

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	Sanders Park
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; 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 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 should OPTION 2 be chosen by Cabinet.**

3. KEY ISSUES

Financial Implications

- 3.1 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. 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 Operating the market 'in-house' would result in a net cost to the Council. Officers have undertaken some initial work which estimates that the annual cost of operating the market could be between £109,000 and £143,000. This includes staffing costs, maintenance of equipment, IT, overheads and marketing costs. There would also be an initial capital out-going of £25,000 to purchase a van and a trailer and future investment in new stalls estimated at £55,000. A breakdown of the anticipated costs is attached at Appendix 1.
- 3.3 Similarly officers have prepared some initial income projections based on the current configuration of the market (33 3m x 3m stalls and one mobile unit) – also attached at Appendix 1. Initial projections show that an annual income of between £85,000 and £113,000 could potentially be generated.
- 3.4 In most scenarios it is anticipated that an in-house operation would run at a deficit and that it would require a subsidy from the Council. Based on officer projections the maximum deficit to be funded would be £58,000 with a £4,000 surplus being the most beneficial financial position

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 4th 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 scoring of the tenders would be developed by NWedR to ensure that the Council's priorities in this regard were fully captured.
- 3.9 It has been suggested that a further option could be for a 'co-operative' of local market traders to be formed to operate the market. If such a co-operative were formed it would be able to participate in any procurement process and the Council could award the operation of the market to it if it was able to demonstrate that it offered best value.
- 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; the breakdown of this is as follows:

	Price (per annum) for acquisition of existing BDC owned stalls	Annual Fee for running the market	Total per annum (stalls + fee)	Total over 5 years
C J Events	£8,000 (£40,000 total)	£11,000	£19,000	£95,000

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 3rd 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 4th 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 Officers have liaised with the current market traders and a briefing session was held on 27th February 2018. Although concerns were expressed by the traders relating to the Council undertaking a new procurement process to select and appoint an external operator, assurances were given by officers that the views of traders would be taken on board. Furthermore, a number of traders have expressed an interest in running the market through a 'co-operative' arrangement.

Future options

3.18 Officers have reviewed the potential options available to the future management and delivery of Bromsgrove Town Centre Outdoor Market.

Option 1: NWedr continues to manage the market and commences a new procurement process to appoint a suitable external operator;

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 There is the potential for a traders co-operative to operate the market. However, such a co-operative would be required to submit a proposal as part of a competitive tendering process (as per Option 1) and the bid would need to be assessed against the agreed set of evaluation criteria.

3.20 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 this option, that it should commence a new procurement process.

Advantages / benefits	Disadvantages/Risks
<p>Offers a consistency in approach and management</p> <p>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</p>	<p>Under performance of external market operator</p> <p>External operator serves notice on the contract before end of three year term</p>

<p>Operator takes on the responsibility for the secure storage and transportation of all market related equipment</p> <p>Operator takes on the responsibility for the market stalls and equipment</p> <p>Additional income received from operator for the hire and use of Bromsgrove District Council owned market stalls and equipment</p> <p>Increase to stall fees made in agreement and consultation with NwedR to protect the interests of the stall holders and market</p> <p>Operator to take responsibility for providing cover for any team sickness, leave or leaving post</p> <p>Specialist knowledge and expertise in running a professional market operation</p> <p>Experience of taking part in National initiatives such as Love Your Market, Small Business Saturday, Youth Market</p> <p>Capacity and experience to hold specialist markets and events across multiple days (e.g. week long Christmas market, weekend long food festival)</p> <p>Through experience of operating markets in other areas, judge which initiatives and specialist events will work in Bromsgrove town centre</p> <p>Covered by all relevant insurance and indemnity policies, health & safety, risk assessments etc</p> <p>Incentive for the operator to deliver a high quality and diverse outdoor market</p> <p>External operator would have experience of working in partnership with Local Authorities, BIDs and Town Centre Management Frameworks</p> <p>Minimal expenditure for Council</p> <p>Confidence that the delivery of the market is under the management of a professional operator</p> <p>Protection of the Council reputation and credibility</p>	<p>May attract a lower financial offer to run the outdoor market</p> <p>Stall rate increase requested</p>
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Option 2:

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

Description:

- 3-day per week general market (Tuesday, Friday and Saturday)
- 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 sustain the outdoor market is the responsibility of BDC or NWedr
- Cover for the loss of staff, sickness, long term sickness and associated costs the responsibility of Bromsgrove District Council or NWedr
- All relevant licenses, public liability, health & safety implications the responsibility of Bromsgrove District Council

Advantages / benefits	Disadvantages/Risk
<p>The Council takes full responsibility for the future financing, management and operation of Bromsgrove Town Centre Outdoor Market</p> <p>Supported by the majority of current stall holders</p> <p>All fees generated by the market will be paid directly to Bromsgrove District Council</p> <p>Bromsgrove District Council / NWedr has direct relationship with market traders</p> <p>Opportunity to implement a frequent meeting regime with market stall traders to strengthen communication and partnership working</p> <p>Bromsgrove District Council has control of implementing any stall charge rises or decreases</p>	<p><u>Cost implications</u></p> <p>Recruitment of:</p> <ul style="list-style-type: none"> • Markets Manager • Markets Officer (onsite) • Operatives (stands, waste removal) • Mileage and expenses • Admin and back office (booking, taking stall payments etc) • Vehicles to transport market stalls • Fuel costs • Maintenance of vehicles, MOT, tax, insurance • Maintenance and replacement of stalls <ul style="list-style-type: none"> • 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. • Cost of implementing a stall fee

<p>Bromsgrove District Council has a social reputation and responsibility to work with the local community and businesses</p> <p>Opportunity to reinvest income from the Bromsgrove town centre outdoor market as part of the commercialism agenda</p>	<p>collection and payment process</p> <ul style="list-style-type: none">• Operational budget to run specialist and themed markets and events and associated marketing campaigns• Costs of covering annual leave, sickness• Costs and loss of income associated with the cancellation of markets due to adverse weather conditions, highways work etc.• Loss of staff• Lack of specialist knowledge and experience of running an outdoor market• No consistent income generation and ability to forecast year-on-year• Insular approach and not reacting to other local and national initiatives• Resources to implement a coherent and professional marketing and communications strategy to promote the market and specialist events
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Summary and Conclusions

- 3.21 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, whilst also creating a competitive, diverse, sustainable and thriving market that adds to the overall offer and vibrancy of Bromsgrove town centre.
- 3.22 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 role of the

Bromsgrove Centres Manager will be pivotal in early management of the licence agreement and positive relationship with the new operator. The Bromsgrove Centres Strategy 2017-2020 puts a clear emphasis on the crucial role the outdoor market plays as an economic driver.

- 3.23 A draft specification and evaluation criteria has been prepared and it is anticipated that a procurement process would take 6 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. The outline timetable is as follows:
- Advertise tender opportunity – Tuesday 3rd April 2018
 - Deadline for submissions – Tuesday 15th May 2018
 - Evaluation and scoring – completed by Friday 18th May 2018
 - Appointment of operator – Monday 21st May 2018
 - Contracting and transition period – Monday 21st May to Monday 4th June 2018
 - Operator in place by Tuesday 5th June 2018
- 3.24 The proposed evaluation criteria are attached at Appendix 2. The 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.
- 3.25 Should members agree to continue to work with an external operator (following a competitive procurement process) there should be no service or operational implications and NWedr would strive to achieve a seamless transition with minimal disruption to the markets operation.
- 3.26 Alternatively, should the Bromsgrove Town Centre outdoor market revert back to an in-house function there would be implications regarding the timescale to recruit the posts required to develop a markets team, establish the appropriate infrastructure and frameworks and the risk that the market will cease to operate during the transitional period which will be damaging to the traders and customers.
- 3.27 It is estimated that it will take at least 3 months from the date of this meeting to establish a markets team and this will involve a selection and recruitment process, which means that it is likely that there would be a break in the operation of the market when the current operator finishes on 4th June 2018. It will take at least 3 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. This is based on a best case scenario of being able to recruit successfully to the proposed staffing positions.
- 3.28 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. It is proposed that this decision should be determined in line with the delegation at paragraph 2.1

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 3.20.

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

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