

Markets Options Appraisal

The purpose of this Options Appraisal is to explore the advantages and disadvantages of the different types of market management arrangements that could be employed in East Herts. Through an appraisal of the options, the report aims to recommend the best option for the future operation of East Herts markets

There are also a number of other considerations that affect the markets service:

Legislation to be able to operate a market

The general rule is the owner of market rights has the ability to hold markets and control and license other markets within a six and two thirds miles area of the location where the markets are held. That area of control has now been extended, by virtue of a court decision in 2004 involving Leeds Council, to cover an area of six and two thirds miles from any market licensed by the owner of the market rights.

Town and Parish Councils are also entitled to operate markets in their own right. In addition to any charter all Town and Parish Councils are entitled to use the powers contained in Part 111 of the Food Act 1984 to establish markets. These powers are the same powers used by Unitary and District Councils to operate Markets. This means that the Town and Parish Councils could decide to establish markets of their own without reference to the District Council on the issue of market rights although they would need planning permission, for a regular market, and might need other approvals such as highway or road closures.

Town centre regeneration and location of markets

To ensure the markets are sustainable for the foreseeable future, it is essential that they look and feel like a traditional town market and ideally should be centralised in one place in each of the towns. In Bishops Stortford in particular the current market offer is not in the ideal location as is spread out along an area of relatively low footfall.

Customer experience is improved by ensuring the market is the optimum size, clearly signposted and in the right location. The town centre strategies and regeneration of Hertford and Bishops Stortford may or may not have an effect on the location of the markets in the

future. In Ware the re-landscaping of Tudor Square may also affect the look and feel of the market in the future.

Investment in the markets

Retail market performance is not dissimilar to the rest of the high street, in that trading conditions are still challenging. Outside of London, generally speaking specialist markets such as farmers markets are doing better than traditional retail markets.

Therefore to ensure sustainability and viability of markets continued investment in marketing and promotion should continue so residents and visitors know what the market has to offer. There should also be a commitment to improve overall offer on the market in terms of the range and quality of goods and services sold.

Waste management and Environment

It can be argued that markets provide a positive impact on their environment. NABMA indicates, via a study conducted recently by the Local Government Association, that markets can be rated much higher than supermarkets in terms of eliminating excessive packaging waste.

At present all East Herts Markets (including Bishops Stortford) have market waste removed as part of the Councils waste management contract. This is in the process of being retendered and from May 2018 will be a joint contract with North Herts District Council. In the new contract there is a market waste option which the market operator could choose whether or not to take this up or investigate other options for market traders' waste management/disposal.

Staff resource

Options should consider the level of staffing required by the Council. In-house management will require a higher direct staffing requirement. Some resource would also be required if the markets were contracted out. Any option should not be onerous, should reduce EHC management resource and responsibility and enable decision making at a local level. They should also allow sustainability of the markets.

Options to fully transfer the ownership of the markets, with or without the market rights could result in a possible TUPE transfer or redundancy of a current EHC employee.

Local community and local economy

Well operated markets will have a positive impact on the local community. They act to provide social cohesion, visitor traffic into town centres is increased and the net effect is a more vibrant economy, which translates to high street retailers also. Local people have a wider retail choice at their disposal. Either the District or Town Councils are best placed to increase both local community and economic growth because they are working at the local level, have a clear commitment to act in the best interests of the towns as a whole, and therefore will be more committed to successful future of markets.

Health and safety

East Herts markets are temporary, demountable market stall structures. They could pose a health and safety risk in the high streets in which they are erected, especially if they encroach beyond permitted boundaries. There is also the possibility that trip hazards could increase if packaging and other items are left in walkways by market traders. These negative impacts can be mitigated by ensuring a markets officer strictly 'risk assesses' the working environment of the market, such that stalls are erected only within permitted boundaries and packaging is stored away from hazardous areas. This would continue either through in-house provision, contract specifications or new providers.

Strategic aims and identifying objectives

Two main documents have been considered to identify the strategic priorities and the objectives: The Economic Development Vision and Action Plan for East Herts 2016/17 – 2019/20 and the current East Herts Markets Policy 2016.

Three clear priorities have been identified in relation to market provision:

- Realising the Economic Development Vision for East Herts
- Operational Sustainability
- Financial Sustainability

These priorities can be broken down into 10 broad objectives which have been used to assess each of the options:

Realising the Economic Development Vision for East Herts

1. **Be a Business Friendly Council** – to ensure traders, community and business involvement in the management of the markets. The market operator is interested in engaging communities in local issues and markets fit the local need of the area.
2. **Enabling Entrepreneurs – start-ups/support for small businesses** – to increase opportunities for local producers to sell to a broader range of customers.
3. **Supporting Rural Economy** – supporting village based and farmers markets and supporting local producers in bringing their produce to the customer, especially where this helps protect rural environment through supporting farmers to diversify their business.
4. **Encourage Vibrant Town Centres** – work with Town Councils to deliver special events and specialist markets to increase footfall in town centres regenerating town centres.
5. **Supporting Visitor Economy** – encouraging tourism and trade; encourage new customers to the market; increase frequency and duration of customers' visits; attract visitors who want specialist produce and a traditional and historic atmosphere to shop in.

Operational Sustainability

6. **Ensure Market Operator is competent and experienced** –to minimise the risk of non-delivery of the service. Be able and committed to enforcing standards and managing market traders effectively and fairly.
7. **Ensure legislative compliance** – to regulate markets in a fair way and plan provision of markets; maintaining the quality of the markets offer; ensuring that relevant standards are applied; maintaining consumer confidence; protecting Public Safety.
8. **Reduce responsibility to East Herts** – transfer day to day control away from East Herts Council. Minimise time, resources and costs to set up and administer.

Financial Sustainability

- 9. *Potential to reduce operational costs to the council*** – reduce management and staff overheads, make operational cost savings by exploring new ways of service delivery.
- 10. *Economic Viability of the markets*** – operator sustains market offer and invests surpluses back into the markets.

A number of options for managing the service have been identified and assessed in terms of meeting the objectives.

Option 1 is to no longer operate markets.

The council would save revenue, but customers' retail choice and value would be reduced. East Herts Markets are popular shopping experiences and their closure would result in widespread dissatisfaction amongst residents and cause negative publicity and feeling, with subsequent adverse political consequences.

Option 2 is to let contracts to a number of contractors covering different towns

Bishops Stortford Market is already contracted out and there could be an option to contract out Hertford and Ware markets either to the Town Councils or to private sector market operators. Ultimately it is not considered to be a workable option because there are a very limited number of private sector market operators working on a nationwide basis that would be able to answer a number of separate tenders. If contracted out to it would cause confusion, unnecessary administration and bureaucracy in terms of tender evaluation and ongoing service provision for the size of the markets, and would generally result in an unnecessary over complication of the operation of markets.

Option 3 is to let a single new contract following a procurement exercise.

This option is more appropriate for Councils with larger markets, particularly where there is a dedicated market space. It is an opportunity to start a robust tender competition, which will ask entrants to look to provide best value within their submissions. There is a limited number of providers and due to the size of East Herts markets it is highly likely that tender competition quality and number of submissions would be very low, leaving the council with few options in terms of selecting a preferred operator. This arrangement couldn't commence until the BSTC contract

ends in May 2019. There may also be TUPE implications with this option.

Option 4 is to take back the operation of all the markets in-house

In-house operation of the markets would involve a return to the management arrangement before June 2015, when BSTC were contracted to manage the market. This arrangement couldn't commence until the contract ends in May 2019. The contract would have to be retendered before that date and East Herts Councils Markets team would have to put in place an in house bid if BSTC expressed an interest in tendering for the market. Given that Bishops Stortford town council has already shown they are able to operate the markets and manage stallholders effectively and are likely to wish to continue this, this is not a preferred option.

Option 5 is to licence Town Councils to run markets but EHC to keep the market rights

There are clear synergies between the market activity and town centre 'events' which are typically the responsibility of the Town Councils. A transfer to management of markets at a more local level ensures closer trader and community involvement.

The Council could transfer responsibly to Town Councils to run the markets in a number of different ways. Often it is covered by a licensing agreement where the District Council provide a framework for how the arrangements will work. In certain instances the arrangements go into great detail. In other cases it is very simple document. Alternatively, given that the Town and Parish Councils have the same powers where the Market is operated under Part 111 of the Food Act 1984, the arrangements have sometimes only covered the transfer of assets. TUPE arrangements with regard to staff are unlikely to apply as the service would be split up.

As the owner of the market rights in the District, the Council recognises that it holds a monopoly. The current policy enables it to manage that monopoly responsibly and fairly and any future change should ensure this continues. By keeping the market rights EHC can continue to influence and keep control of markets that set up illegally in the District. Alternatively EHC can retain the licensing role but consult the Town and Parish Councils in respect of any Market falling within their area.

If Town Councils were granted rights to hold specific markets and EHC retained the market rights to administer licensing arrangements for other

markets this could be a simpler option to administer and enforce than giving full market rights.

Keeping market rights and the licensing role would result in a continued income stream of approximately £14,500 per annum to the District Council (based 2016/17 estimates) however some Council resource would be needed to administer this. It would be recommended that some of this income is given back to the town councils as a transitional subsidy to help with set up and administration costs. Therefore there is a risk that there could still be a financial burden and staff cost to the council with this option.

Option 6 is to hand over market rights to Town Councils

As in option 5 the Council could licence the town councils run the market but also lay down the licensing arrangements that Town and Parish Councils are able to implement. The District council would have no direct responsibility for running markets or licensing other markets in the District. All responsibility, risk, income and control for markets are handed to Town Councils. The income from licencing other markets such as specialist food markets and car boots could help support the running costs of the town council markets.

Another important issue is enforcement of non-licensed markets. District Councils have much better enforcement arrangements than Town and Parish Councils, although in theory, Town Councils could buy in EHC legal support if and when needed.

This option could be a problem if you gave the powers to both Hertford and Ware Councils as they are close to each other. Strictly both Councils could have separate licensing arrangements that an applicant would have to follow and this could lead to problems and confusion. Any agreements would need to be carefully worded to ensure ease of administering and enforcement.

Initial conversations with Town Clerks convey the understanding that subject to a decision by their members and a more detailed analysis of the costs / funding this may be an option.

Option 7 is if one or two Town Councils take up the option of running Markets, leaving East Herts with the remainder and the licensing.

In the event that only one or two Town Councils take over the direct running of their markets this could leave EHC with the remainder and the

licensing of other markets. This is not an ideal option as would still leave EHC with overheads in running the service. Therefore in order to satisfy the financial objectives EHC would need to reduce staff costs by changing role or hours of market manager.

Option 8 continue the current arrangement where Bishops Stortford Market is contracted out and East Herts runs Hertford and Ware

The Current market manager has a wealth of experience and knowledge of the role and the markets continue to attract a stable number of traders but due to BSTC taking over the market there this has potentially reduced the role by 35%.

The contract with BSTC is now working well and Bishops Stortford Town Clerk has informally expressed an interest to continue running the BS market after the current contract ends. As with option 7, current costs to the Council will continue and although the economic objectives are satisfied this option does not resolve the ongoing cost of the markets service to the Council.

An Options Appraisal is attached in Appendix 'A'

The resulting proposal is subject to scrutiny by the Council and stakeholders through the consultation process. This options appraisal scores each option against the identified key objectives. The objectives are weighted according to their importance to the Council in delivering a balanced solution. Therefore objectives such as reducing operational costs are weighted more than the experience of market operator. There are also more objectives relating to Economic Development than there is to Economic sustainability reflecting the council's commitment to ensuring viability of the town centres.