

Decision Maker: EXECUTIVE
7 November 2017

Date: For Pre-Decision Scrutiny by the Renewal and Recreation Policy
Development and Scrutiny Committee on 1 November 2017

Decision Type: Non-Urgent Executive Key

Title: BROMLEY TOWN CENTRE MARKET REPORT & IMPROVEMENT UPDATE

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Chief Officer: Executive Director of Environment & Community Services

Ward: Bromley Town;

1. Reason for report.

- 1.1 The Executive on 22 March 2017 approved the detailed designs and costing for the next phase of the Bromley Town Centre improvements, which are currently being implemented. Officers were requested to bring back for Executive approval the detailed designs and costing for the proposed market kiosks, which forms the basis of this report.
- 1.2 The Executive on 22 March 2017 also approved plans to re-organise, rebrand and relocate the existing market as part of the improvement works. This report provides an update on progress to date.
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RECOMMENDATION(S)

That Members of the Executive:

- 2.1 Approve the detailed design and implementation costs for market kiosks and pop up stalls to be located at Market Square, agree that £580k is allocated from the Growth Fund to meet the costs and is added to the Bromley High Street Improvement capital scheme.**
- 2.2 Delegate to the Director of Regeneration and the Portfolio Holder for Renewal & Recreation approval of any minor amendments to the kiosk design.**
- 2.3 Seek authority to submit a planning application/s for the development of the relocated market and market infrastructure, including kiosks.**

- 2.4 Approve the allocation of additional S106 funding of £152k for a programme of architectural lighting improvements, and add to the Bromley High Street improvement capital scheme.**
- 2.5 To note that there will be an overall increase of £732k for the Bromley High Street Improvement scheme within the Capital Programme, resulting in a total scheme cost of £3.576m.**
- 2.6 Note the progress to date on implementing the agreed option for relocating, reorganising and relaunching the weekly market in Bromley, as outlined in paragraphs 3.11 - 3.17.**

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: Increase in capital costs of £732k
 2. Ongoing costs: Net nil at this stage
 3. Budget head/performance centre: Capital Programme
 4. Total current budget for this head: £2.844m
 5. Source of funding: Growth Fund and S106 funding
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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, including all lighting will be completed by FM Conway under the current Highway Engineering Term Contract. It is proposed that Council's TFM term contractor AMEY will deliver the procurement of the Market Kiosks.
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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

Summary of Ward Councillor's comments: Ward Councillors were invited to take part in stakeholder consultations during the development of the scheme. Ward Councillors have been consulted on the design of the market kiosks.

3. COMMENTARY

Background

- 3.1 The Executive Committee on the 22nd March 2017 and Full Council on 10th April 2017 approved the detailed design, funding and programme for the ground plane works extending from Market Square to the Elmfield Junction, for the next phase of the Bromley town centre improvements. Officers were requested to bring back for Executive approval the detailed designs and costing for the proposed market kiosks, which forms the basis of this report.
- 3.2 The Council's Highway Engineering term contractor FM Conway have commenced implementation of Phase 1 of the improvement works between Market Square and Marks and Spencer. Phase 2 of the improvements is programmed to commence in January 2018, following the break for the Christmas and New Year trading period. The current programme sees the market relocated to its new position around Market Square taking place around the end of February 2018. Planning consent will need to be secured for both the market relocation and the new market kiosks.
- 3.3 The Executive also approved on 22 March 2017 Option C for the relocation, reorganisation and relaunch of Bromley market. To recap Option C seeks a relocated and reconfigured market to reduce the current number of stalls but focus on a higher quality offer – including more food (retail and catering) than at present. This option includes introducing 8 market kiosks in addition to the 21 pop up stalls. Given the proposed physical re-positioning of the market this option provided a unique opportunity to refocus the market offer rather than maintain the existing regime. This option would enable the Council to maintain the same level of income. To help implement this option the Council has re-commissioned market specialist Quarterbridge and a update on this workstream is contained later in this report.

Market Kiosk and Market Infrastructure

- 3.4 The design and procurement process for the market kiosks is being managed on behalf of the Council by Total Facilities Management Contractor AMEY, who have appointed ECD Architects to produce the design and costings for the market kiosks. The designs of the kiosks has been based on a modular design and this has been tested with a manufacturer to ensure that that it meets the necessary building specifications. The design and internal specifications have also been informed by input from market specialist Quarterbridge, who have provided information on the detailed requirements of potential tenants. Also given the sensitive location of the kiosks with the Bromley Town Centre Conservation Area officers has consulted on the emerging design with Ward Councillors and the Bromley Civic Society.
- 3.5 The resultant design consists of a contemporary structure clad in treated cedar finish which can be adapted to meet the requirements for general retail and the sale of hot and cold food. The detailed design for the kiosks are set out in Appendix 1. The kiosks will be procured in matching pairs, back to back, based on a modular frame. The smaller pair of units, which will be located south of the Primark entrance will measure 6m x 3m. The larger pair of units measuring 9m x 3m will be located north of the Primark entrance. In total there will be four pairs of kiosks comprising 8 individual units, although there is the potential to let a pair of units as a single unit subject to internal modification. The design and layout has also been determined by ensuring pedestrian and visual permeability in Market Square. It will be possible to trade from both main facades of the larger kiosks and the smaller units will have glazed units on the rear elevation to ensure that there is an active frontage and visibility through to the Primark store and guard against creating a tunnelling effect. The units have also been sited to maximise the gaps between the kiosks and the Primark entrance to ensure the remains plenty of circulation space and views of the window displays. The manufacturer has offered two potential finishes to the proposed kiosks openings, one being a glazed window and the other a roller shutter. It is

proposed that the final finish is agreed with potential tenants and approval of this design detail is delegated to the Director of Regeneration and Portfolio Holder for Renewal & Recreation.

Kiosk Costings

- 3.6 The kiosks have been costed on the basis of basic fit out that enables the occupiers the flexibility of customising the unit for their own commercial needs. This basic fit out includes mechanical and electrical engineering, a work top and sink, all plumbing and water boilers for providing hot water and foul sewage connections. The design team have also made provision in the budget for additional internal fittings to provide for hot food catering which have been included in the budget as an optional cost. Quarterbridge have advised that this additional fit specification will need to be discussed and agreed on an individual basis with potential occupiers. The manufacturing lead in time for the kiosks is 12 weeks and they will need to be installed on a pad foundation, the costs of which have been included in the connection costs. The report to Executive on the 22nd March 2017 costed the kiosks and pop up market stalls at £720k, the revised costings are therefore a reduction of £140k.
- 3.7 It is proposed that a tender package for the kiosks will be produced using a design and build procurement route/form of contract – this will be tendered to the open market in line with CPR’s and public contract regulations. The current advised procurement route anticipates appointing a main contractor who will undertake the procurement and management of the installation of kiosks and manage any groundworks and connections with the units subcontracted by them to the specialist suppliers.

Table 1

Kiosk and Pop Up Stall Costs	£'000
4 kiosks size (9m x 3m x 3.15m) Unit cost £42k per kiosk incl delivery & installation.	168
4 kiosks size (6m x 3m x 3.15m) Unit cost £32k per kiosk incl delivery & installation.	128
Utility services & kiosk infrastructure	64
Sub-Total of build cost	360
Main Contractor costs	81
Contingency @ 15% of build cost	54
Additional full fit out for catering per individual unit (£8k per unit)	64
Total cost for Kiosks	559
Cost of 21 pop-up market stalls (£1k per stall)	21
Total cost for Kiosks & Pop Up Stalls	580

Marketability

- 3.8 As well as the design and costing information Members also requested information on the likely demand for the market kiosks to justify the level of capital investment required. Feedback from market specialist Quarterbridge is that the current design and specification of the market kiosks is commercially attractive to potential tenants. They have estimated that fully let the 8 kiosks could generate an annual income of £100k. This would represent a maximum commercial yield of 17.2%, before any allowance is made for voids or any potential rental discounts. As part of the wider market reorganisation workstream Quarterbridge have undertaken a soft market

testing campaign to help gauge the potential response to the proposed market kiosk offer. Whilst this report has been written prior to the end of the campaign, Quarterbridge have stated that the results to date have shown that there is commercial interest in existing businesses operating a food retail or catering business from a kiosk in the High Street. Quarterbridge believe there has been good levels of interest overall including strong expressions of interest from existing market traders. During the soft market testing, Quarterbridge contacted existing market traders seeking expressions of interest, undertook a direct email campaign to regional businesses and launched a Facebook marketing campaign which reached over 75,000 people, with over 4100 post clicks.

- 3.9 Expressions of interest received to date through the campaign encompass a wide range of potential users, including artisan and traditional food retailers and specialist street food, representing a variety of cuisines.
- 3.10 Quarterbridge have advised that to reduce the financial risk to the Council, whilst planning permission for the market reorganisation and infrastructure is sought, a separate exercise is undertaken to prelet the kiosks. This will involve Quarterbridge marketing the kiosks and securing agreement for lease. Once these have been secured then the kiosks can be procured either as a group or single pair.

Update on market review project including stakeholder consultation

- 3.11 Following the decision to reconfigure the Market based on Option C endorsed by Members in March 2017, and allocation of a £40k implementation fund, the Council appointed the specialist markets consultants Quarterbridge to undertake work in preparation for the market move. The brief for the consultants includes the following elements of work:
- Lead consultation and engagement with all stakeholders including existing market traders, and establishing a Markets Consultative Panel.
 - Undertake detailed market research for the new market – to help confirm the business case
 - Advise on physical and spatial design development
 - Provide advice and coordinate the necessary steps required to amend the legal basis of the market and street trading pitches and undertake the relocation of existing traders.
 - Ensuring that the new market has the necessary Planning Permission (subject to Member approval)
 - Setting up management framework – including developing appropriate quality standards and application and vetting processes for traders on the new market
 - Plan and coordinate the launch of the new market
- 3.12 A key part of the role of the consultant has been to lead on the consultative process. Street market traders have been approached directly with regards to relocating while Conway continue the infrastructure and resurfacing works of the high street. A section in the Street Trading License allows London Borough of Bromley to relocate while works are completed.
- 3.13 Quarterbridge have set up a Steering Group, consisting of relevant Council managers alongside Quarterbridge staff, designed to make informed decisions with regards to the market relocation workstream and feed back into the Market Consultative Panel. In creating The Market Consultative Panel, Quarterbridge and the Local Borough of Bromley have the opportunity to update market stakeholders with the latest news surrounding design, progress and legal matters relating to the market. The panel will enable members to understand, consider and

comment upon strategic and practical issues associated with the redevelopment of Bromley High Street and the market. The members of the panel congregate on a monthly basis, and the panel consists of three market traders and one street trader. Both street and market traders were invited via email, with limited response we were able to invite all the traders who responded. Also included on the panel is the Chairman of the R&R PDS Committee – also a Bromley Town Centre ward Councillor, along with Council officers involved in the management of the market.

- 3.14 In addition to the consultative aspects of the project and soft market testing campaign, Quarterbridge have also submitted the first draft of the application pack for the new market, which will be presented at the next Market Consultative Panel meeting. The user clause mix is also being drafted along with the trader application pack. They have also prepared a briefing note to assist the Council in obtaining appropriate opinion on the legal status of the market and the options open to the Council associated with the High Street – and have also provided technical advice with regards to the design of the kiosks.
- 3.15 The proposed kiosks within Market Square will, assuming good design principles are followed, enhance the overall function and aesthetic of the Square. They will provide an opportunity to complement the mostly non-food retail nature of the units around the square with high quality specialist food retailing and catering, 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.
- 3.16 Members should note that further formal consultation will take place during the next few weeks as part of the need to obtain Planning Permission for the new site of the Market – and also in relation to the proposal to potentially amend the legal basis of the market. It is proposed that the planning application to relocate the market will be submitted before the middle of December to ensure that consent is granted before phase 2 of the improvement works can commence. It is proposed that the planning applications for the kiosks will also be submitted by the end of the year.

Potential changes to market management

- 3.17 At present the Council provides direct management of the existing 3-day market in Bromley through officers in Street Services with the Environment and Community Services Department. 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 in 2018 to ensure that the Council is achieving best value for the provision of market services.

Indicative implementation programme

- 3.18 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
Phase 1 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 Submission of Planning Applications for new market location and kiosks December 2017 Planning approval for market relocation and kiosk designs February 2018 Purchasing of new pop up stalls
Phase 2 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) Installation of Market Square kiosks Commence market testing of market management
Phase 3 Duration of 3 months	Scheme completion November 2018	The Elmfield arrival space	

Proposed feature Lighting

- 3.19 The original concept design for the High Street improvements included an aspiration to introduce an element of feature lighting into the High Street. This was to complement the feature lighting undertaken to the façade of the Churchill Theatre completed in 2012 as part of the Mayor of London's Outer London Fund. To support this a feasibility study was undertaken by a specialist firm to install architectural feature lighting to significant facades in the High Street buildings between Market Square and Marks and Spencer. The freeholders of all properties in this part of the High Street have been contacted about the proposals. The study included mock up trials, lighting buildings including Top Shop and Primark with coloured spot lights that can project a variety of colours and sequences, by remote control (Photographs of the mock up trials are shown in Appendix 2). The study has identified additional infrastructure requirements and has successfully tested a wireless data network which would allow all the lights to be controlled from an existing lighting controller in the Churchill Theatre.
- 3.20 A programme of lighting to a series of significant facades in the High Street, listed below, will cost £152k, which will be added to the existing High Street improvement scheme. It is proposed that the S106 payment of £152k secured from the Travelodge development in Bromley for town centre improvements is added to the overall scheme budget. Costings for the following buildings, which have been identified as they are particularly prominent and will create positive precedents for a potential expansion of the scheme. The programme will be delivered in two phases to match the receipt of the S106 monies. The second and final tranche is expected to be received during the Spring/Summer of 2018.

Table 2

Feature Lighting Costs	£'000
Primark (162 - 178 High Street)	40
JD Sports to Top Shop (145 - 151 High Street)	40
Marks and Spencer (123 High Street)	43
Wireless transmission devices	8
Legal Fees	7
10% Contingency	14
Total Cost for Feature Lighting	152

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 The Executive on 22 March 2017 approved the detailed design and programme for the Bromley Town Centre improvements and agreed that £2.844m be allocated from the Growth Fund to cover this cost. The decision to approve funding for the market kiosks was deferred until details of the design and costing were submitted for Executive approval.
- 5.2 The detailed designs and scheme costs for the market kiosks has now been fully completed and a summary of the costs are set out in Table 1 above. The total costs are expected to be £580k which is £140k less than previously reported. Approval is sought to allocate £580k from the Growth Fund and to add to the capital scheme.
- 5.3 It should be noted that physical works will not commence on the market until planning permission for the new site has been obtained.
- 5.4 At this stage of the scheme, the net controllable income is expected to be maintained at current levels for the market stalls and kiosks. Officers need to ensure that the services are market tested to ensure that best value for money is obtained.
- 5.5 It is proposed that the Section 106 contribution of £152k from the Elmfield Road Travelodge development for the public realm, will be added to the overall capital scheme budget to meet the costs of the Feature Lighting as detailed in Table 2. £76k was received in June 2017 and the remaining balance is expected to be received in Spring/Summer of 2018. The lighting works will be split into two Phases to coincide with the receipt of the payments.
- 5.6 Overall the Capital Programme will be increased by £732k and the total cost for the High Street Improvement scheme will be £3.576m.
- 5.7 It should be noted that 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 £204k has been spent/committed, leaving a balance of £83k.

5.8 A further report will be brought back to Members with details of the design and costs of the larger commercial units and the canopy.

6. PERSONNEL IMPLICATIONS

6.1 None for this report

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, it is proposed that the market (other than the Charter Market) could potentially in future be licensed under the Food Act 1984 to enable the Council to maximise income. Officers are working with Quarterbridge to obtain appropriate legal advice to understand the options available to the Council.

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 In addition to the proposals to amend the licencing regime, it should be noted that the new location for the Market will require full Planning Permission, authorisation for which is being sought from Members.

7. PROCUREMENT IMPLICATIONS

7.1 The procurement process will be managed by the Total Facilities Management Term Contractor, AMEY. It is proposed that the kiosks will be installed only when there is a pre-contractual agreement with tenants.

Non-Applicable Sections:	N/A
Background Documents: (Access via Contact Officer)	