

**Decision Maker:** EXECUTIVE and FULL COUNCIL

22 March 2017 / 10 April 2017

**Date:** For Pre-Decision Scrutiny by the Renewal and Recreation Policy Development and Scrutiny Committee on 7<sup>th</sup> March 2017

**Decision Type:** Non-Urgent Executive Key

**Title:** PROPOSED PUBLIC REALM PROJECT AND MARKET REORGANISATION FOR BROMLEY HIGH STREET

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**Chief Officer:** Executive Director of Environment & Community Services

**Ward:** Bromley Town;

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1. Reason for report

- 1.1 The detailed designs and scheme costs for the whole of the proposed improvement works for Bromley High Street have now been fully completed.
- 1.2 As a consequence of the proposed public realm changes the existing street market will need to be relocated and officers have been assessing options for the future development of the market, including commissioning of the market operation. The report outlines options for the relocation and reorganisation of the market – and Members of the Executive are asked to: approve the relocation of the market and agree the future format; and approve funding for the scheme including funding for an additional temporary staffing resource to manage the market transition project.
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**RECOMMENDATION(S)**

That Members of the Executive:

- 2.1 Approve the Detailed Design and programme for the Bromley Town Centre Public Realm Improvement scheme comprising the ground plane works extending from Market Square to the Elmfield Road junction costed at £3.564m.
- 2.2 Agree that a total of £3.564m is allocated from the Growth Fund and added to the Capital programme to undertake the implementation of the scheme, subject to Full Council approval. Members should note that the outcome of detailed design and final costs for

**commercial kiosks and the mirrored pavilions will be reported to Members for approval in July 2017.**

- 2.3 Should the S106 funding of £4m be received from the Langley Court development, agree that the scheme be funded by these monies and the £3.564m be returned to the Growth Fund.**
- 2.4 Approve annual growth of up to £60k to cover the enhanced cleaning and maintenance costs from April 2018, subject to the level of income generated from the commercial kiosks.**
- 2.5 Review the options for the future operation of the market set out in paragraph 3.15 and agree the preferred option (c), to approve the relocation, reorganisation and relaunch of Bromley Town Centre market as outlined in paragraphs 3.17 to 3.22.**
- 2.6 Approve taking of all necessary steps to relicense the market and street trading arrangements under the Food Act as recommended in paragraph 3.21 and Section 7.**
- 2.7 Approve the allocation of £40k from the Growth Fund to meet the cost to employ a temporary project officer for a period of 12 months to provide the necessary coordination for the transition of the market to the proposed new format.**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: The scheme design will take into account measures for the mobility and visually impaired.
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## Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Quality Environment Vibrant, Thriving Town Centres Regeneration
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## Financial

1. Cost of proposal: Capital £3.564m Revenue £100k
  2. Ongoing costs: Up to £60k
  3. Budget head/performance centre: Growth Fund, Central Contingency and S106 funds
  4. Total current budget for this head: £4.645m and £4m
  5. Source of funding: Growth Funds and S106 funding from the Langley Court development
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## Personnel

1. Number of staff (current and additional): 5 FTE
  2. If from existing staff resources, number of staff hours:
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## Legal

1. Legal Requirement: Non-Statutory - Government Guidance
  2. Call-in: Applicable
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## Procurement

1. Summary of Procurement Implications: It is proposed that the all the civil engineering and public realm improvement works will be completed by FM Conway under the current Highway Engineering Term Contract. It is proposed that Council's TFM term contractor will deliver the remaining bespoke elements of the scheme.
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Borough Wide
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillor's comments: Ward Councillors were invited to take part in stakeholder consultations during the development of the scheme and were also represented at the most recent presentation of the detailed designs. A summary of responses from Councillors and other consultees is included in Appendix 5 of this report.

### **3. COMMENTARY**

#### **Background**

3.1 The Council is committed to improving the quality of the retail offer in Bromley to ensure that it continues to meet the needs of its aspirational catchment and effectively competes with neighbouring centres. To support this commitment the Executive approved on 26th November 2014 a revised development strategy for Bromley Town Centre and approved funding for a number of specific initiatives. These included:

- Retail Expansion.
- The Glades Mall Refresh Programme.
- High Street Improvements.

#### **Proposed Public Realm Improvements**

3.2 A key project to emerge from this review was the desire to extend the public realm improvements, successfully implemented in Bromley North, to the remainder of the pedestrian area of the High Street. The aim of these improvements are to tackle the disjointed nature of the current layout by improving the quality of the high street experience and creating distinctive spaces. The endorsed concept designs were developed in consultation with stakeholders and focused on:

- Introduce a hierarchy of public spaces where people can dwell.
- Green the High Street.
- Create shelter within the High Street for year round enjoyment.
- Create better links to Bromley's greenspace.
- Encourage street activity & enhance pedestrian experience.

3.3 A key feature of the emerging design was the reordering of spaces in the High Street to create a new public garden square in the southern pedestrianised area, which could contain commercial kiosks which would act as anchors to the new garden square. It was also proposed that the existing market be reorganised and relocated along the High Street, with a significant proportion occupying space in Market Square.

#### **The Project Programme and Costings**

3.4 The Executive Committee on 2nd December 2015 endorsed the concept designs for the next phase of the Bromley Town Centre Public Realm improvements and approved funding for the detailed design phase. The Council's Highway Engineering term contractor FM Conway have undertaken the detailed engineering designs.

3.5 The detailed designs and scheme costs for the whole of the proposed ground plane improvement works have now been fully completed. The scheme design extends from Market Square to the end of the pedestrian area of the High Street, including the Elmfield Road junction. The scheme design and budget includes provision to rebrand and relocate the existing street market further north into Market Square. The proposed implementation timetable will enable the first phase of the improvement works, from Market Square to Marks & Spencers to be commenced in July 2017 and be completed before the Christmas trading period in November. It is proposed that the remainder of the improvement works, including the relocation of the street market, will commence from January 2018 and be completed by November 2018.

The capital costs of the ground plane works and market infrastructure are set out below.

<b>Bromley Town Centre Scheme Costs</b>		£	£
<b>Public Realm Works</b>			
Site Clearance		50,000	
Drainage		171,000	
Earthworks		190,280	
Carriageway works		119,500	
Paved Areas		991,000	
Street furniture		361,920	
Street lighting		<u>317,800</u>	
<b>Total for Public Realm Works</b>			<b>2,201,500</b>
<b>Market Development</b>			
Market infrastructure		108,500	
Pop up stalls (21)		21,000	
Semi-permanent kiosks (8)		<u>699,300</u>	
<b>Total for Market Development</b>			<b>828,800</b>
Cleaning machine			55,000
Contingency (10%)			308,530
Management & Supervision			170,000
<b>Total Scheme Costs</b>			<b><u>3,563,830</u></b>

The detailed design and costings for the commercial kiosks and mirrored canopies will be reported to the R&R PDS and Executive Committees in July 2017 for approval and if approved these elements will be implemented as part of Phase 2 works. The full implementation timetable is set out in Paragraph 3.25 of this report.

### **Ground Plane Design**

- 3.6 The design of these works has been subject to further amendments following consultation with Ward Councillors and other stakeholders. All new features in the High Street have been located so as not to clash with a path for Emergency Vehicles. Details of amended designs are set out below. It is anticipated that the implementation of the first phase works will be completed before November 2017 and would allow for the market to continue to operate in its current location until January 2018.
- 3.7 The design of the ground works previously presented to the R&R PDS on the 22nd November 2016 has been redesigned to take into account comments made by Members. The revised General Arrangement drawings are attached as Appendix 1. The public realm between Market Square to the junction of the High Street with Elmfield Road will be transformed. In accordance with the Concept Design the improvements will create a series of High Street Character Areas. These are:

- Elmfield Arrival Space - welcoming visitors from the south of the High Street.

Improvements will comprise kerb realignments and new road junction surfacing to integrate the space with improvements, granite paving similar to Bromley North Village, new lighting, a pavilion like canopy, seating and a commercial unit relocated and not under the canopy.

- High Street Garden Space - a space to dwell in a sheltered like garden environment. This space will be characterised by similar granite paving, raised landscape planters with integrated seating, additional new seating and feature lighting.

The largest planters have been reduced in size to make them less dominant and to increase visual and pedestrian permeability. Two planters which were proposed to have artificial grass have been removed to accommodate the relocated commercial units. The redesigned planters are to be durable steel structures, in 'organic' Broom flower petal shapes. They vary in size with the largest approximately 9.7 metres in length. The planters will be 70cm high and include trees and plants that will not obscure the surrounding shops. The tree species have been selected for their high canopies so they do not obscure the shop fronts at ground level. The planting scheme will complement the trees and provide a visually rich and sensory experience for shoppers and users of the Garden Square. Spacing between the planters will allow easy pedestrian circulation and wooden seating will be integrated into the planters. The design team have been working with a specialist fabricator of this style of planters to ensure that they are designed to fit the typography of the High Street. The design is also flexible to allow for the replacement of one of the planters with a mirrored canopy if required and this option will be reported back as part of the proposed July report.

- Churchill Square - a flexible public square for events. Surfacing will be in bonded resin with broom motif patterns to contrast with the rest of the High Street. The space will have a smaller pavilion like canopy and a commercial unit with potential seating, relocated from under the canopy.
- High Street and Market Square - The space from outside the Churchill Theatre to Market Square will host new pop up market stalls. The stalls will be located on the western side whilst benches will be located in linear fashion on the eastern side of the High Street. Repaving will be a continuation of Market Square treatment. On Market Square it is proposed to locate semi-permanent market kiosks back to back and parallel to the Primark frontage. Officers have carried on site visual assessment of the proposed layout using the existing market stalls. This visual assessment, set out in **Appendix 3**, confirms that the market kiosks will not unduly conflict with the Primark entrance and frontage and will leave a pedestrian area of 2.8m wide between the kiosks and the shop front. Further detail on the rationale for these elements of the scheme is provided in the section on Street Market Review, below.

3.8 Drawing from the experience of the Bromley North Village scheme it is acknowledged that the existing street cleaning contract, which is based on a high frequency dry manual sweep, does not provide the depth of cleaning needed to keep the new granite setts at an acceptable standard. Officers have engaged with the Council's Neighbourhood Management team to understand the costs of any enhanced cleaning and maintenance work that will be required to keep the new finishes at an acceptable standard throughout the whole of the improvement area. They have highlighted two potential approaches that could be adopted to supplement the existing cleansing regime. These have included:

**Option 1** - Quarterly deep cleans, which would involve jet washing the whole area. Due to the heavy footfall in the area this would need to be undertaken at night. Based on previous works to the BNV scheme this has been costed at £24k per quarter or £96k pa. Frequency can be increased and decreased subject to available budget.

**Option 2** - High frequency mechanical pavement washing. This option would be integrated with the existing dry swept contract and would require the purchase of specialist equipment at a cost of £55k. The on-going revenue costs would be £46k to cover labour, maintenance, fuel and cleaning materials.

3.9 In addition, growth of £14k would be required to cover the annual maintenance costs of the trees and plants, resulting in total additional revenue costs of £60k from April 2018.

3.10 The Neighbourhood Management team have advised that the mechanised street washing option would provide a more effective means of keeping the granite material at a higher

standard of cleanliness and a greater frequency. This option also has the added benefit of being able to wash the seating and planting areas when required, while also demonstrating a high profile routine enhancement to the High Street cleansing operations. Officers are therefore proposing that as part of the ground plane works an enhanced cleaning and maintenance programme based on a mechanised street washing option is approved. It is proposed that the capital cost of the new plant £55k is included in the capital cost of the scheme. Members are asked to approve growth of up to £60k from April 2018 to cover the cost of enhanced cleaning and maintenance. It is acknowledged that this additional revenue growth item could be partly offset by the income generated by the commercial kiosks. It has been estimated that the two commercial units could generate between £27k - £47k p.a. Additionally, officers will explore the possibility that costs of the enhanced cleansing and maintenance could be shared with Your Bromley BID – given that this will represent additional services above the existing baseline for Council services within Bromley Town Centre, and will benefit many levy paying businesses.

- 3.11 The Council's Street Environment Contract is due for renewal in 2019 and that the contract tender documentation for this is currently being drafted. The enhanced cleaning and maintenance costs will be included as a specific option within the tender documentation.

### **Street Market**

- 3.12 Executive approval is sought to relocate the street market from its current location to a position further north centred around Market Square. Further details on this element of the improvement programme is contained within the Street Market Review section, below. In its current location the market is poorly laid out, resulting in loss of visibility of the main shopping frontages, which in turn has had a detrimental impact on the commercial viability of this section of the High Street. The current ground design and programme has made provision for the relocation of the market based on it being a pop up format i.e., stalls are erected and taken down when not in use. However, following feedback from a market specialist Quarterbridge officers have also made provision for the erection of a number of permanent market kiosks, located in Market Square adjacent to the Primark frontage.
- 3.13 Officers have been working with a manufacturer of a demountable modular unit which can be adapted to meet the scheme design requirements and can be clad in a range of materials. The market kiosks can be sized up to 3m x 4.5 in size. Each modular unit will have openings on three sides that can be used for either serving or provide shelter for alfresco seating. The kiosks will have sufficient infrastructure for preparing hot food but could also be used for general retailing purposes. Concept designs have considered both contemporary and more traditional finishes. Appendix 2 shows indicative concept designs for the kiosks. It is proposed that detailed designs for all of the commercial kiosks will be brought back to Members as part of the July report after consultation with potential tenants, potential future market operators and other stakeholders. This is to confirm that there is sufficient long term demand market demand to justify the capital investment in the kiosks and ensure the layout design meets the specification requirements of potential users.
- 3.14 Subject to approval of the final design and layout, the market kiosks could be manufactured and be available for installation before the Market is relocated in January 2018. The costs for the provision of No 8 market kiosks, based on 3m x 4.5m traditional design finish, have been included in the capital sum sought from the Executive to cover the cost of moving the market. Planning permission will be required to relocate the market and for all the market kiosks.

### **STREET MARKET REVIEW**

- 3.15 One of the significant implications of the public realm design concept is the relocation of the street market from its current location to a position further north, centred around Market Square.

## Current Position

The current market in Bromley consists of 36 pop-up stalls, although this will vary depending on the number of tenants which will vary from week to week. Based on the controllable budget for the market in 2017/18 the operation is expected to generate a 'surplus' of around £54k which partly offsets the non-controllable recharges of approximately £80k to run and manage the market. Members should note that Officers have explored the option of increasing fees in order to break even. However given that current fees are already higher compared to the average charges in the region, to remain competitive and to minimise voids, fees would have to be kept broadly the same. This would mean that the market would continue to be subsidised by approximately £30k.

Given the requirement to relocate the market the Council has three possible options open to it:

### Option A

Cease the operation of the Charter market permanently once the public realm works move to the area now occupied by the market. Whilst this would remove the need for capital expenditure, it would cost the Council £54k per annum. Removal of the market would also have implications for the vitality of the town centre. Market research undertaken for the market review supports the position that the presence of the market is valued both by visitors and a majority of the businesses in the town and is a driver of footfall.

### Option B

Relocate the market as currently configured to a position north of Churchill Theatre entrance to Market Square. The advantage of this approach would be that potentially this would be the least disruptive option for the retailers. However, as the High Street is narrower in this section and there are several competing usages already in Market Square, in practice it may not be possible to fit the same number of pop up market stalls into this space. One of the negative issues related to the current market layout is the creation of a solid wall of stalls – mostly with non-trading sides facing the adjacent shops – which block both visibility and accessibility to the frontages of the shops. This option would not tackle this issue but would potentially make it worse as the stalls would be located in a more confined area.

### Option C

Relocate and reconfigure the market to reduce the number of stalls but focus on a higher quality offer – including more food (retail and catering) than at present. This includes the option of introducing a number of semi-permanent kiosks in addition to pop up stalls. Given the proposed physical re-positioning of the market this can be seen as a unique opportunity to refocus the market offer rather than maintain the existing regime. To help define this option the Council commissioned a market research survey and engaged specialist Quarterbridge to undertake a root and branch review of the current street market. Building on this research Quarterbridge provided a set of recommendations on how best a refocused street market could add value to the town as part of the wider public realm improvements planned for the High Street. This option would enable the Council to maintain the same level of income.

### Option D

Given the capital outlay required for the purchase, fit out and installation of the semi-permanent kiosks, as a variation to Option C, Members may prefer to replace these with 8 pop up stalls instead. However, this may be less attractive to street food traders (due to the inconvenience of setting up catering equipment for each trading day), reduce the options for 7-day per week or evening trading and would reduce the level of income generated by the market. This option would also reduce the net income to the Council by £25k.



- 3.16 Members are requested to consider all options outlined above, however it should be noted that Option C is the recommended option and this is explored in more detail below.
- 3.17 The recommendations for market redevelopment, based on the report from Quarterbridge are as follows:
- Relocation of the market to a position further north incorporating Market Square, although not universally popular, would be viable.
  - Refocus and rebranding of the street market offer to appeal to a wider demographic with a more varied tenant mix to include additional food retailing and catering. High quality food retailing will boost market footfall and therefore town centre footfall, which is borne out from experience in other London and SE markets. Increasing the quality food offer can attract a more affluent clientele to the location. Food catering, or what is more commonly described as “Street Food” would also be an attractive addition and could be provided using semi-permanent, high quality kiosks with demised seating.
  - Limiting the number of stalls to no more than 29 would be viable (up to 21 pop up stalls and up to 8 kiosks) with up to half of the stalls having a food and beverage offer. Although operating with fewer stalls than the current layout, the proposed semi-permanent kiosks will achieve higher rents than the pop ups and it is therefore expected that the proposed changes would have no negative financial impact for the Council
  - Introduce a quality control appraisal of market applications, including a new more stringent trader application process.
  - Consider outsourcing the market operation to a specialist operator or other external agency.
  - The semi-permanent kiosks will be operational up to seven days a week with the remaining pop up stalls operating for 3 days – Thursday to Saturday (as now).
  - Further market days and evening trading opportunities can be incorporated which will positively contribute to town centre footfall and operator income.
- 3.18 The proposal to introduce kiosks within Market Square has certain advantages in that, assuming good design principles are followed, these could enhance the overall function and aesthetic of the Square. They will provide an opportunity to complement the mostly retail nature of the units around the square with ‘street food’ and other specialist food outlets, and will also enabling trading into the evening and for up to 7 days per week, thereby drawing increased footfall into Market Square for a longer period.
- 3.19 There, are however, some inherent risks associated with the introduction of semi-permanent kiosks – Firstly, although the kiosks represent a significant initial capital outlay, there is no guarantee that these will be 100% occupied. A full scale testing of the viability of the kiosks (which we know have operated successfully in other town centres) may only be possible through engagement with potential tenants – including some of the existing Charter Market traders.
- 3.20 Secondly, during stakeholder engagement with neighbouring businesses– it is clear that there may be objections to placing these semi-permanent structures in the vicinity of the shop fronts. These objections may be mitigated through careful design and placing of the structures to minimise impact on the local businesses. As stated in 3.7 above (see also Appendix 3) suggests that the visual impact of the kiosks on neighbouring frontages could be minimal.
- 3.21 In order to maximise income available from market operations, it is recommended that the relocated market is licensed under the Food Act 1984 rather than the London Local Authorities

Act 1990 (LLAA). Maintaining the non-Charter market trading days under the LLAA means that the market either must break even on the market operation, or if a surplus is generated, must re-invest any surplus in the market or its development. No such restrictions apply to a market operated under the Food Act which means that any surpluses generated could be taken as general revenue income for the Council. The existing 5 permanent street traders operating 7 days a week in the town centre may need to be relocated to other parts of the town centre due to the proposed new layout of the pedestrianised area. It is suggested that these are, where possible, incorporated into the mainstream market operation (i.e. under the Food Act legislation). The legal implications need to be considered and are outlined in more detail under Section 7.

- 3.22 As part of the reorganisation new pop up market stalls will be purchased; it is proposed that these will be 3.7m x 2.5m in size and will be liveried to reflect the heritage of Bromley town centre and its historic market. A layout for the stalls allows for up to 21 to be located between the Library and Market Square. In order to maintain visibility of the shops on the western side, it is proposed that the stalls will be located further apart to avoid a more solid 'wall' of units and to avoid conflict with shop entrances. To avoid having these shops facing the unsightly back of the stalls most have been aligned in twos 'back to back' with serving area fronting three sides. The stalls have been located to maximise pedestrian space outside the shops on the western side. A photographic 'mock up' of the proposed layout of the stalls is provided in **Appendix 3**.

### **PROPOSED CHANGES TO MARKET MANAGEMENT**

- 3.23 At present the Council provides management of the existing 3-day market in Bromley. This involves a number of activities which may potentially be undertaken by an external operator and initial soft market testing suggests that there could be interest from commercial market operators in such a contract. However, because the possible commissioning of the market involves a number of complex issues Officers will bring a separate Gateway report on the market testing of this service for a decision by Members later in 2017.
- 3.24 In order to achieve the above proposed changes to the Market, in addition to the capital costs detailed in the table in 3.5 above, it will be necessary for an additional temporary staff resource to be brought into the Street Enforcement Team to lead on the project for 12 months at an estimated cost of £40k. It is proposed that this is funded from the Growth Fund.

## INDICATIVE IMPLEMENTATION PROGRAMME

3.25 The term contractor for street works have indicated that the High Street improvements will take a total duration of 20 months (excluding weekend working). The proposed changes to the market will necessarily have to follow the programme for the Public Realm works.

Phase	Timescale	Public Realm	Market Development
<b>Phase 1</b>  Duration of 5 months.	July to November 2017.	Market Square to Marks & Spencer. The precise cut off point will be subject to timing restrictions.	Concept and detailed design of new market kiosks (including further market testing)  Commencement of work to amend legal basis of Market  Purchasing of new pop up stalls  Commencement of the new market application process  Installation of Market Square kiosks
<b>Phase 2</b>  Duration of 8 months	January 2018 to August 2018	Churchill Theatre to the most southern raised planter (approximately outside Café Nero).	Launch of new market in new position (Jan / Feb 2018)
<b>Phase 3</b>  Duration of 3 months	Scheme completion November 2018	The Elmfield arrival space	

## CUSTOMER PROFILE AND STAKEHOLDER CONSULTATION

3.26 In 2015, the Council commissioned JB Market Research Services Ltd to undertake three separate surveys in relation to Bromley Charter Market. One was a survey of visitors to Bromley Town Centre – comprising 400 interviews (half on market day and half on a non-market day). 400 interviews were also undertaken in neighbouring smaller town centres: 100 interviews in each of the following: Chislehurst, Petts Wood, West Wickham, and Beckenham. Finally 186 telephone interviews took place with owners and managers of businesses based in Bromley Town Centre. The majority of respondents felt that the Market was a positive feature of the town, and that it contributes to their experience of the town centre. Although in a minority, a significant proportion of those questioned (19% of Bromley visitors, and 27% of other town visitors) said the presence of the market had a bearing on their decision to visit Bromley Town Centre – therefore the market is a driver of some footfall to the town.

3.27 Of the 36 respondents who had made a purchase on the market on the day of interview, ‘food-ingredients’ and ‘food-ready to eat’ were most likely to have been bought with 47% and 33% of them having purchased each respectively. It is expected that increasing the level of food stalls (catering and retail) within the overall mix of tenants will therefore have a positive impact on the usage of the market and footfall to the locality. A summary of the results of the market research undertaken for the review is included in **Appendix 4**. This research formed part of the basis of the Quarterbridge review.

3.28 As part of the development and testing of the concept design for the public realm and the market, public and stakeholder consultation was undertaken during spring 2016. This involved

writing to all businesses within the vicinity of the market (in both current and proposed location) and to Market Traders, along with a stakeholder meeting. The results of this is summarised in **Appendix 5**. In addition, an update report on the proposed public realm and market changes was provided to the Renewal and Recreation PDS on 22 November 2016 and Member comments have been reflected in the scheme design presented here.

3.29 Members should note that further formal consultation will take place during the coming year as part of the need to obtain Planning Permission for the new site of the Market – and also in relation to the proposal to move the licensing regime of the Market from the London Local Authority Act to the Food Act – further details provided in the Legal Implications section below. In addition, it is recommended that a new Market Panel is convened to include representation from the Council, the Bromley BID and the existing Market traders – to help guide the strategic direction for the renewed market and crucially set the acceptance criteria for trader applications to the future market.

#### 4. POLICY IMPLICATIONS

4.1 Proposals are in support of developing and maintaining the vibrancy of Bromley Town Centre, and as such contributes to the Building a Better Bromley key priority of Vibrant, Thriving Town Centres. The scheme will improve the economic sustainability of Bromley High Street encouraging footfall both during the day and evenings, and on quieter days of the week due to the 7 day per week operation of the kiosks.

#### 5. FINANCIAL IMPLICATIONS

5.1 A report considered by the Executive on 2 December 2015 estimated the cost of the concept scheme at £3.8m, which included a provisional sum of £1m for the commercial kiosks and mirrored canopies, but not the market kiosks. A sum of £287k was allocated from the Investment Fund to meet the cost of the detailed design work and additional survey work. To date £139k has been spent/committed, leaving a balance of £148k, which will be used to undertake the design for the commercial kiosks and mirrored canopies.

5.2 The detailed designs and scheme costs for the whole of the proposed improvement works have now been fully completed and a cost summary is set out below: -

<b>Bromley Town Centre Scheme Costs</b>	<b>£'000</b>	<b>£'000</b>
<b>Public Realm Works</b>		
Site Clearance	50	
Drainage & Earthworks	361	
Carriageway and footway works	1,110	
Street furniture	362	
Street lighting	318	
<b>Total for Public Realm Works</b>		<b>2,201</b>
<b>Market Development</b>		
Market infrastructure	109	
Pop up stalls & kiosks	720	
<b>Total for Market Development</b>		<b>829</b>
Cleaning machine		55
Contingency (10%)		309
Management & Supervision		170
<b>Total Scheme Costs</b>		<b>3,564</b>

- 5.3 Approval is sought to allocate £3.564m from the Growth Fund and to add the public realm scheme to the capital programme, subject to approval from Full Council. It is estimated that £2.14m will be spent in 2017/18 and £1.424m in 2018/19.
- 5.4 Should the S106 funding of £4m be received from the Langley Court development, the scheme will be funded by these monies and the £3.564m returned to the Growth Fund. The Growth Fund currently has an unallocated balance of £4.645m.
- 5.5 The £4m S106 funding is for employment. 50% is due 2 years after the commencement of the development with the remaining £2m due a year later. Planning officers believe that the development started before the end of 2016, although official confirmation is awaited from the developer. If the commencement date is prior to December 2016, then £2m will be expected to be received by January 2019 and the remaining £2m by January 2020.
- 5.6 It should be noted that a further report on the detailed design and costings for the commercial kiosks and mirrored canopies will be brought back to the Executive in July for consideration. Members may wish to consider the use of future S106 funding to offset the costs of the scheme and reimburse the Growth Fund.
- 5.7 Additional annual revenue costs of £60k will be incurred for enhanced cleaning of the area and maintenance costs for the trees and planting, with effect from April 2018. Approval is sought for this revenue growth item. Rental income of between £27k - £48k may be generated by the commercial kiosks that could be used to offset part of these costs.
- 5.8 It is also recommended that £40k is allocated from the Growth Fund to employ a temporary Project Officer for 12 months to deliver the changes to the market.
- 5.9 For 2017/18, the Charter Market has a net controllable budget of Cr £54k.
- 5.10 The following table provides the potential financial implications of the various options for the market as outlined in 3.15 above, although Option C is being recommended:

	<b>Option A</b> <b>Close the</b> <b>Market</b> <b>£'000</b>	<b>Option B</b> <b>Move existing</b> <b>mkt to mkt Sq</b> <b>£'000</b>	<b>Option C</b> <b>New smaller</b> <b>Mkt with kiosks</b> <b>£'000</b>	<b>Option C (i)</b> <b>New mkt</b> <b>pop-up stalls only</b> <b>£'000</b>
<b>REVENUE</b>				
Current 2017/18 controllable budget	-54	-54	-54	-54
Net controllable cost/surplus for options	0	-54	-54	-29
Potential loss of income from interest earned on capital (1.5%)	0	2	12	2
<b>Revenue impact of each option</b>	<b>54</b>	<b>2</b>	<b>17</b>	<b>28</b>
<b>CAPITAL</b>				
Cost of implementation of market development	0	102	829	138

- 5.11 Members are asked to note that both the market kiosks and the larger commercial units would be rateable and therefore additional Business Rates of around £10k per annum would be payable on these, based on the Kingston Market. It is expected that these costs are recovered from the kiosk occupants or paid directly by occupiers. Tenants would also be responsible for meeting any utility costs. The Council would only become liable for these costs when the stalls/kiosks were not occupied.

## **6. PERSONNEL IMPLICATIONS**

- 6.1 In order to manage the transition period and develop the market, a part time fixed term post would be required for a period of 12 months. This officer will manage the transition to the new market – coordinating the proposed legal changes, engaging with and consulting market traders and other town centre stakeholders, developing and coordinating a new Market Panel, engaging with the detailed design process for the new kiosks and pop up stalls and working with chosen contractor to prepare for re-launch in early 2018 – and, subject to Members agreement, potentially leading on the future commissioning of the market operation. Given the need for this post to be involved in both the strategic and operational aspects of the project – it is proposed that this new temporary post reports into the Street Enforcement Manager – within the ECS Neighbourhood Management Team.

## **7. LEGAL CONSIDERATIONS**

- 7.1 The Council implemented the London Local Authorities Act 1990 (LLAA) in 1991 to regulate street trading in the Borough. This legislation also covers the Friday and Saturday market and the individual street traders. The Thursday Charter Market is exempt from street trading legislation.
- 7.2 The Council is not permitted to make a profit from a market registered under this legislation; it can only recover its costs. There is however no such statutory limitation on the costs chargeable for the Charter Market. Consequently as explained in paragraph 3.21 above, it is proposed that the market (other than the Charter Market) should in future be licensed under the Food Act 1984 to enable the Council to maximise income. We are advised that relicensing could take up to 18 months and will be initiated as part of the first phase of market development. This process will however run in parallel with other aspects of the programme – and if necessary the new market will remain under the LLAA legislation during the early part of its operation.
- 7.3 The 5 existing permanent street traders, currently licensed under the London Local Authorities Act (LLAA), will also need to be transferred to the Food Act licensing regime and, as indicated above, possibly relocated. If they are to be relocated, it will be necessary to consult them and go through a statutory process to terminate their current licences before issuing new ones. There is an appeal procedure including a right of appeal to the Magistrates Court. It is intended that this procedure will also be run in parallel with the remainder of the programme. Because of the complexities of the procedures it may prove necessary to obtain Counsel's advice at some point as to the detail of the Council's handling of the necessary steps. It is also possible that one or more of the market or street traders may challenge the Council's action, leading to court proceedings which could affect timescales. There is therefore a possibility of incurring additional costs in the course of the project.
- 7.4 If members favour closure of the market, there are no specific legal formalities in respect of casual market traders (as opposed to licenced street traders – the comments in 7.3 above will apply to them regardless). The Council is not under any obligation to continue to operate the markets. However, if closure is a possibility, members may wish to consider holding some form of public consultation first to allow stall holders (and residents) to express their views about the proposal; this may help avoid potential claims by stall holders if the market is closed. There may also be further steps necessary to terminate the current market licence and revoke the previous decision to licence the High Street for street trading. Any such steps will be confirmed if members choose that option.
- 7.5 Members should also note that if the Council stops holding the charter market then the charter right to hold the market will lapse. However, there would be nothing to prevent the Council from using its powers under either the LLAA or the FA to restart a market at some point in the future.

7.6 In addition to the requirement to amend the licencing regime, it should be noted that the new location for the Market will require full Planning Permission which will be applied for once detailed design for the semi-permanent kiosks is completed.

<b>Non-Applicable Sections:</b>	N/A
Background Documents: (Access via Contact Officer)	Bromley Charter Market: Research Findings – JB Market Research March 2015