

**FUTURE OF BROMSGROVE MARKET**

**OPEN REPORT**

Relevant Portfolio Holder	Cllr Karen May Deputy Leader and Portfolio Holder for Economic Development, Regeneration and Town Centre
Portfolio Holder Consulted	√
Relevant Head of Service	Kevin Dicks – Chief Executive
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Key Decision / Non-Key Decision	Key decision

**1. SUMMARY OF PROPOSALS**

- 1.1 The operation of Bromsgrove Town Centre Outdoor Market is currently managed by North Worcestershire Economic Development & Regeneration (NWEDR), a shared service hosted by Wyre Forest District Council (WFDC) established under a Collaboration Agreement in May 2011. In 2015, WFDC appointed CJ Events (Warwickshire) Ltd (CJ Events) to operate the market, following a competitive procurement process.
- 1.2 In December 2017, CJ Events decided to serve notice on their licence agreement. In light of this decision, this report sets out options for the future operation of the market.

**2. RECOMMENDATION**

- 2.1 **The Cabinet is requested to consider the following two options for the future management and operation of Bromsgrove Town Centre Outdoor Market and RESOLVE which option it wishes to select:**
- 1) **OPTION 1: the management of Bromsgrove Town Centre Outdoor Market is recommissioned/ contracted to an external provider for an initial term of 3 years with an option to renew for a further term of between 2 and 5 years with the contract to be managed by the NWEDR shared service OR:**
- 2) **OPTION 2: the management and operation of Bromsgrove Town Centre Outdoor Market to be brought back ‘in-house’ with authority to be delegated to the Chief Executive in consultation with the Deputy Leader and Portfolio Holder for Economic Development, Regeneration and Town Centre to determine where a new markets team sits within the Council and/or NWEDR structure.**

- 3) To recommend to Council that up to £40,000 is released from the economic development reserve to fund the potential costs of an 'in house' service for the first 12 months of its operation and that the Capital Programme for 2018/19 be increased by £25,000 funded from capital receipts should **OPTION 2** be recommended by Cabinet.

**3. KEY ISSUES**

**Financial Implications**

**3.1 External Operation**

The appointment of an external contractor to manage the market provides the Council with an opportunity to secure a guaranteed fixed annual income for the duration of the licence agreement. This contract will also include a quarterly rental fee for the use of Bromsgrove District Council owned equipment for the duration of the 3 year contract and paid directly to the Council. Responsibility for the maintenance, repair and replacement of the stalls would be taken on by an external operator, as well as any future investment in new stalls. When the original procurement process was undertaken in 2015, four bids were received by potential operators, all offering to the Council a fixed income over the 5 year term of the agreement, demonstrating that the running of the market represents a viable proposition to potential operators.

**3.2 Internal Operation**

Operating the market 'in-house' would result in a net cost to the Council. Officers have undertaken an initial assessment of income and expenditure based on various scenarios of income generated. The detailed figures are attached at Appendix 1. In addition there would be an initial capital out-going of £25,000 to purchase a van and a trailer. It is worth noting that there would be future investment in new stalls estimated at £55,000 which would have to be factored into future financial projections.

3.3 The Summary of the detailed projections is as follows:

**SUMMARY OF NET POSITION RE IN HOUSE MODEL                      £**

<b>TOTAL EXPENDITURE - minimum cost</b>	<b>101,630</b>
	-
<b>TOTAL INCOME - maximum income</b>	<b>113,880</b>
<b>NET POSITION SURPLUS</b>	<b>-12,250</b>

<b>TOTAL EXPENDITURE - minimum cost</b>	<b>101,630</b>
<b>TOTAL INCOME - minimum income</b>	<b>-84,760</b>
<b>NET POSITION DEFICIT</b>	<b>16,870</b>

<b>TOTAL EXPENDITURE - maximum cost</b>	<b>129,130</b>
	-
<b>TOTAL INCOME - maximum income</b>	<b>113,880</b>
<b>NET POSITION DEFICIT</b>	<b>15,250</b>

<b>TOTAL EXPENDITURE - maximum cost</b>	<b>129,130</b>
<b>TOTAL INCOME - minimum income</b>	<b>-84,760</b>
<b>NET POSITION DEFICIT</b>	<b>44,370</b>

3.4 As can be seen above the estimated projections reflect a deficit position for the Council on the majority of the scenarios. In addition there would have to be a release of capital receipts of £25k to fund associated vehicle costs. Should an in house model be recommended it is proposed that up to £40k be released from the economic development reserve to enable the first 12 months of provision to be funded.

**Legal Implications**

3.5 NWedr currently directly manages the Bromsgrove Outdoor Market on behalf of the Council, under a Collaboration Agreement relating to the provision of Economic Development and Regeneration Services between the Council, Redditch Borough Council and WFDC, which is the host authority.

3.6 The current delegation to WFDC is for the operation of the market in Bromsgrove, including the letting of stalls and general day to day management of

the market. Between 2011 and February 2016, the market was run 'in-house' by NWedr.

- 3.7 Following a competitive procurement process in 2015, an external operator CJ Events was appointed by WFDC to run the market. CJ Events manages the day to day operations of the market with the contract between WFDC and the contractor. NWedr is responsible for the management of that contract and ensuring that performance is in line with agreed targets. CJ Events have served notice on the licence agreement and the licence (and CJ Events' operation of the market) will terminate on 4<sup>th</sup> June 2018.
- 3.8 The Council could now choose to ask WFDC to procure a new operator to run the market. Any procurement process would have to be run so as to ensure that the winning contractor delivered "best value" to the Council. Best value may be secured through a combination of a financial return (through licence fee, hire of equipment etc.) and socio-economic benefits for the town (proposed special events, increase of footfall, community involvement etc.). The evaluation of the tenders would be undertaken in line with the proposed criteria attached at Appendix 2.
- 3.9 Should a co-operative of market traders or a similar body wish to submit a tender application to run Bromsgrove town centre outdoor market the application will be evaluated and scored in the same manner as all other submissions and in line with Wyre Forest District Council procurement policy ( as the host organisation of the shared service ).
- 3.10 Alternatively the Council could bring the operation of the market back 'in-house', either taking it out of the NWedR shared service and operating the market itself or reverting back to the previous arrangement where NWedR operated the market. This could be on an interim or a permanent basis – taking operation of the market in-house would not preclude the Council from running a procurement process at a later date.
- 3.11 The Council may also wish to explore this in-house option if following a procurement process it does not have confidence that any of the bidders offer the requisite "value" and sufficiently guarantee the security and continuity of the market.

**Service / Operational Implications**

- 3.12 In July 2015, Cabinet resolved that the management of Bromsgrove Outdoor Market be externalised and that delegated authority be given to WFDC to undertake a procurement process to select and appoint a suitable provider. Prior to this, the market services were managed by NWedr on behalf of Bromsgrove District Council.
- 3.13 Following a competitive tendering process, CJ Events Warwickshire Ltd (CJ Events) was appointed to operate the market on a 5 year licence arrangement commencing in February 2016.

- 3.14 The winning bid from CJ Events scored well against the agreed evaluation criteria of cost and quality and they were appointed on the basis of a strong proposal. The proposal included a financial offer to the Council of £95,000 over the five year duration of the licence agreement.
- 3.15 CJ Events took on the operation of the market in February 2016 and since then the management of the licence agreement has been pro-actively managed by the Head of NWEDR and the Bromsgrove Centres Manager.
- 3.16 On 3<sup>rd</sup> December 2017, WFDC received formal notification of CJ Events intention to terminate the licence agreement with the contractual six months notice given. This means that CJ Events licence will terminate on 4<sup>th</sup> June 2018. The Council now needs to decide how to move forward to ensure that a vibrant market offer can continue to be delivered.
- 3.17 The Council has liaised with the market traders to ascertain their views. The traders were invited to a briefing session held on Tuesday 27<sup>th</sup> February 2017. Concerns and questions raised by the market traders were addressed by the Officers and assurances given that the views of the market traders would be taken on board and considered as part of the options presented to Cabinet. Traders were also advised of the Wyre Forest District Council procurement process should they wish to form a co-operative and submit a tender proposal to run the outdoor market. Officers will continue to keep the traders up to date on the agreed process going forward.

**Future options**

- 3.18 Officers have reviewed the potential options available to the future management and delivery of Bromsgrove Town Centre Outdoor Market and identified two options as follows:

**Option 1: NWedr continues to manage the market and commences a new procurement process to appoint a suitable external operator; with the procurement and contracting process to select and appoint a contractor to manage Bromsgrove Outdoor Market to be delegated to Wyre Forest District Council;**

**Option 2: The market is brought back 'in-house' and a new markets team is created either within Bromsgrove District Council or NWedr;**

- 3.19 An options appraisal for both of the options is set out as follows:

**Option 1:**

- Market continues to be managed by NwedR and run by an external operator, seeking innovation in the way the market is operated and an improvement of the existing offer
- Bromsgrove District Council receive an annual fixed sum from an operator to operate a general market as part of a licence agreement

**Description:**

- 3-day per week general market (Tuesday, Friday and Saturday)
- Specialist and themed markets
- External operator responsible for all aspects of running the market
- Operator collects stall charges on Council behalf
- NwedR and Bromsgrove Centres Management undertake the day-to-day management of the contract including Performance Management reviews and monitoring
- Operator to undertake day-to-day onsite management of the market and collection of fees including on-the-day casual bookings

NB Advice from WFDC Legal and Procurement officers suggested that it may be possible to speak to the operator that had the second highest score as part of the procurement exercise held in 2015 (subject to the operator honouring their original proposal) and that they could operate the market for the remainder of the 5 year term that CJ Events were contracted to deliver. However, given the passage of time and the fact that the Council is required to secure best value through any procurement exercise, it is advised that if the Council was minded to select Option 1, that it should commence a new procurement process.

<b>Advantages / benefits</b>	<b>Disadvantages/Risks</b>
<ul style="list-style-type: none"><li>• Offers a consistency in approach and management</li><li>• Annual guaranteed income which enables the Council to forecast income and set budgets; operator is able to keep its expenditure down through economies of scale of running multiple markets and specialist knowledge thereby increasing the potential for the Council to receive a set income</li><li>• Operator takes on the responsibility for the secure storage and transportation of all market related equipment and market stalls and equipment</li><li>• Additional income received from operator for the hire and use of Bromsgrove District Council owned market stalls and equipment</li><li>• Increase to stall fees made in agreement and consultation with NwedR to protect the interests of the stall holders and market</li><li>• Operator to take responsibility for providing cover for any team sickness, leave or leaving post</li></ul>	<ul style="list-style-type: none"><li>• Under performance of external market operator</li><li>• External operator serves notice on the contract before end of three year term</li><li>• May attract a lower financial offer to run the outdoor market</li><li>• Stall rate increase requested</li></ul>

- Specialist knowledge and expertise in running a professional market operation
- Capacity and experience to hold specialist markets and events across multiple days (e.g. week long Christmas market, weekend long food festival)
- Covered by all relevant insurance and indemnity policies, health & safety, risk assessments etc
- External operator would have experience of working in partnership with Local Authorities, BIDs and Town Centre Management Frameworks as well as taking part in national initiative such as 'Love Your Market' and 'Small Business Saturday'
- Minimal expenditure for Council
- Confidence that the delivery of the market is under the management of a professional operator
- Protection of the Council reputation and credibility

**Option 2:**

Either Bromsgrove District Council or NWedr undertake the responsibility for the financing, management and operation of Bromsgrove Town Centre Outdoor Market.

2 (a) The market could be run via the creation of a new dedicated markets team comprised of a Markets Manager, Senior Market Operative and two Market Operatives or:

2 (b) The market is directly managed by the Bromsgrove Centres Manager with a Senior Market Operative and two Market Operatives recruited to run the day to day operation of the market. A 'Centres Assistant' role could be recruited to support the wider work of the Centres Manager.

**Description:**

- 3-day per week general market (Tuesday, Friday and Saturday)
- Potential for specialist and themed markets
- Bromsgrove District Council or NWedr employees & agency staff as required store, transport, erect and take down stalls
- Council retains stall charge income
- Bromsgrove District Council or NWedr responsible for the collection of stall fees
- Bromsgrove District Council or NWedr recruits and manages a markets team
- All current and future financial and personnel requirements to maintain and

**BROMSGROVE DISTRICT COUNCIL**

**CABINET**

**11<sup>th</sup> APRIL 2018**

<p>sustain the outdoor market is the responsibility of BDC or NWedr</p> <ul style="list-style-type: none"> <li>• Cover for the loss of staff, sickness, long term sickness and associated costs the responsibility of Bromsgrove District Council or NWedr</li> <li>• All relevant licenses, public liability, health &amp; safety implications the responsibility of Bromsgrove District Council</li> </ul>
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<b>Advantages / benefits</b>	<b>Disadvantages/Risk</b>
<ul style="list-style-type: none"> <li>• The Council takes full responsibility for the future financing, management and operation of Bromsgrove Town Centre Outdoor Market</li> <li>• Supported by the majority of current stall holders</li> <li>• All fees generated by the market will be paid directly to Bromsgrove District Council</li> <li>• Bromsgrove District Council / NWedr has direct relationship with market traders</li> <li>• Opportunity to implement a frequent meeting regime with market stall traders to strengthen communication and partnership working</li> <li>• Bromsgrove District Council has control of implementing any stall charge rises or decreases</li> <li>• Bromsgrove District Council has a social reputation and responsibility to work with the local community and businesses</li> <li>• Opportunity to reinvest income from the Bromsgrove town centre outdoor market as part of the commercialism agenda</li> <li>• If the market is within the responsibility of the Centres Manager (option 2b) then there is the potential for a stronger link between the town centres management function and the</li> </ul>	<p><b><u>Cost implications</u></b></p> <p>Staffing costs:</p> <ul style="list-style-type: none"> <li>• Markets Manager (under option 2a only)</li> <li>• Centres Manager assistant (under option 2b only)</li> <li>• Markets Officer (onsite)</li> <li>• Operatives (stands, waste removal)</li> </ul> <p>Other costs:</p> <ul style="list-style-type: none"> <li>• Mileage and expenses</li> <li>• Admin and back office (booking, taking stall payments etc)</li> <li>• Vehicles to transport market stalls</li> <li>• Fuel costs</li> <li>• Maintenance of vehicles, MOT, tax, insurance</li> <li>• Maintenance and replacement of stalls</li> <li>• Council does not have the ability to benefit from economies of scale from running multiple markets which increases the cost of running a market operation and reduces the net income to a level which is not profitable.</li> <li>• Cost of implementing a stall fee collection and payment process</li> <li>• Operational budget to run specialist and themed markets and events and associated marketing campaigns</li> <li>• Costs of covering annual leave, sickness</li> <li>• Costs and loss of income</li> </ul>

<p>operation of the market. There would not be a need to recruit a 'Markets Manager' under this option as the Centres Manager could take responsibility for marketing and developing an events plan. To increase capacity a 3 day per week 'Centres Assistant' role could be created to provide support to the current Centres Manager. The cost of an Assistant post is estimated at £15k per annum (salary + on-costs) which is £7,200 pa lower than the cost of a Markets Manager post.</p>	<p>associated with the cancellation of markets due to adverse weather conditions, highways work etc.</p> <ul style="list-style-type: none"><li>• Loss of staff and need to pay for Agency staff to cover</li><li>• Lack of specialist knowledge and experience of running an outdoor market</li><li>• No consistent income generation and ability to forecast year-on-year</li><li>• Insular approach and not reacting to other local and national initiatives</li><li>• Resources to implement a coherent and professional marketing and communications strategy to promote the market and specialist events</li><li>• Option 2(b) – The Bromsgrove Centres Manager role is completely different to the role of a Markets Manager and is a specialist function. The remit of the Centres Manager is focused on developing Bromsgrove Town Centre and the other six centres identified in the Council's Centres Management Strategy 2017-2020 through the delivery of strategic initiatives and working in partnership with other agencies to support the vibrancy of the centres. Managing the market is not part of the Centres Manager Job Description and it would result difficulty in delivering the wider Centres Management Strategy.</li></ul>
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**Summary and Conclusions**

3.20 It is considered by officers that a professional and experienced markets operator will create a competitive, diverse, sustainable and thriving market that will add to the overall offer and vibrancy of Bromsgrove town centre. This option will also

ensure a seamless transition of market management giving the town centre market traders and businesses confidence that the market will continue to be an integral economic driver to increase footfall and visitor numbers to the town centre. A new operator will be in a strong position to take management of the markets quickly and efficiently and in effect “hit the ground running” ensuring the existing events programme will be delivered and enhanced. Furthermore, given the Council’s limited resources and expertise in running markets, it is considered that the management of the market by an external operator (Option 1) above provides the best opportunity to fully maximise the income to the Council, at the same time as making savings in expenditure.

- 3.21 With the strong town centre management structure, experience and skills of the NWedr team and the commitment to build the market into a strong asset for the town centre means NWedr are best placed to manage an external procurement process and contract manage a new markets operator. The Bromsgrove Centres Manager will be pivotal in the early performance management of the licence agreement and developing a positive relationship with the new operator.
- 3.22 A draft tender specification and evaluation criteria has been prepared (Appendix 2) and it is anticipated that a procurement process would take 4 weeks from the date of this report, which means that a new operator could be appointed to commence the running of the market in early June, meaning that there are no service or operational implications and NWedr would strive to achieve a seamless transition with minimal disruption to the markets operation. The evaluation criteria has been amended to place more emphasis on securing an operator that is socially responsible and community focused and can demonstrate a robust approach to performance management and monitoring. Specifically the tenders will be evaluated on a 60/40 basis in favour of quality over price. If it is not possible to award the contract to a suitable operator then it is possible that ‘temporary’ arrangements could be put in place to run the market by utilising staff from the Environmental Services team i.e. to erect and dismantle stalls. A report will need to be brought back to Cabinet to re-consider the available options.
- 3.23 An alternative option is to take the operation of the Bromsgrove Town Centre outdoor market back ‘in-house’ – 2 variations of this option are presented for members’ consideration. An in-house operation would be favoured by the traders and would ensure that the market is run in a socially responsible manner. However, Council run markets are in decline and are becoming less viable as external operators are increasing their presence and proving to be successful in attracting new traders and speciality events. The advice received from NABMA in 2015, demonstrated that the case for operating an in-house market is now weak and that to secure the market’s future it would be best run by a specialist external operator. Experience from the past shows that it is difficult to make a Council run market succeed.
- 3.24 It will take time to establish the appropriate infrastructure and frameworks for the market operation to be undertaken in house and contingency plans would need to be put in place to ensure a market is able to be run in the interim period. The

timeline for each option is set out at 3.28. It is envisaged that the Council will have to subsidise the in house operation of the market – whilst it is most important that the market needs to be vibrant and attract people to the town the cost to the council is an important consideration. The Council would find it difficult to generate the same level of income from running a single market as an external operator that is operating multiple markets on a national scale. External operators are able to keep their costs down and therefore increase the income generated by their markets due to being able to generate economies of scale which helps to reduce staff costs and overheads.

- 3.25 It is likely that it will take a minimum of 3 months from the date of this meeting to establish a markets team – however dependent on the recruitment of staff this could take 6 months or even longer. This could result in there being a gap between the current operator finishing and the new team being put in place. It is likely to take up to 6 months to develop the marketing offer and to put in place the appropriate systems and processes required to operate the market effectively and efficiently. Members should be advised that recruiting a Markets team may be difficult as it is not expected that there will be a large pool of suitable candidates. Whilst there is an option (2b) for the Centres Manager role to ‘manage’ the market which could negate some of these issues and enable the markets to be operated in the short term Members should note that it is a very different role to a Markets Manager role and it will detract from the work that the Centres Manager is currently delivering. Furthermore, managing the market does not form part of the post holder’s Job Description and is not part of the remit of the Centres Management function currently managed by NWedr.
- 3.26 It is possible that ‘temporary’ arrangements could be put in place to cover the break between the current operator and a new ‘in-house’ team being put into place by utilising staff from the Environmental Services team i.e. to erect and dismantle stalls and for the Centres Manager to oversee the arrangements; this arrangement has significant risks – detracting the Centres Manager from her core role and the potential reduction in quality.
- 3.27 In summary, it is considered that with an in-house option that there will be a limited opportunity to grow the market and income to the Council will not be guaranteed as experience shows that income generated by a Council run market fluctuates from year to year. The capacity and know-how to run speciality markets and special events will be limited which means that the ambition to create a vibrant offer within the Town Centre will not be realised. If the Council is minded to take the market operation back ‘in-house’, then a decision will need to be made as to where the function should sit, this could either be within the NWedr shared service or directly managed by the Council itself. If the Council prefers the function to return to the NWeDR service then it will need to instigate a discussion with the other two shared service partners. It is proposed that this decision should be determined in line with the delegation at paragraph 2.1.

3.28 The timescales for each option are as follows:

**Timescales Option 1**

<b>Activity</b>	<b>Timescale</b>
Advertise Tender Opportunity	Monday 16 <sup>th</sup> April 2018
Deadline for submissions	Monday 14 <sup>th</sup> May 2018
Evaluation and Scoring completed	Friday 18 <sup>th</sup> May 2018
Appointment of new operator	Monday 21 <sup>st</sup> May 2018
Contracting and handover period	Monday 21 <sup>st</sup> May 2018-Saturday 2 <sup>nd</sup> June 2018
Launch date	Tuesday 5 <sup>th</sup> June 2018

**Timescales Option 2**

<b>Activity</b>	<b>Timescale</b>
Job Description, Person Specification and Job Evaluation process completed for proposed new roles	Friday 4 <sup>th</sup> May 2018
Advertise vacancies	Friday 11 <sup>th</sup> May 2018
Closing date	Friday 1 <sup>st</sup> June 2018
Shortlisting	w/c 4 <sup>th</sup> June 2018
Temporary arrangements for operation of market put in place	Tuesday 5 <sup>th</sup> June 2018
Interviews scheduled	w/c 11 <sup>th</sup> June 2018
Appointments	By Friday 15 <sup>th</sup> June 2018
New markets team in place and market is 're-launched'	July / August - depending on candidate availability and notice periods
Marketing plan in place	November / December 2018

NB The timescales for option 2 (a) and 2(b) are the same.

**Customer / Equalities and Diversity Implications**

3.29 Operators would be required to demonstrate their commitment to equal opportunities and diversity through the procurement process. If the market is brought back in-house then the Council will be required to produce a new Equality Impact Assessment.

**4. RISK MANAGEMENT**

4.1 The key risks are outlined in the options appraisal at paragraph 3.19.

**5. APPENDICES**

Appendix 1: In-house operation: projected costs and income

Appendix 2: Proposed Evaluation Criteria

**6. BACKGROUND PAPERS**

Cabinet Report April 2015: Bromsgrove Market

**AUTHORS OF REPORT**

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