

**Decision Maker:** EXECUTIVE

7 February 2018

**Date:** For Pre-Decision Scrutiny by the Renewal and Recreation Policy Development and Scrutiny Committee on 24 January 2018

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

**Title:** Bromley Market Reorganisation Update

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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 Executive on 22 March 2017 approved the designs and costings for the next phase of the Bromley Town Centre improvement and plans to re-organise, rebrand and relocate the existing market as part of those improvement works. The Executive on 7 November 2017 agreed funding for capital costs in regard to the original kiosk and pop-up stall design.
- 1.2 The Renewal & Recreation PDS Committee on 1 November 2017 agreed that the Bromley Market Consultative Panel should be further engaged to feed into the market re-design. This report provides an update on progress following feedback from the markets traders, considers alternative costed options and a recommendation on the revised number of stalls and semi permanent kiosks.
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2. RECOMMENDATIONS

- 2.1 Members of the PDS Committee note the report and make comments available to the Executive Committee on 7 February 2018.

That the Executive:-

- 2.2 Note the consultation input from the Market Traders and Bromley Market Consultative Panel.
- 2.3 Agree the recommendation for the Option Model C design as outlined in paragraph 3.33.
- 2.4 Agree the £116k reduction in the allocation from the Growth Fund to meet the lower capital cost for Option C.
- 2.5 Note there will be an overall decrease of £116k for the Bromley High Street Improvement Scheme within the Capital Programme, resulting in a total scheme cost of £3.46m.

### 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: Reduction in capital costs of £116k should Option C be agreed.
  2. Ongoing costs: Potential net additional income of Cr £4k, excluding loss of interest
  3. Budget head/performance centre: Capital Programme and Bromley Market
  4. Total current budget for this head: £3.576m and Cr £54k
  5. Source of funding: Growth Fund, S106 funding and existing 2017/18 revenue budget
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### Personnel

1. Number of staff (current and additional):
  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.  
There remains the future option remains for the Market to be run by an external third party.
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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 Councillors comments: Local Ward Councillors have not been consulted in detail on the scheme redesign.

### **3. COMMENTARY**

#### **Background**

- 3.1 The Executive Committee on the 22 March 2017 and Full Council on 10 April 2017 approved the detailed design, funding and programme for the next phase of the Bromley town centre improvements.
- 3.2 The Council's Highway Engineering term contractor FM Conway are due to recommence Phase 2 improvements works in January 2018.
- 3.3 Planning consent is being sought for both the market relocation and the new market kiosks.
- 3.4 The Executive Committee of the 7 November 2017 agreed the capital costs of £580k for the proposed design of 8 kiosks and 21 pop-up stalls and officers noted the minuted agreement of the R&R PDS on the 1 November 2017 that through the Bromley Market Consultative Panel the market trader's priorities should continue to feed into the detailed market re-design and an update report received in January 2018.
- 3.5 Following stakeholder engagement it is proposed that the market layout be revised to accommodate the existing traders. As a result the current programme will require the phased relocation of the market to commence from 19 March 2018 given the need to install additional infrastructure to service additional pitches and the space restriction caused by the temporary scaffolding outside of the Churchill Theatre.

#### **Stakeholder Engagement**

- 3.5 During the consultation carried out prior to the PDS meeting on the 1 November 2017, a key concern from the Market Traders was the reduction in the number of stalls proposed in the re-design. In response, a review of the design sought to increase the number of stalls to 46, ensuring the key principles of the design were adhered to; a single line of stalls, breaks in the line to ensure shop access and line of sight to shop fronts.
- 3.6 A consultation meeting with the Market Traders was held on 21 November 2017 and the newly configured design was presented to the traders. The response from the traders was largely positive, particularly that their concerns regarding the number of stall locations had been listened to and these had increased.
- 3.7 Other comments made included ensuring there is adequate infrastructure for the relocated market; minimise disruption and potential conflict with existing street traders operating in the area; maintain the principles of not putting directly competing stalls too near each other. There was also concern at the lack of sheltered seating around the kiosks for trading in inclement weather.
- 3.8 Ahead of the submission of the Planning Application a meeting of the Bromley Market Consultative Panel was held on 11 December 2017 with representatives from the Market Traders, Street Traders and Bromley BID.
- 3.9 The Panel were shown a proposed layout design with a maximum number of 46 potential trading locations. The number sought to enable adequate provision to allow both existing Market and Street Traders to operate in the new area. The Panel responded positively to the design, the traders to the number of potential trading locations and the BID to the continued adherence to the underlying design principles to consider the shop units.

- 3.10 One concern raised is whether future traffic flow could be considered to allow traffic on the pedestrian area to exit by Primark and hence reduce congestion at the Elmfield Road entrance when entering and exiting vehicles meet.

### **Planning Application**

- 3.11 To secure planning consent in time to allow the phased relocation of the Market to commence by 19 March 2018, a Planning Application (reference 17/05817/REG3) has been submitted for the change of use to allow the section of the pedestrianised area, Market Square to Central Library to host a market.
- 3.12 This application does not include the proposed permanent kiosks, the detailed design of which is currently being finalised including foundation design. It is proposed that the detailed design for the Market kiosks will be submitted in February 2018. It is anticipated that the market relocation will now be a phased move given the need to install additional infrastructure and the ongoing issues with the scaffolding outside of Churchill Theatre.
- 3.13 Appendix 1 shows the submitted design for the Planning Application. The design identifies a maximum number of 46 potential trading locations, while continuing to adhere to the core design principles: single row of stalls, spacing to ensure access to shops and lines of sight to shop fronts and encourage pedestrian flow around and between the shops and stalls.
- 3.14 Given the timeframes of the market move to accommodate the Bromley Town Centre improvement works schedule the application design includes pop-up locations outside Primark, where the proposed kiosks will be sited, as the area will need to be used to host pop-up stalls in the first instance.
- 3.15 The application also includes the option for seven additional markets to be held over the course of the year during the remaining 4 days of the week.

### **Kiosk Interest**

- 3.16 As outlined in the update presented to the Executive 7 November 2017 the kiosks would be fitted out to allow for hot food catering as well as retail. The precise layout of food and non-food pitches will be subject to negotiation with the market management.
- 3.17 Whilst expressions of interest in the permanent kiosks have come from a range of traders; fishmonger, fruit and veg, haberdashery, the interest has predominately been from hot food traders, which could create a problem due to the smells created outside of shop fronts.

### **Market Infrastructure**

- 3.18 The identification of further stall locations will require the additional provision of supporting infrastructure in the form of electrics to ensure the positions are suitable for traders. This will incur a further cost of £81k to the Improvement Works. In addition the estimated costs of an individual stall has increased from £1k to £1.45k. These increases in costs for each option are highlighted in Table 1 below.
- 3.19 Consideration will also need to be given to pop-up stall storage and associated equipment (tables and weights). Storage is currently a container unit located off the High Street down Foxes Passage. The container is already at full capacity with temporary storage utilised to house equipment. A further container will be needed to be purchased at a one-off cost of £3k to house the new stalls and equipment.

## **Market Layout**

- 3.20 As part of the market re-design, market specialist Quarterbridge is working on an indicative trader position layout as part of their commissioned workstream. The layout seeks to establish areas and trader type positions to best encourage pedestrian footfall through and around the market. A draft of this layout is included as Appendix 2

## **Market Branding**

- 3.21 As part of the market relocation and redesign it is proposed that it is accompanied by relaunched branding. The branding would seek to create a Bromley Market website which would hold information on the market, the traders, and Bromley Town Centre. It would be supported by social media accounts used by the Market Supervisor to increase awareness and promote the market, Traders and Bromley Town Centre and send out key communications regarding which Traders are attending and whether the market is operating.
- 3.22 Market specialist Quarterbridge have been commissioned to support this re-branding and an example of existing market branding they have completed for other clients is included as Appendix 3.
- 3.23 A strong brand, promoted on a variety of platforms, from website, to social media to produces such as bags-for-life would build Bromley identity of the market and town centre itself.

## **Market Future**

- 3.24 In addition to the branding, the market could further be improved through an assessment to identify trades/products not currently represented on the Market and seek to encourage them in. This would further improve the mix of traders and products available and improve Bromley as a destination for the public.
- 3.25 The hosting of additional markets and market events in the periods between the Bromley Market (i.e. Sunday to Wednesday) would be an opportunity to both boost income and footfall. Specialist markets such as:
- Farmers Markets; Antiques and Collectables Markets , Continental Markets, Food and Drinks Festivals, Christmas Markets and other themed markets.
- 3.26 Such markets and events would complement the work of the Bromley BID and could be held in conjunction and support of their promotional activities. Given that the Town Centre Improvements and market relocation remove and occupy the principle locations where the Bromley BID have undertaken their promotional activities for Wimbledon, Halloween and Christmas this would allow these events to continue and further promote Bromley Town Centre.
- 3.27 Furthermore, as outlined in the reports to Executive on 22 March 2017 and 7 November 2017 it is proposed that the relocated market be licenced under the Food Act 1984, as opposed to the London Local Authorities Act 1990 (LLAA).
- 3.28 Once the market relocation has been completed and the market operation settled, the option of commissioning the market management to a third party will need to be examined in detail with a report on the options being presenting back to this committee.

## **Options Modelling**

- 3.29 Given the changes following the feedback from the consultation with the Traders the original proposal for 8 kiosks and 21 pop-ups needs to be reconsidered.

- 3.30 The initial relocation of the market will utilise only pop-up stalls (46) in the first instance to accommodate the traders, whilst the phased relocation takes place. However, following the consultation with the market and street traders and the desire to accommodate the existing number of traders in the reconfigured layout, some further modelling has been undertaken to compare the financial projections of operating with different combinations of pop-ups and kiosks following the completion of the high street improvements as well as the capital costs:

**Option A - 46 pop-up stalls:**

- 3.31 This option was considered as it retained the temporary layout on a permanent basis to provide an adequate number of stalls for the existing traders and negates the need for capital investment in the building of the kiosks. However, whilst there is a significant capital saving of £429k, the income received from pop-ups only does not generate enough income to meet costs.

**Option B - 8 kiosks with 36 pop-up stalls:**

- 3.32 Retaining the original 8 kiosks and increasing the number of pop up stalls was modelled and the net financial effect is positive with an additional £20k revenue per annum surplus generated, but at an additional capital cost of £116k. There is some concern that with interest predominately from hot food outlets and the concern about smells generated by hot food directly outside the entrance to retail outlets then there may be a high percentage of voids in the kiosks, given that interest has only been received for some of the kiosks. The financial modelling has allowed for this.

**Option C - 4 kiosks with 41 pop-ups:**

- 3.33 The option of installing 4 kiosks and increasing the number of pop-up stalls was modelled. This option enables the existing traders to be accommodating and for half of the original kiosks to be installed. The demand for the kiosks can therefore be tested in the market and allows for additional kiosks to be installed at a later date if successful. This model generated a slightly higher net surplus (£4k) than the currently agreed model but reduces the capital outlay by £116k.

Table 1: Capital cost implications compared to existing budget

		Option A - 46	Option B - 8	Option C - 4
Capital	Budget as at	Pop-Up Stalls	Kiosks & 36	Kiosks & 41
	Nov 17	only	Pop-Up	Pop-Up Stalls
	£'000	£'000	Stalls	£'000
			£'000	£'000
<u>Kiosks</u>				
Delivery & installation of kiosks	296	0	296	148
Utility services & kiosk infrastructure	64	0	64	32
Main contractor costs incl contingency	135	0	135	108
Fit-out costs	64	0	64	32
<b>Total Kiosk costs</b>	<b>559</b>	<b>0</b>	<b>559</b>	<b>320</b>
<u>Pop-Up Stalls</u>				
Purchase of pop-up stalls	21	67	53	60
Infrastructure costs - extra pop-up stalls incl contingency	0	81	81	81
Storage container	0	3	3	3
<b>Total Pop-Up Stalls</b>	<b>21</b>	<b>151</b>	<b>137</b>	<b>144</b>
<b>Total Capital Costs</b>	<b>580</b>	<b>151</b>	<b>696</b>	<b>464</b>
<b>Varitation in Capital Costs</b>		<b>-429</b>	<b>116</b>	<b>-116</b>

3.34 The table below shows the projected net surplus/cost compared to budget for the different options:

Table 2: Net surplus/costs compared to budget

### Overview of Option Modeling

Model	Description	Net surplus/cost compared to budget
<b>Original</b>	<i>8 Kiosks and 21 Pop Up Stalls</i>	Nil
<b>Option A</b>	<i>46 Pop Up Stalls with Additional Markets</i>	£10k
<b>Option B</b>	<i>8 Kiosks and 36 Pop Up Stalls with Additional Markets</i>	£-3k
<b>Option C</b>	<i>4 Kiosks and 41 Pop Up Stalls with Additional Markets</i>	£-4k

For each option an estimated occupancy void % has been assumed. Option A = 15%; Option B = Kiosks 50% & Pop Ups 15%; Option C = Pop Ups 18%

3.35 As presented in previous reports to this committee the inclusion of Kiosks in the High Street will enhance the aesthetics of the Town Centre and help to attract retail and food outlets, creating an enhanced physical environment and complementing the vision for the High Street to become a place of choice for shopping and retail.

3.36 The revised modelling shows that including additional pop-up kiosks does generate an additional net surplus if combined with a number of kiosks. Whilst Option B could generate the highest net surplus per annum if a higher occupation rate was achieved this is not guaranteed and there are additional £116k in capital costs. Option C generates a potential surplus of £4k per annum and reduces capital costs by £116k.

3.36 It is therefore recommended that the agreed layout is revised to **Option C**; with 4 semi-permanent kiosks and 41 stalls and holds additional markets. This option does not preclude the introduction of further kiosks at a later date should there be demand and supporting

business case, but would minimise the investment risk while allowing Bromley to test the underlying business case of 7-day trading at that location; seeing how seasonal variations factor into the model and interested traders are able to scale up to the operation.

#### 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.

#### 5. FINANCIAL IMPLICATIONS

- 5.1 Executive on 7 November 2017 allocated £580k from the growth fund to meet the cost of installing 8 semi-permanent kiosks and 21 pop-up stalls. This sum forms part of the overall capital scheme of £3.576m for the Bromley Town Centre Public Realm project.
- 5.2 Following further consultation, officers have outlined three new options for the market. All three options increase the number of stalls required which has a significant impact on the capital cost of the scheme, both in the cost of stall procurement and in the provision of electrical infrastructure to facilitate the additional trading locations. The detailed capital costs for each option are shown in Table 1 above and summarised below: -

Table 3: Summary of Capital Costs for the Three Options

	<b>Option A £'000</b>	<b>Option B £'000</b>	<b>Option C £'000</b>
Cost of purchase, installation and fit-out costs of the kiosks	0	559	320
Cost of purchase and installation of the pop-up stalls	151	137	144
Total capital costs	151	696	464
Existing scheme estimate within Capital Programme	580	580	580
<b>Net additional/reduction in capital costs</b>	<b>-429</b>	<b>116</b>	<b>-116</b>

- 5.3 For 2017/18, the Bromley market has a net controllable budget of Cr £54k. The following table provides the potential financial implications of the three options for the market as outlined in 3.31 to 3.33, although Option C is being recommended: -

**Table 4: Revenue Costs**

	<b>Option A 46 Pop-Ups £'000</b>	<b>Option B 8 kiosks &amp; 36 Pop-ups £'000</b>	<b>Option C 4 kiosks &amp; 41 Pop-ups £'000</b>
Current 2017/18 controllable budget for market	-54	-54	-54
Current street trading & Promotion income budget (Bromley High St)	-32	-32	-32
<b>Total 2017/18 budget</b>	<b>-86</b>	<b>-86</b>	<b>-86</b>
Net controllable cost/surplus for options	-56	-69	-70
Street trading & Promotion income	-20	-20	-20
<b>Total Net controllable cost/surplus for options</b>	<b>-76</b>	<b>-89</b>	<b>-90</b>
<b>Net additional /Loss of income</b>	<b>10</b>	<b>-3</b>	<b>-4</b>
Potential loss of income from interest earned on capital (1.5%)	2	10	7
<b>Revenue impact of each option</b>	<b>12</b>	<b>7</b>	<b>3</b>



- 5.4 Business rates of the kiosks should be recovered from the kiosk occupants or paid directly by the 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.
- 5.5 Should Option C be agreed as recommended, only £464k is required from the growth fund rather than the previously agreed sum of £580k. The overall capital scheme will reduce by £116k and therefore the revised total cost of the High Street improvement scheme will be £3.46m.
- 5.6 As shown in the table 4 above, Option C may produce additional net income of £4k, excluding the potential loss of interest earned on capital. However, this is dependent on the level of occupancy of both the kiosks and pop-up stalls.
- 5.7 It should be noted that income from street trading and promotions on the high street will reduce and be replaced by net additional income from the extra markets.

## **6. LEGAL IMPLICATIONS**

- 6.1 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.
- 6.2 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 3.28 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.
- 6.3 Market Trader licences are created on a six-monthly basis and will next expire on 31 March 2018, however some of the permanent Street Traders are licenced under longer terms and it could take up to 18 months to re-license, however traders can remain under the LLAA legislation in the meantime.
- 6.4 Counsel's advice was sought on the complexities surrounding the five existing permanent street traders and the process of relocating and terminating their current licences before issuing new ones as there is a right of appeal to the Magistrates Court. It is Counsel's opinion that the process could be very fraught for Bromley requiring a significant burden of evidence that there was no alternative for the Council and demonstration the trading constitutes a significant disruption. Further, that to avoid the risk of challenge and to minimise disruption to trader's business, Counsel suggested the Council could consider temporarily varying the street trading licence and designate a different licenced street while in the meantime taking steps to establish a new market under the Food Act 1984. It is also advised that any such re-location is kept as near as possible to the current location and with similar benefits as the current High Street.
- 6.5 The proposals within this report are consistent with Counsel's advice and a phased relocation is likely to achieve the Council's aims with the least likelihood of challenge
- 6.6 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. PROCUREMENT IMPLICATIONS

- 7.1 With regard to the kiosks the procurement process would 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.

<b>Non-Applicable Sections:</b>	Impact on Vulnerable Adults and Children; Personnel Implications
Background Documents: (Access via Contact Officer)	