

**Meeting of the Cabinet – 11 March 2015**

**Report of the Strategic Director for the Environment, Economy and Housing**

**Dudley Market**

**Purpose of Report**

1. To seek Cabinet approval for a pilot project to enable Dudley Market to be operated by a company established by Dudley Market Traders.

**Background**

2. Dudley Market is a traditional 6 day market which for many years has operated from 74 stalls and has provided a key local retail offer in the heart of the town. The Market Management service is currently operated directly by the Council, which employs a Market Manager, who allocates 1/3 of her time to this work, and 2 part time Market Officers
3. The Market Management service carries out the following duties
  - The management of stalls and the daily allocation of stalls to casual traders and the collection, recording and banking of stall rent fees
  - Dealing with requests and queries raised by traders and shoppers
  - Enforcing the regulations of the Market
  - Arranging for general repairs and maintenance to the structure of the Market.
  - Advertising and promoting the Market to attract new traders and shoppers.
  - Recording and collating performance data regarding daily occupancy levels and amount of income generated.

4. In line with traditional markets nationally, the Market has seen a reduction in occupancy and income to the Council. This is a result of both a change in retail patterns that has had a similar negative impact on High Street retail activity generally, as well as the economic downturn. As an indication of this contraction, the annual operating surplus of the Market has fallen over the last decade from £136,682 in 2004/5 to £70,899 in 2012/13, the year prior to commencement of the Market Place renovation project.
5. Members will be aware of the significant public and private sector investment currently underway in and around the Town Centre, in the form of Dudley College's campus redevelopment, the Castle Hill and Zoo project, the Townscape Heritage Initiative and the Castle View and Constitution Hill residential developments.
6. At the heart of this activity is the £6.7m renovation of the Market Place and Castle Street which will provide a 21<sup>st</sup> century setting for the market with upgraded facilities continuing to operate from 74 stalls. Given this investment, which seeks to diversify the retail offer and deliver economic growth and jobs, and the increased footfall and expenditure anticipated from greater numbers of visitors, shoppers and residents in the Town Centre, there is a need to provide an enhanced Market offer. The Market has real potential to build its offer as an attraction in the Town Centre and become a destination in its own right as well as being a distinctive and complementary part of the Town's retail offer.
7. The Market Manager will be leaving the employment of the Council under the voluntary redundancy scheme at the end of March 2015. The 2 Market Inspectors have applied for voluntary redundancy and it is proposed, subject to approval of this report, that their applications be accepted to allow them to leave at the same time as the management of the Market is transferred to the Traders' organisation.

8. In the context of the above, the opportunity has arisen to review the operation of the Market in order to maximise income to the Council and add value to the Town's retail offer. A set of objectives for the future of the Market has accordingly been prepared as follows:

- To make the Market Place the hub of a range of new activities and events which will allow the Council and the Town Centre to fully exploit and capitalise upon investment in the Market Place and environs
- To protect the existing Market offer and retain its established customer base
- To develop the Market offer in terms of its hours of operation and quality of offer that will build on the ongoing regeneration plans for Dudley Town Centre. This could include specialist markets and opening the Market for evening and Sunday events
- To provide a professionally operated and consistent offer which presents opportunities for enterprise and sustainability.
- To help raise aspirations for the Town Centre as a destination of choice in the Black Country.
- To instil a positive impression among local stakeholders, local communities and visitors to Dudley Town Centre.
- To assist in promoting Dudley Town Centre as a business location, providing workers with an attractive environment where they can enjoy what the Town Centre has to offer.
- To bring diverse communities together to enjoy and connect with their High Street, bringing out what is unique about Dudley Town Centre
- To draw new visitors to the Town Centre to deliver economic benefits to local business.
- To achieve significant economic uplift, including new enterprise and jobs, increasing footfall and visitor satisfaction, and enhancing the attractiveness and potential for letting of empty retail units close by

9. In line with guidance issued by the Department for Communities and Local Government, an options appraisal has been carried out to identify the preferred management model for the operation of the Market, and a summary of this is shown in Appendix A. The options appraisal considered factors which included

income generation, ability of the Council to influence the Market operation, business resilience and compatibility with the Love your Community and business support agendas. In summary, the options available to the Council to manage the Market are:

Local Authority	The 'as now' option; direct provision and management by the local authority
Private	Operation directly by the private sector, either licensed by the local authority under its market rights or completely outside its licensing framework
Trader	Direct management by market traders
Partnership	Retention of strategic management by the local authority but with the operational management outsourced
Arm's length	Creation of an arm's length limited liability partnership that takes a long lease for the operation of the market
Social/Community enterprise	Models that operate on a basis of trading ethically and generating wider social or environmental benefit through their trading activity
Voluntary sector	Managed by volunteers and creating a sense of community ownership as well as reducing operational costs

10. Representatives of the Market Traders have requested that the Council consider entering into an arrangement for them to directly manage the Market. Their proposal is to provide this service at no charge to the Council, carrying out the management services listed under Paragraph 3 above. In order to cover the operating costs of the company they would levy a small charge to each stallholder. The contractual relationship for the use of a market stall would remain between a trader and the Council, with the Traders' organisation responsible for collecting stall rents on behalf of the Council, with 100% of stall rents passing directly to the Council

11. This proposal offers a number of benefits as below:

- The Traders' organisation is proposed to operate on a not for profit basis with the primary incentive for success being one of self interest in having a vibrant market that can attract footfall and increase sales
- The proposal accords very well with the Council's desire to support local and small businesses, who would have a direct stake in the success of the market. To this end it sits very comfortably as part of the Council's Love Your Community initiative.
- There are a number of financial benefits to the Council. Given that this is a 'minimal cost' option, the traders propose to operate the market on a low rent basis, which will give this market a significant regional advantage, and give the best prospects of increasing stall occupancy. In addition, it will be easier for the Council to predict income levels, which it is anticipated will immediately be higher than at present
- Given the general national pattern of contraction in High Street retailing, and the inevitable but short term disruption to the Town Centre resulting from the significant development activity underway, this proposal offers the potential to nurture and grow the market in a way that is unlikely to be achieved by a commercial operator
- Due to the decline in High Street retail activity and any short term negative impact of the Market Place construction works, management of the Market is likely to be of limited interest at present to commercial operators. Management of the service by a Traders' organisation offers a real opportunity to nurture and grow the Market.

12. All of the management options set out in Paragraph 9 carry some risk, and these are shown in the options appraisal in Appendix A. The key risks identified with the proposal contained in this report are set out below:

- The Market Traders do not have the same level of experience as a commercial operator in the administration of the Market and have no track record in operating via a legally constituted body
- To date, contact between the Council and the Traders been through a small number of Traders representatives and the Council will need to be assured that the Traders organisation could operate effectively in the event of them not being present

- The ability of the Traders to increase the Market offer in terms of opening times and range of goods is unknown
13. In order to mitigate these risks, the Council will need a mechanism to ensure that the Traders' Organisation delivers acceptable outputs. It is therefore proposed to negotiate an agreement with the Traders' organisation once they have formed a legal entity capable of entering into a binding agreement with the Council and once due diligence checks have been carried out. It is proposed that this agreement will include:
- Setting up the management arrangements on a 'Pilot' basis with an initial 12 month period with extension for another 12 months based on successful performance with 6 monthly formal performance reviews
  - Performance criteria including income levels, stall occupancy levels and quality measures relating to opening times and range of goods
14. In the event of an unacceptable level of performance the ultimate sanction for the Council would be the termination of the agreement and the management of the Market by another route.
15. Whereas the Market Traders' organisation would have a clearly defined responsibility for the management of the market, it is proposed that it would work in partnership with the Council on increasing footfall by joint marketing and promotion and by the delivery of an annual programme of events.
16. Subject to the approval of the proposals contained in this report and the negotiation of an acceptable agreement between the Council and the Market Traders' organisation, it is proposed to transfer the management of the Market on the 1<sup>st</sup> August 2015.

## **Finance**

17. The Market is currently budgeted to deliver a net annual surplus of £97,000 for the Council. Under the proposed operating model the Council will agree with the Traders Organisation an initial rental level aimed to increase occupancy as the new market is launched.

Even on the basis of recent occupancy levels and taking into account these costs that the Council will continue to carry, together with the revenue savings from the current management structure, projected income to the Council would exceed that achieved in the last full year of operation. Some of this could be used to offset higher maintenance costs which will be a consequence of regenerating the Market Place.

### **Law**

18. Section 1 of the Localism Act 2011 provides the Council with a general power of competence to do anything that individuals generally may do.

### **Equality Impact**

19. There are no special considerations to be made with regard to equality in this report

20. Due consideration will be given to equality issues in preparing a management agreement between the Council and the Dudley Market Traders' organisation

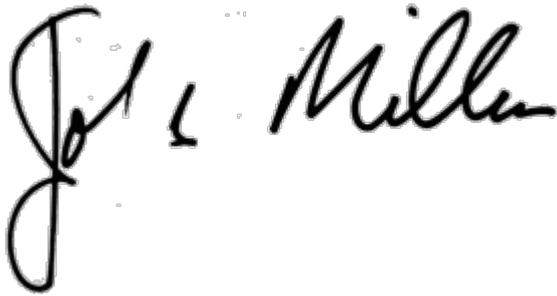
### **Recommendations**

21. It is recommended that the Cabinet;

- a) Authorise the Strategic Director for Resources and Transformation and the Strategic Director for the Environment, Economy and Housing, in consultation with the Cabinet Member for Regeneration, to enter into an agreement on appropriate terms and conditions with a Traders Management Company for the management of Dudley Market.
- b) Consider a further report on the management of the Dudley Market by the Market Traders after the first 6 monthly review and before the end of the 12 month pilot

**John B Millar**

**Strategic Director for the Environment, Economy and Housing**

A handwritten signature in black ink, reading "John B Millar". The signature is written in a cursive style with a large, stylized initial "J".

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**List of Background Papers**

Retail Markets – Management models; Communities and Local Government,  
September 2010