

REPORT TITLE BROMSGROVE MARKET

Relevant Portfolio Holder	Cllr Rita Dent – 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 Bromsgrove Town Centre Outdoor Market is currently managed and operated by the North Worcestershire Economic Development & Regeneration (NWedr), a shared service hosted by Wyre Forest District Council (WFDC) established under a Collaboration Agreement in May 2011.
- 1.2 The NWedr Client Management Group has instructed officers to explore options for the future operation and management of the markets.
- 1.3 As part of this process, NWedr commissioned the consultancy arm of the National Association of British Market Authorities (NABMA) – National Market Place (NMP) to carry out a review and provide advice on the three respective markets.
- 1.4 In addition and to help inform any future consideration, the Cabinet, at its meeting on 1st April 2015 resolved that the NWedr service invite informal expressions of interest from market operators for the future management of Bromsgrove Outdoor Market and a report on the outcome of the process be brought to a future meeting of the Cabinet.

2. RECOMMENDATION

The Cabinet is requested to RESOLVE that

- 1) the management of Bromsgrove Outdoor Market be contracted to an external provider for an initial term of 5 years with an option to renew for a further term of between 2 and 5 years;**
- 2) the current “single trade” policy for Bromsgrove Outdoor Market be rescinded;**
- 3) the delegation in relation to the direct management of the market contained in the Collaboration Agreement relating to the provision of**

Economic Development and Regeneration Services, be amended to reflect the decision at 1);

- 4) the conduct of a procurement and contracting process to select and appoint a contractor to manage Bromsgrove Outdoor Market be delegated to Wyre Forest District Council in consultation with the Chief Executive and the Portfolio Holder for Economic Development, Regeneration and Town Centre and**
- 5) delegated authority be granted to the Head of Legal Equalities and Democratic Services to amend the Collaboration Agreement referred to at 3)**

3. KEY ISSUES

Financial Implications

- 3.3 The 2015/16 revenue budget to support the existing operation is £75,218. It is anticipated that the appointment of an external contractor to manage the market would reduce this net cost. This would be subject to the payment of an agreed management fee to NWedr, whilst securing a guaranteed income for the proposed minimum five year contract term.

Legal Implications

- 3.4 NWedr currently directly manages the Bromsgrove Outdoor Market on behalf of the Council, under a Collaborative Agreement relating to the provision of Economic Development and Regeneration Services between the Council, Redditch Borough Council and WFDC, which is the host authority.
- 3.5 Although the proposal is to appoint an external contractor to manage the market, the management of that contract will still be undertaken by NWedr and the contract will be between the host authority, WFDC and the contractor.
- 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. Therefore, an amendment to the delegation in the Collaboration Agreement will be required to reflect the fact that instead of providing this direct service, the management of a contract with an external provider will instead be provided by WFDC (through NWedr).
- 3.7 There are no employment /TUPE implications for the Council arising from the proposal to appoint an external contractor as the staff currently providing the service are employed by WFDC. If there was to be an increase in the number of trading days for the market from the current fixed three days of Tuesday, Fridays and Saturdays, there may be issues to look at in relation to obtaining the consent of the Highways Authority on whose land the market takes place and consulting other affected parties.

Service / Operational Implications

- 3.8 Bromsgrove Outdoor Market is one of three markets managed and operated through NWedr, the others being Redditch and Kidderminster Outdoor Markets. Kidderminster Outdoor Market, is run by an external market operator, through the Shared Service, by way of a contract with Wyre Forest District Council. This contract is due to be tendered for renewal during 2015.
- 3.9 The NWedr Client Management Group has instructed officers to explore options for the future operation and management of Bromsgrove and Redditch markets.
- 3.10 In considering the future operation and management of Bromsgrove Outdoor Market, the Council should aim to:
- create a competitive, diverse, sustainable and thriving market
 - maintain a regular income
 - minimise its costs
- 3.11 As part of the exploratory work, the consultancy arm of the National Association of British Market Authorities (NABMA) – National Market Place (NMP) was commissioned by NWedr to carry out a review and provide expert advice on the three respective markets. A summary of this advice, in so far as it relates to Bromsgrove Outdoor Market, is set out in Appendix 1.
- 3.12 Whilst NMP recommend that the future interests of Bromsgrove Outdoor Market would be best served by appointing an external contractor to operate the market, Members will recall the earlier report they considered in April 2015 and the decision that NWedr would undertake a ‘soft market testing’ exercise to identify potential interest from private operators in managing the Bromsgrove Outdoor market.
- 3.13 During May 2015, NWedr subsequently invited informal expressions of interest, based on a draft specification as set out in Appendix 2, from existing market operators to help inform any future consideration as to whether or not to procure an external market operator.
- 3.14 The informal expressions of interest took the form of soft market testing and soundings from existing operators with relevant experience, expertise and advice who commented on the draft specification.
- 3.15 All the operators agreed that the draft specification included everything that they would expect to see within a tender document for the operation and management of an outdoor market, with the exception of:
- paragraph 1.3 “annual fee” (paragraph 3.17 refers)
 - paragraph 5.1.1 “single trade policy” (paragraphs 3.18 - 3.21 refers) and

- an observation regarding future market traders fees (paragraph 3.22 refers)

3.16 Members attention is particularly drawn to the fact that all operators:

- would be prepared to use the existing set of stalls and, importantly, maintain them and provide for their gradual and ultimately total replacement as and when required
- would provide for the storage and transport of the existing stalls and put them up and take them down
- would actively promote the market both to potential traders and to the wider public and
- would seek to bring additional markets on both market days and additional days, using the existing market space and/or the designated events space as required, working alongside the Council's events team accordingly.

3.17 With regard to Paragraph 1.3 of Appendix 2 ("annual fee") one operator advised that consideration might be given to any tender document stating a number of thresholds and invite potential operators to submit the percentage fee to be received by the Council at each income threshold.

3.18 With regard to Paragraph 5.1.1 of Appendix 2, ("single trade policy"), operators were firmly of the opinion that this current policy potentially restricts the future success of the market. Their respective observations are as follows:-

- "competition is good for market traders"
- "competition is good for the future viability of the market"
- "competition makes for a healthy market"
- "the single line policy is the wrong policy for a new modern market"
- "the Council needs to cater for a "new generation" of market shoppers - the market would still be successful without it being single line"
- "we know of no other private commercial operator who would operate a single line market"
- "a single line policy does not create the essence of a good market"
- "it is normal to have at two similar trades operating at general markets though a single line market may be more acceptable where the market taking place is more specialised"

3.19 With regard the "single trade" policy, the existing Terms and Conditions for Traders state: *"The Market operates a 'single trade' policy meaning that there will only be one product line stall at any one time though the Council may waive this*

policy if, in its sole discretion, it believes that there is sufficient demand for more than one stall selling the same product line.”

- 3.20 Whilst trade disputes are currently virtually non-existent, making for a smoother market operation, such a policy is considered to potentially restrict the number of traders and therefore the attractiveness of the market to a potential external operator.
- 3.21 Given the feedback from potential operators, the single trader policy is clearly an unattractive proposition to them and including it within a tender document is likely to mean that there will be little or no interest in the Market Operation from external private operators.
- 3.22 The only other observation received from existing operators was regarding future stall holder charges. One operator advised that the Council may wish to include in any tender document, a requirement to set out increases in daily stall holder charges by a set amount each year so that traders would be able to plan for future increases.

Delivery Options

- 3.23 With the soft market testing process now complete, the following options for the future management and delivery of Bromsgrove Outdoor Market are proposed.

Option	Description	Advantages / benefits	Disadvantages / risks
Option 1			
Market remains the same i.e. continues to be operated and managed by NWedr.	3 day per week general market	Council retain control over rents, fees and single trade policy	Market does not maximise its income potential
Council pay NWedr annual sum to operate a general market	NWedr employees & agency staff as required store, transport, erect and take down stalls	Continuity in terms of management and staffing	Reduced scope for introducing speciality markets and events
	NWedr collect stall charges on Council behalf		On-going obligations for Council in terms of maintenance and repair of stalls
	Council retains stall charge income		

<p>Option 2</p> <p>Private management and operation of market</p> <p>Council pays Private Operator a management fee during the contract period, to operate market and after an agreed income threshold has been achieved (set at tender stage) a percentage of the additional income be received by the Operator</p> <p>Trading regulations to be similar as existing subject to removal of the “single trade” policy</p>	<p>3 day per week general market with option to hold additional markets on selected days</p> <p>Private operator stores, transport, erects and takes down stalls</p> <p>Operator collects stall charges on Council behalf</p> <p>Council retain a percentage of stall income</p> <p>NWedr manages contract as part of the Collaboration Agreement</p>	<p>Operator has financial incentive to perform</p> <p>Council retain proportion of income</p> <p>Council potentially benefit from any increase in income arising from increase in stall occupancy and additional markets</p> <p>Maintenance and replacement of stalls transfers to operator</p> <p>Council to input into setting of stall charges</p> <p>Improved vibrancy of the market and town centre</p>	<p>Council paying out a base line management fee to contractor and NWedr</p> <p>There needs to be greater trust between Council and Operator</p> <p>Loss of single trade policy could impact on existing traders</p> <p>Potential loss of existing traders</p>
<p>Option 3</p> <p>Private management and operation of the Market</p> <p>Operator pays Council an annual fee during the contract period for the right to operate the market.</p> <p>Fee to be increased annually according to Consumer Price Index or “Stepped” increases as agreed at beginning of contract.</p> <p>Trading regulations to be similar as existing subject to removal of the “single trade” policy</p>	<p>3 day per week general market with option to hold additional markets on selected days</p> <p>Private operator stores, transport, erects and takes down stalls</p> <p>Operator collects and retains stall charges</p> <p>NWedr manages contract as part of the Collaboration Agreement</p>	<p>Maximises the initial contract value</p> <p>Guaranteed income for the Council</p> <p>Maintenance and replacement of stalls transfers to operator</p> <p>Improved diversity and vibrancy of the market and town centre</p> <p>Minimal expenditure for Council</p>	<p>Council potentially does not financially benefit from any increase in trader income following improved trader numbers</p> <p>Lack of control over market policy and fixing of stall charges</p> <p>Loss of single trade policy could impact on existing traders</p> <p>Potential loss of existing traders</p>

Preferred option

- 3.24 Taking into account the advice received by NABMA and the views of the private operators via the soft market testing exercise, the preferred option is to commence a procurement exercise to externalise the management and operation of Bromsgrove Outdoor Market.
- 3.25 Given the Council's limited resources, it is considered that the management of the market by an external operator under Options 3 above provides the best opportunity to fully maximise the income to the Council, at the same time as making savings in expenditure, whilst also creating a competitive, diverse, sustainable and thriving market that adds to the overall offer and vibrancy of Bromsgrove town centre

Customer / Equalities and Diversity Implications

- 3.26 There are benefits to externalising the market as an external operator will be able to bring a new commercial focus, added experience and additional markets which should contribute to the regeneration and improvement of the town centre.

4. RISK MANAGEMENT

- 4.1 There is a risk that the tender prices received may not equate to at least the current net income received. However this is balanced against the reduction in expenditure that would be required from the Council including the cost of replacing future market stalls and associated equipment.

5. APPENDICES

Appendices 1: Summary of National Market Place report

Appendices 2: Draft Specification

6. BACKGROUND PAPERS

Information from the National Market Place Report relevant to Bromsgrove (redacted to remove confidential personal data)

Cabinet Report April 2015: Bromsgrove Market

AUTHOR OF REPORT

Name: Steve Singleton
email: steve.singleton@nwedr.org.uk
Tel.: (01562) 732168