

EAST HERTS COUNCIL

EXECUTIVE – 17 JULY 2018

REPORT BY EXECUTIVE MEMBER FOR ECONOMIC DEVELOPMENT

FUTURE MANAGEMENT OF TOWN CENTRE MARKETS

WARD(S) AFFECTED: All

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**Purpose/Summary of Report**

- To inform members of the decisions taken by Bishop's Stortford, Hertford and Ware Town Councils in relation to the future management of East Herts Markets.
- To agree the future ownership and management of town centres markets
- To outline the next steps for the devolvement and transfer of the service.

**RECOMMENDATIONS FOR EXECUTIVE: That the Executive:**

<b>(A)</b>	<b>Approve that East Herts Council ceases the management of Bishop's Stortford market to allow Bishop's Stortford Town Council to own and manage the market under the Food Act 1984, transferring market rights as detailed in paragraph 2.13;</b>
<b>(B)</b>	<b>Approve that in agreement with Bishop's Stortford Town Council; the current contract with BSTC will terminate in conjunction with the implementation of recommendation (A) above;</b>
<b>(C)</b>	<b>Approve that delegated authority is provided to the Head of Operations to agree the details of the transfer arrangements including the financial support described</b>

	<b>in Essential Reference Paper 'A' in conjunction with the Monitoring Officer, Chief Finance Officer and the Executive Member for Economic Development ;</b>
<b>(D)</b>	<b>Note the position on the markets transfer from Hertford and Ware Town Councils as described in paragraphs 2.9 and 2.10;</b>
<b>(E)</b>	<b>Note that engagement with market traders in Hertford and Ware to seek their views on a street trading consent arrangement for the continuation of stalls will take place over summer 2018; and</b>
<b>(F)</b>	<b>Note that the decision on the future of Hertford and Ware markets will be taken after consultation with market traders.</b>

## **1.0 Background**

- 1.1 Markets in East Hertfordshire have been in existence since a Royal Charter was granted in the town of Ware in the year 1199.
- 1.2 East Herts Council (EHC) has operated and managed the markets for a number of years and owns the market charter rights. EHC utilises the provisions of the Food Act 1984 to license other markets that would otherwise contravene existing charters. Both Hertford and Ware are charter markets and Bishop's Stortford market operates under the Food Act 1984.
- 1.3 EHC is currently responsible for managing Hertford and Ware retail markets and the Hertford farmers market. Additionally, as the holder of the market rights, EHC licenses a number of other village farmers markets, commercial markets and car boots in the district that fall within 6.66miles of the Bishop's Stortford, Hertford and Ware markets. In

2017-18 the markets service operated at a deficit of approximately £50,000 per year.

- 1.4 For many years Bishop's Stortford market was owned and managed by EHC. Through the 'Community Right to Challenge' within the Localism Act 2011; Bishop's Stortford Town Council (BSTC) was successful in the tender process for the management of the market under a 4 year contract with EHC in June 2015. As the contractor, BSTC have responsibility for the day to day management of the market and provide regular performance and finance reports to EHC as the client.
- 1.5 Buntingford Town Council manage their Monday market at Market Hill, Buntingford, without any financial support from EHC. Pitches are free, traders take their own waste away and one experienced trader manages this on behalf of the Town Council.
- 1.6 There is currently no weekly market in Sawbridgeworth.
- 1.7 Currently, the markets in the District are operated as follows:

<b>Market</b>	<b>Frequency</b>	<b>Managed by</b>
Hertford Retail Market	Every Saturday	East Herts Council
Hertford Farmers Market	Second Saturday of each month	East Herts Council
Ware Retail Market	Every Tuesday	East Herts Council
Bishop's Stortford Retail Market	Every Thursday and Saturday Farmers and craft market first Saturday of each month	Owned by East Herts Council but contracted to Bishop's Stortford Town Council to 31 May 2019
Buntingford Market	Every Monday	Owned and run by Buntingford Town Council

1.8 Markets are a valuable addition to the town centres, but the change in consumer shopping habits and the positive role markets play in the vibrancy of the towns present a dilemma. The retail environment and role of town centres has changed considerably over the last 10 years and there has been a decline in the number of market stalls generally. The Mission for Markets Survey (2016) by The National Association of British Market Authorities (NABMA) highlighted a 71% occupancy stall rate for markets in England. However, building on BSTC successfully operating and managing the Bishop's Stortford market, a wider markets review and an options appraisal was carried out which resulted in a report to Community Scrutiny 28 March 2017. The Committee resolved that:

- Town Councils be approached to negotiate a way forward to manage the markets in Bishop's Stortford, Hertford and Ware as detailed in the report; and
- the feasibility of transferring the rights to license other markets in the District to Town Councils be investigated.

1.9 The options appraisal presented a case that the town councils could be best placed to deliver these services in the future. NABMA state that town and parish councils running markets is one of the biggest growth areas in their membership. This option provides traders the opportunity to sustain their stalls/services in the future and would enable the town councils to have the freedom and control to operate the markets according to local needs. This would result in a saving for EHC.

1.10 Officers have been working with Hertford, Ware and Bishop's Stortford town councils over the last 12 months, providing them with information to help inform their decisions. A NABMA 'health check' assessment was undertaken for both

Hertford and Ware markets and financial information provided for the last 5 years.

- 1.11 This report concludes the outcome of this work and recommends the next steps for devolving the service and exploring alternative ways to deliver this service.

## **2.0 Report**

- 2.1 Over the past few months the three associated town councils have been considering the information supplied by EHC to help them determine whether they wish to take on the full management of EHC markets and the licensing of other markets within their areas. During this process a number of considerations were identified which can be summarised as follows:

- 2.2 *The Process of Transferring Market Rights*

It has been confirmed that the right to license another market stems solely from market ownership and not any other provision. As town and parish councils are also entitled to use the powers contained in Part 111 of the Food Act 1984 to establish markets (which EHC currently use), EHC could cease the market one day and a town council could commence the market on the following day under this Act; therefore transferring the rights.

- 2.3 *Geographical Coverage and Overlap*

If all three town councils were given market rights there is potential overlap of licensing areas (specifically for Hertford and Ware). To resolve this, licensing boundaries and fees would be agreed with the town councils in advance of the transfer to avoid future issues or inconsistencies.

- 2.4 *Option in the Event of a Town Council not Operating a Market*

If a town council determined that they do not wish to take over the management of a market, EHC could seek to

support traders through the use of street trading legislation. Street trading is managed by EHC's licensing service and traders could apply for consents under the Local Government (Miscellaneous Provisions) Act 1982. There is no limit to the number of street trading consents that could be authorised, subject to the space available etc. This is a relatively straightforward means to keep stalls, and with less administrative and office resource. EHC could engage with traders to explore this approach further as an alternative delivery method.

#### 2.5 *Market Cleaning and Waste Collection*

A high proportion of the market service budget is spent on market cleansing and waste collection. As the markets are now smaller, the NABMA health checks recommended alternative proposals such as traders taking their waste away, providing they have the necessary waste transfer documents. This is an optional item in the current shared waste contract so can be removed from the contract if required. Under a street trading consent approach, traders would be required to dispose of their own waste.

#### 2.6 *Miscellaneous Matters*

This may include items such as continuing the current car park concessions for market traders, transfer of assets and liabilities such as the electric bollards and gazebos (where applicable). It has also been highlighted that amendments to the current Traffic Regulation Order (TRO) may be required to continue to enable traders to use parking bays on market days once the market is transferred (rather than contracted) to BSTC. EHC are working with Hertfordshire County Council (HCC) on behalf of BSTC to resolve this before the transfer of the service.

2.7 The outcome of the individual town council meetings are as follows:

#### 2.8 *Bishop's Stortford Town Council*

The council resolved on 25 September 2017 that:

- BSTC confirms that it wishes to acquire the market rights and all responsibility for market operation in its area from EHDC including the responsibility for licencing other markets within 6.66 miles and will proactively cooperate to seek a mutually agreed transition
- Agreement to the transfer would be subject to satisfactory transition arrangements and to the resolution of any transition detail arising including but not limited to the known issue related to TROs, continued car park concessions for market traders and asset transfer
- BSTC confirms that, subject to satisfactory agreement on the above, it would be willing voluntarily to terminate the current contract with EHDC to operate the market, at a mutually agreed date
- The CEO be authorised to negotiate the transfer and, subject to the financial position following transfer being broadly break-even, to conclude it if he is satisfied that the conditions above are met.
- It was further agreed that the Chief Executive Officer would seek the return of the historic market charter.

### 2.9 *Hertford Town Council*

The council formed a working group which have met a number of times. They have carried out their own research including a survey and visits to other markets. Their development and leisure committee met on the 18 June and resolved that they do not wish to take over the management of the markets, nor the rights to license them at this moment.

Although fully supportive of the service, the current developments in the area including the potential urban regeneration project on Maidenhead Street and the redevelopment of Bircherley Green have led them to conclude that this would not be an opportune moment to take over the rights to license. They are however willing to consider the proposition again in the future. They suggest that analysis of

the past year showed there is interest for food and specialist markets and this could be a niche that could possibly help the market attract more customers.

#### 2.10 *Ware Town Council*

The council discussed the options at their finance & resources committee meeting on 11 June and at the full council meeting on 25 June agreed that:

- They do not wish to acquire the market rights or run the retail markets.

2.11 Given the above resolutions and that only Bishop's Stortford wishes to acquire the market rights to manage the markets it is recommended that EHC engage with market traders to explore the street trading consent route before making any further decisions about the future of the markets in Hertford and Ware.

2.12 The next steps are to work through the issues identified in paragraphs 2.2 to 2.6 with the town councils and agree the terms of the agreement with the assistance of EHC legal services and NABMA. It is anticipated that any terms of the devolvement and agreement are simple, clear and robust. Where a town council takes on the market under the Food Act 1984, they will need to formally resolve this through their decision processes.

2.13 For Bishop's Stortford it is proposed to voluntarily terminate the current contract with EHC to operate the market, on midnight 31st March 2019 (or a later date as necessary to implement the agreement). On this date EHC would cease running the market and owning the market rights under the Food Act 1984 and at the same time BSTC will commence running the market and own the market rights under the Food Act 1984 subject to the conclusion of the agreement set out in the recommendation C.

2.14 The BSTC market traders will be informed of the recommendations of this report. To ensure smooth transfer of the service the existing market manager will be providing



support and guidance to assist the BSTC and traders. In addition, further engagement with market traders in Hertford and Ware will help determine the future of these markets on the basis that at this stage the two Town Councils are unable to commit to taking the markets service on.

### 2.15 *Conclusion*

EHC remains committed to devolving the markets service, and the recommendations enable the continuation of the services in Bishop's Stortford via BSTC. Seeking views from Ware and Hertford market traders will be a valuable exercise in determining the future of the markets given the council's commitment to achieve savings/generate income. Should Ware or Hertford town council wish to consider operating the market service in the future, EHC will provide assistance.

## **3.0 Implications/Consultations**

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

### Background Papers

Report to Community Scrutiny 28 March 2017.

[Item 649 Markets Options Appraisal](#)

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