turn, may impact on the desirability of the	Head of Public Protection	2	3	6	Reduce the risk	As outlined in the report and resolution.	Head of Public Protection	As outlined in the report.

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	borough to hold markets.								
	If Council does not resolve to repeal section 83 of the 1852 Act, the authority risks future legal challenges and claims to its licensing approach with regards to markets.	Head of Public Protection	4	2	8	Reduce the risk	As outlined in the report and resolution.	Head of Public Protection	As outlined in the report.
	If Council does not resolve to repeal section 83 of the 1852 Act and continues to rely on the alternative licensing approach, the authority will need to subsidise market activity on an ongoing basis to make up for the income v cost variance.	Head of Public Protection	4	3	12	Reduce the risk	As outlined in the report and resolution.	Head of Public Protection	As outlined in the report.

Appendix 2: Equality Impact Assessment (Screening)

1. Identify the policy, project, function or service change

a. Person responsible for this Equality Impact Assessment

Officer responsible: Louis Krog

Service Area: Public Protection

Title: Head of Public Protection

Date of assessment: xx October 2025

Signature:



b. Is this a policy, function, strategy, service change or project?

Function

c. Name of the policy, function, strategy, service change or project

If other, please specify: Resolution in accordance with section 239 of the Local Government Act 1972 (the 1972 Act) to promote a new private bill before parliament.

Is this new or existing?

**Already exists
and is being
reviewed**

Please specify reason for change or development of policy, function, strategy, service change or project

Resolution required by Council to promote a new private bill before parliament.

d. What are the aims, objectives and intended outcomes and who is likely to benefit from it?

Aims: Promote a new private bill before parliament.

Objectives: To:

	<ul style="list-style-type: none"> a. Repeal section 83 of the Cheltenham Improvement Act 1852 (which prohibits market and related activities on the High Street or any other street in the borough); b. Apply Part III of the Food Act 1984 to any market in the borough; and c. Introduce a power for an authorised person to issue a fixed penalty notice to any person who the authorised person has reason to believe has committed an offence contrary to byelaws made under section 60 of the Food Act 1984.
Outcomes:	As above.
Benefits:	Improved market licensing process, ability to regulate markets locally via local byelaws and additional enforcement powers.

e. What are the expected impacts?

Are there any aspects, including how it is delivered or accessed, that could have an impact on the lives of people, including employees and customers.

Yes

Do you expect the impacts to be positive or negative?

Positive

Please provide an explanation for your answer:

The promotion of the Bill is seen a tool to bringing wholesale improvements to the way street markets are licensed and regulated locally. This will empower the authority to regulate street markets in the interest of local people, communities and businesses and with local considerations. The restriction imposed by section 83 of the 1852 Act is considered an obstacle to achieving this.

If your answer to question e identified potential positive or negative impacts, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

f. Identify next steps as appropriate	
Stage Two required	No
Owner of Stage Two assessment	
Completion date for Stage Two assessment	

Please move on to Stage 2 if required ([intranet link](#)).