



Development Control Committee

27th October 2009

Report of Head of Planning and Building Control, Regeneration

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To: DEVELOPMENT CONTROL COMMITTEE

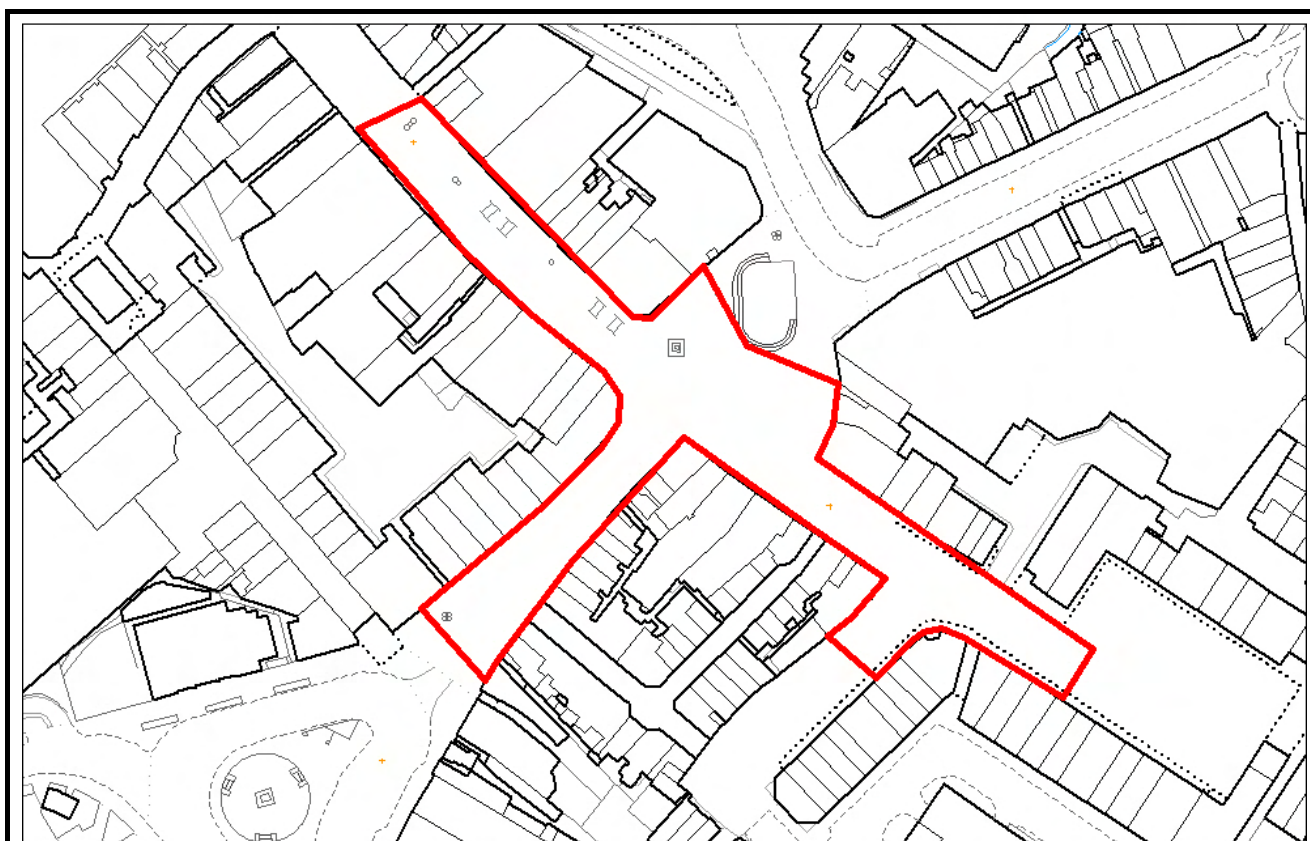
Report of Head of Planning and Building
Control, Regeneration Directorate on
27 October 2009

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/1276/FL
Application Type: Full application
Applicant: Walsall Council
Proposal: Relocation of existing Walsall Town
Centre Market (100 Stalls) to new temporary
location (trading 8am to 5pm, seven days) - option
to include 16 stalls in Park Street.
Ward: St. Matthews
Recommendation Summary: Refuse

Case Officer: Karon Hulse
Telephone Number: 01922 652492
Agent:
Location: The Bridge, Park Street,
Bradford Street, and Lower Digbeth, Walsall

Expired: 23/12/2009

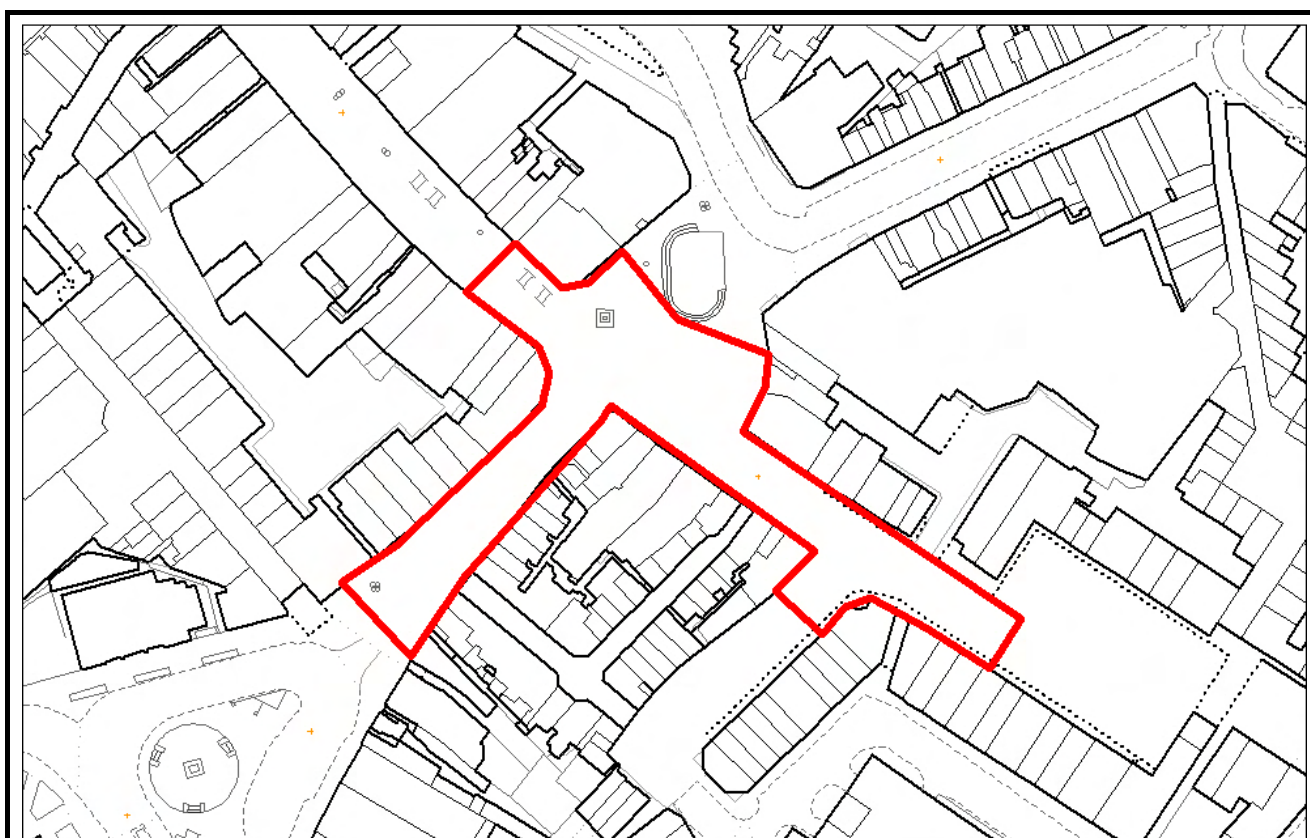


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REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 09/1277/FL
Application Type: Full application
Applicant: Walsall Council - Regeneration
Proposal: Relocation of existing Walsall Town Centre Market (100 stalls) to new temporary location (trading 8am to 5pm, seven days) - option to include 8 stalls in Park Street.
Ward: St. Matthews
Recommendation Summary: Grant Subject to conditions

Case Officer: Karon Hulse
Telephone Number: 01922 652492
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Location: THE BRIDGE, PARK STREET, BRADFORD STREET AND LOWER DIGBETH, WALSALL
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Joint report for item 1 and 2

Status

A planning application for the temporary relocation of the Walsall town centre market was made last year. It was approved, but there was a legal challenge. While that was being explored, a second application (for the same proposal) was made.

Having sought legal advice on the grounds of challenge, that permission was revoked by the Council as local planning authority. The second application was withdrawn by the applicants,

Drawing on the issues raised by the grounds of challenge, the applicants, Walsall Council's Regeneration – Development & Delivery instructed consultants to establish an evidential base to inform the decision on whether to relocate the market. The consultants were asked to assess the importance and viability of the town centre market and to consider the economic impact of relocating the market on the overall performance of the town centre.

The consultants considered three options:

1. retaining the market in situ
2. relocating the market to The Bridge for a period up to three years with a number of stalls being located along Park Street (a concept embodied in planning application ref no 09/1276/FL)
3. relocate the market to The Bridge for a period of three years with a lesser number of stalls along Park Street (the basis for planning application ref no. 09/1277/FL)

The options are illustrated on the diagrams annexed to this report.

The consultants have tested the proposals against national planning policy and development plan policy and assessed their likely impact upon the town centre having regard to :

-
- impact on vitality and viability of the town centre,
- market viability,
- accessibility and free flow of pedestrians,
- amenity and safety,
- town centre security and safety
- conservation area implications
- town centre management and
- objections / consultation

The conclusions of that assessment underpin the applications.

Application and Site Details

Because the applications only differ in one respect, this is a joint report to consider the merits of two planning applications which seek to relocate the Walsall town centre market.

The details of the applications are generally the same. Option 2 (as outlined above) proposes to relocate the market to The Bridge with more stalls (16) being located along Park Street (planning application ref no 09/1276/FL refers), whereas option 3 (again as outlined above) proposes to relocate the market to The Bridge with a lesser number of stalls (8) along Park Street (planning application ref no. 09/1277/FL refers).

As Option 3 proposes a smaller number of stalls in Park Street, this option maintains the overall number of stalls by having a few more along Digbeth

Both applications seek consent to temporarily relocate the market from its current location in the square on Digbeth and High Street to The Bridge radiating out along Bradford Street, Park Street, High Street and Digbeth. The proposal is for a period of three years.

The conclusion of the assessment made by the consultants is as follows.

Option 1 – If the market remains in situ it is likely to lead to a further inevitable decline which will have a consequential adverse impact on the future of Walsall town centre. The market's decline would be further aided by the lack of improvements to the market management and investment in improvements to the stalls. Footfall is also likely to decrease and hence its patronage. The current poor appearance of the stalls and operational concerns including rubbish collections will create significant issues relating to environmental amenity.

Option 2 – The potential impact of 16 stalls in Park Street relates mainly to the likely adverse impact of their location along the prime retail frontage of Park Street. The siting of the additional stalls could potentially blight shop frontages as far up Park Street as the Park Street Arcade. However, it is acknowledged that the proposals will increase footfall therefore improving potential for better trading conditions and creating the right conditions for further investment in the market given improved viability. This option includes an enhanced town centre management regime incorporating new codes of practice for the market. Overall, the consultants conclude that Option 2 presents a potentially significant risk to the prime retail pitch on Park St which, in turn, represents a risk to the health of the town centre.

Option 3 – The impact of this option is less than option 2 as the number of stalls proposed for Park Street is reduced and they would be positioned mainly in front of the blank elevation to Lloyds TSB Bank and adjacent vacant premises. Due to the lesser market presence along Park Street there is likely to be less adverse impact upon the retail attractiveness of the prime frontage of Park Street with the majority of existing premises still being clearly visible to passing pedestrians at the lower end of Park Street. Again, the proposed location will increase footfall therefore improving potential for better trading conditions and creating the right conditions for further investment in the market giving improved viability. Ideally the consultants advised that all stalls should be removed from Park Street but that Option 3 provided a reasonable compromise.

Moving the market is the only option which will have an overall favourable impact on the town centre and which will improve its performance. Leaving the market in its current location has been assessed as not being an option, if it is to continue operating effectively.

In addition to the consultant's commission, a separate report was prepared by other experts as part of the previous planning applications. It concluded that the provision of temporary facilities and the permanent redevelopment of the market is essential if the current decline in trader numbers and financial viability is to be halted. This was identified in the accompanying financial review and business plan which also proposed a suggested suitable design solution for the permanent site..

The report indicated through experience of similar relocation projects that there is a benefit to having an open market and that anecdotal evidence suggested footfall increases of 200%, with adjacent retailers experiencing a 20-25% increase in sales turnover on market days and that there is a stimulus that additional market footfall delivers to a town centre, it has an effect

on reducing the number of vacant shops and encourages refurbishment by Landlords. Conversely, it also experienced the adverse effects of closure of an established market, if for only a temporary period.

The present proposal is temporary. In relation to a permanent market solution, no specific proposals are brought forward. The intention is to explore such ideas, while the temporary location is in use. The permanent solution is not part of the present proposal in any way.

Details which are generic to both applications

Both applications are for 80 market stalls (approximately the existing number) and an additional 20 stalls to accommodate latent demand created by casual traders which may result from the proposed relocation.

The Bridge and its immediate neighbouring streets has been judged by the applicants to have sufficient space for the proposal.

The layout of the stalls has been designed to provide three metre pedestrian routes between the stalls and the shop frontages (and nowhere less than 1.2 metres between stalls). A four metre corridor for emergency vehicle access (ambulance/fire engine) is also identified.

Operational guidelines for stall holders have been prepared to ensure vehicle and pedestrian access is maintained during operating hours, and it is envisaged that the enforcement of such guidelines will be undertaken by the council's market team and civil enforcement officers. The applicant's consultants stress that such controls are important to achieve a high quality market and achieve the intended objectives of the relocation.

The design of the stalls will be similar throughout the temporary market to maintain the continuity and character of it in its new location. The stalls will in some cases face away from the shops and in others be set at an angle to the shops in arrangements intended to maximise the movement of pedestrians around and through the stalls.

The stalls will measure 3.2m in width, 3.2m in length and will be 3.6m in height, painted black. Each will be decorated with a blue and white fabric roof edge. In addition, where the stalls back onto a shop front, e.g. on Bradford Street, the rear of the stall will have clear plastic sheeting to maintain visibility of the shops.

The table top boards of the stalls will be secured to the stalls by padlocks. In response to the risk of vandalism e.g. on Saturday nights, the operators have been working with the Police and the CCTV monitoring team to ensure adequate surveillance.

Previous to this application the council has undertaken some works along Park Street and Bradford Street to remove some seating and planting areas to allow for the accommodation of the market stalls. This application proposes to relocate some of these seats and planters to other areas around the new market, though such works, in themselves, did not need a planning application.

The relocation will also require some works to be carried out to the trees on The Bridge to raise the crowns in order to allow for the positioning of stalls. The on-street exhibition space on The Bridge will be retained.

The stalls will be permanently in place throughout the temporary period. The market currently operates Monday, Tuesday, Wednesday, Friday and Saturday. The application seeks consent for this pattern, but also to operate up to 7 days a week in order that occasional markets can be held at other times such as Christmas.

Vehicular access to these areas is controlled by a Traffic Regulation Order (TRO). The objective is that traders' vehicles are to be removed from this area by 0830 every morning, and trading would commence by 0900, in line with retailers. At the end of the day, vehicles would re-enter the area, in accordance with the TRO (presently 1800, but an amended TRO is being sought to allow this from 1700).

Relevant Planning History

08/1084/FL - Temporary permission for the relocation of market, granted August, 2008. Following a legal challenge, as set out in the introduction to this report, there was a report to Committee in October, 2008 and this led to the revocation of the above permission.

08/1624/FL - Temporary permission for the relocation of market. Withdrawn 11th November, 2008

Relevant Planning Policy Summary

(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website www.walsall.gov.uk/planning).

Unitary Development Plan (UDP)

The key principles of the Unitary Development Plan are sustainable development, urban regeneration, economic revitalisation, environmental improvement and social inclusion (2.1, 2.2 and 3.6). The town centre is important in many of these things in many ways, and a number of policies touch on this (e.g. GP1, GP2, GP4, 4.6).

Equal opportunities, community safety and the needs of disabled people are identified as important themes (GP5, GP6, GP7, T1, WA19).

Town centres have an important role, especially as the locations for facilities that will attract large numbers of trips (5.1, 5.2, S2, S3, S4).

Much of the town centre is covered by a Conservation Area (there are three overall). The Bridge, and Digbeth as far as Lower Hall Lane, are in one CA, the rest of Digbeth is in the Church Hill CA. Policies 3.15, ENV29 and WA5 set out the intention to preserve or enhance the character of those areas. Good design is important and proposals which do not take into account their context or surroundings will not be permitted (ENV32).

The site adjoins two Listed Buildings (Lloyds Bank, and the Arcade). The UDP has policies on protecting such buildings. Policies 3.14, 3.16, ENV27 and ENV28 address these issues.

Chapter 5 on Strengthening Our Centres sets out a number of issues. The central tenet is encouraging the growth and development of the service and leisure sectors to strengthen the economy and meet the needs of the community (5.1). Enhancing the vitality and viability of the centres is the mechanism (5.2).

Policy WA1 outlines the primary shopping area of the town centre to include Park Street/ Digbeth/ High street and extending into Bradford Street, Bridge Street, Old Square and The Saddlers Centre.

S3 seeks the integration of development into centres. It addresses the scale and nature of proposals, and that this is relevant in functional and visual terms.

Policies S2 and S4 in Chapter 5 set out the importance of the town centre and WA2 addresses the market. Policy WA2 and the associated text, are important in relation to this application, and set out:-

WA2: The Market...The Council recognises the importance of the market as an attraction for visitors and the significant role it plays in meeting the needs of the local community. Where necessary, the Council will carry out improvements to the operation and setting of the market, to maintain and increase its attractiveness.

12.5...The market, in Digbeth/ High Street, is an asset to the town. It is a significant shopping draw and contributes greatly to the vitality of the town - both on general market days and on those days when a more specialist market is held. The policy recognises the positive contribution made by the market and reflects a desire to maintain and increase its attractiveness. An important factor in the attractiveness of the market is the setting in which it is held: the Council is specifically encouraging redevelopment in the Digbeth area, which could provide an opportunity to greatly enhance the setting of the market.

The Digbeth part of the site is within opportunity area WA10. That policy sets out the intention to concentrate major comparison retailing investment in the Digbeth / Old Square area. The continued presence of a department store in Old Square is an objective, as well as its improvement. The policy identifies conflict between the market and the shopping centres and seeks to resolve it.

Designing Walsall SPD

DW2 - Safe and Welcoming places- all development must contribute towards creating places that feel safe, secure and welcoming for everyone;

DW4 - Continuity -attractive spaces within new development should be defined or enclosed by buildings, structures or landscape;

DW5 - Ease of movement- create places that are easily connected, safe to move through;

DW6 - Legibility - new development should contribute to creating a place that has a clear identity;

DW9 - High Quality public realm - new development must seek to ensure it creates places with attractive environmental quality;

DBW 10 - new development should make a positive contribution to creating a sustainable environment.

Conservation Area Management Plan for The Bridge and adjoining streets

This identifies that the principal strength of this area lies in the high quality of much of its building stock and this creates many strong opportunities for improvements. It identifies that the style of street furniture and paving materials throughout the conservation area would benefit from review. Some areas currently suffer from too much visual clutter and the design schemes/materials are not always well integrated or locally distinctive. An overall scheme of renewal should be considered.

The Walsall Regeneration Company is spearheading regeneration and one of their schemes involves the transformation of Bradford Place into a major new public space, removing the buses, improving links with the railway station, and linking the Saddlers Centre with the Victorian Arcade and the Jerome Retail Park.

In relation to Park Street it sets out that there is nothing uniform about this streetscape –which means the streetscape has visual interest. The style of paving and street furniture, particularly the excessively large and bulky brown brick municipal planters, could belong to any shopping ‘high street’ in any number of towns of this size. The Grade II listed Lloyds TSB bank on the corner with The Bridge, is an impressive landmark baroque-style building which gives a sense of dignity to the entrance to the street from the town’s main public square. The more general negative features relate to the public realm. While there are several unattractive 1960s and ‘70s infill buildings along the street, the overall attractive and eclectic nature of its buildings manages to prevent these from dominating visually, and they are generally of an appropriate scale. It is really the floorscape and street furniture that detract from the historic quality of the street. The materials used for both the paving (harsh red brick paviers) and the large bulky planters (harsh blue bricks) bear no relationship to the traditional materials used in the construction of buildings on the street of any period, and indeed can be found as standard on most shopping streets.

The proliferation of black bollards and bins at the junction of Bridge Street and The Bridge is not ideal. Similarly, the lighting scheme, while relatively unobtrusive, would benefit from replacement with a better quality of lamp design.

The paving scheme adopted for The Bridge is a little patchy, with areas of patterned coloured brick paviers and areas of concrete slabs, and the design of the street furniture is rather harsh-looking. It may be difficult, given the significant loss of historic buildings fronting onto the square, to find an overall paving and street furniture scheme that works for this area.

In terms of improvement actions the document refers to the need for integrated improvements to the public realm, including new street furniture and paving, and improvements to the way in which traffic flows around the area, and its relation to pedestrian routes, could have a beneficial impact on the conservation area.

Opportunities exist for further tree planting. For example the planting of trees would help to soften the rather ‘hard’-looking space at The Bridge. The addition of trees would help to soften the streetscape at the eastern end of Bridge Street and would be more beneficial than the current planter in screening Nos. 54-68 from the street frontage.

Bradford Place presents a significant opportunity for enhancement, to make it more accessible and appealing to pedestrians and usable as a public square.

All forms of new development within the conservation area should draw from the existing historic buildings in terms of materials, scale and massing.

The surviving historic street pattern within the conservation area should be preserved and reinforced where possible by new development.

Important views and vistas should be preserved or opened up.

Regional Spatial Strategy / Core Strategy

Seeks to promote sustainability by controlling the location of uses and to implement the strategy that all parts of the Region should meet their own needs sustainably. It also seeks to reduce the need to travel and to promote an awareness of the implications of travel on the environment

Policy UR1 seeks to promote an Urban Renaissance in the Major Urban Areas (MUA's).

National Planning Guidance

PPS1 on delivering sustainable development and good design identifies the need to avoid run down town centres, and the need for sustainable and inclusive action. Good design is important in promoting well mixed, integrated development, and this can promote social inclusion.

PPG13 (on transportation) and PPS6 (on planning town centres) envisage concentrating uses generating large numbers of people in centres, for sustainability reasons.

PPS6 also seeks to sustain and enhance the vitality and viability of town centres and to focus developments there. Paragraph 1.4 sets out the following objectives:-

- enhancing consumer choice by making provision of a range of shopping, leisure and local services, which allow genuine choices to meet the need of the entire community, and particularly socially-excluded groups;
- supporting efficient, competitive and innovative retail, leisure, tourism and other sectors, with improving productivity;

PPS6 also urges Councils to retain and enhance their markets:-

“Street markets can make a valuable contribution to local choice and diversity in shopping as well as the vitality of town centres As an integral part of the vision for their town centres, local authorities should seek to retain and enhance existing markets and, where appropriate, re-introduce or create new ones. Local authorities should ensure that their markets remain attractive and competitive by investing in their improvement.”

PPG15 on the historic environment identifies that authorities must pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area, and in relation to works which affect a listed building to have special regard, among other things, to the desirability of preserving the setting of the building. The setting very often owes its character to the harmony produced by a particular group of buildings and the quality of the spaces between them. Many CAs include the commercial centres of their town. While conservation (whether by preservation or enhancement) of their character or appearance must be a major consideration, this cannot realistically take the form of preventing all new

development or change. The Courts have held whilst the character and appearance of conservation areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.

Consultations

Transportation

In respect of both applications

No objection subject to the following conditions:

- Prior to the proposed market relocation being brought into use all power supply pods from the existing site shall be removed and surface layer reinstated to match existing finishes.
- Any new power supply points shall be installed within the areas shaded on the plan of the stalls. No supply pods shall obstruct the pedestrian or vehicular corridors, in the interest of highway safety.
- All stall retractable canopy extensions shall not encroach onto the vehicular corridors, to prevent accidental vehicle contact.
- All stall retractable canopy extensions that may be required to overhang over the pedestrian corridors shall not be below a height of 2.1m, at any point or when fully extended.
- Alterations shall be made to the Traffic Regulation Orders for the proposed sites, in accordance with the details within the Design and Access Statement.
- The shaded footprint area of the individual stalls shall dictate the limit of the stall sales area. No stalls shall extend the display, sales table surface area beyond the limits of the stall, to ensure free movement is maintained around the stalls at all times in the interest of highway safety.
- Those areas designated for pedestrian movement shall be retained for that purpose only.

Pollution Control (Contaminated Land) – no objections

Environmental Health – no adverse comments

Public Rights of Way Team – no objections

Fire Service – no objections subject to maintenance of access route

West Midlands Police – no objections subject to the positioning of the stalls not impeding the effectiveness of the CCTV system in the town centre.

Natural Environment (trees) – no objection

Urban Design and Built Conservation Team (Regeneration) – no objections but need to be aware of the relationship between the trees and food traders stalls and potential issues.

Access and Disability – no objections

Centro

Support the application.

None of Centro's existing infrastructure is adversely affected and the development site is within the minimum standards for accessibility by public transport.

However, there are serious concerns that market traders' vehicles exiting onto Bradford Place may hinder the free flow of buses at this location. There is also a discrepancy between the trading hours as stated in the application form and the vehicular access hours as stated in the Design & Access Statement. If the trading hours are from 8:00am but vehicular access is allowed until 9:00am, not only will there be conflict with buses at a peak time, there will also be a potential safety issue for stallholders and customers.

It is very difficult for Centro to comment fully on the proposals without the benefit of a transport assessment which should clarify these issues.

It should be noted that Centro is also working with Walsall MBC and the Walsall Regeneration Company on a strategy for the bus terminal at Bradford Place. This is part of a Transport Action Plan which is being produced to support the scale of redevelopment and regeneration being promoted in and around the Town Centre. Again, without the benefit of a transport assessment it is not possible to fully assess the impact the proposal will have on transport movements in the Town Centre.

Centro therefore recommends that:

- The applicant is requested to produce a transport assessment / surveys to demonstrate that bus services will not be unduly delayed by traders' vehicles exiting onto Bradford Place at peak hours;
- Vehicular access should be restricted to before 8:00am and after 5:00pm;
- Information is requested on how the vehicular access hours would be policed;
- A temporary permission of one year is granted and Centro are consulted again on expiry;
- Bus operators should also be consulted on these proposals.

Advantage West Midlands – support both applications as the relocation will continue to add value in terms of broadening the town centre retail offer. They also refer back to their previous comments which were:-

- Site is in the North Black Country / South Staffordshire Regeneration Zone
- It does not call for a statutory response from them but they offer informal comment
- AWM is involved with the ongoing regeneration of Walsall town centre through Walsall Waterfront and Gigaport
- They are keen to see the town centre develop as a vital and thriving location in its own right as well as delivering the wider regeneration of the Black Country

- This is also part of developing the region (creating sustainable communities, retaining / attracting competitive businesses and highly skilled people and promoting inclusion)
- Good infrastructure links to services and facilities are important for sustainable community – and a market in the town centre is important for the community

Public Participation Responses

Walsall Market Traders Association:

09/1276/FL to include 16 stalls in Park Street.

This option is **FULLY SUPPORTED** by the Traders this demonstrates a well thought out and balanced approach to achieving the ultimate goal of a Town Centre Market which adds to the vitality and ensures the viability of not just itself but its surroundings. This will be backed by the welcome introduction of a much more robust and professional management system linked to a new set of License conditions that every trader must sign.

Each and every trader understands the importance of working together with the retailers within this temporary location so that everyone including shoppers and visitors to the town enjoy their shopping experience.

It is important to note that all traders' vehicles must be removed from all areas of the temporary locations by 08.30am every morning, and we will be ready to commence our trading day by 09.00am in line with retailers.

All refuse must be removed throughout the day (where possible by the traders) or at the end of each trading day - NO refuse will be permitted to be left on any of the areas. There will also be regular collections during the trading hours by Markets operatives.

09/1277/FL to include only 8 stalls in Park Street.

This is **NOT THE PREFERRED OPTION** of the Walsall Market Traders Association or its members. Eight stalls in Park Street in our professional opinion will result in a stunted ill thought out market plan. More of the stalls would have to remain in an area of the Market which is suffering extremely poor trading and footfall and it would not be long before these stalls became empty.

This option will leave an empty void on Park Street which, if you are not careful will quickly be filled with unauthorized street traders/peddlers who will not be under the stricter management regime.

A Market needs to have a flow and balanced feel to it. With only 8 stalls in Park Street, this is lost along with the attractiveness that plan **09/1276/FL** ensures.

The argument of omitting these stalls to allow clear visibility of empty shops is one we find hard to understand, surely if the area around the empty shops were full of vitality(but not obscured as in plan **09/1276/FL**) then the empty shops would certainly be far more of a viable proposition. Maybe this is why the Old Square and the Saddlers are covering their windows so they do not seem empty?

A lot of time and money has already gone into the removal of street furniture and planters it would be irresponsible to have wasted that.

They also make the following points (and I quote):_

1. There is no mention in the conclusions from the consultants that the WMTA fully support plan 09/1276/FL and that this is the preferred plan. But there is mention that we will accept the other plan which we don't fully support.
2. The consultants mention (page 26 4.11) of traders turnover should not in my opinion be included within this report. I clearly stated to Mr Paul Brewer when we spoke that I was not privy to any Traders Accounts and that traders selling different commodities would have different turnover levels. In no way what so ever did I say that Traders who maybe taking £1000. per day are making a "reasonable living" A trader could take £100.00 in a day and make more profit than someone taking much more it is all down to their individual overheads.
3. To put into the report that from "information made available to them" that the average level of daily revenue is in the region of £400-500. pounds after overheads is totally wrong, what I did comment was that £400-500 may be the figure that some traders takings have dropped because of the decline in the market.

Agents for Threadneedle

(managers of Old Square on behalf of the owners, Zurich Assurance Ltd)
object to both planning applications, 09/1276 & 09/1277

1. Prematurity

The Council originally justified the relocation of the market to The Bridge by the redevelopment of the St Matthew's Quarter. There is no development agreement between the Council and the developers and St Modwen state that the decision to operate the market as a joint venture has been "rescinded and the Council are revisiting plans to relocate the market to the Bridge." These applications have been made in the absence of any viable alternate location. It is totally misleading to describe the proposal as temporary. Temporary permissions are defined by a period or timescale. The Council cannot impose such a condition as it cannot know the timescale.

Threadneedle is not opposed to the market's permanent relocation as part of the St Matthew's Quarter redevelopment but believes the proposals should be co-ordinated so they are not prejudicial to the market or the town centre. The temporary relocation is premature, speculative and unnecessary.

2. Viability/Vitality of the Walsall Town Centre Market

The applicants position is that relocating to a more central location, surrounded by major retail units on both Park Street and Bradford Street can act as a catalyst for intense shopping activity and generate footfall for town centre retailers and businesses that will help to strengthen the sustainability of one of the town's most important retail assets. However, with the application is a report prepared on behalf of the Council which undermines this position. It identifies that there have been failings in the management and operation of the market, and relocating could affect the viability of this part of a fragile town. If the management and running of the market in its current location improves then there is little benefit in relocating, particularly when the Council's own advisors have confirmed that relocation will have a detrimental effect because:

- stalls could obscure unit shop fronts;

- presence of the market would make units more difficult to let;
- the public realm could suffer unless there is significant improvement in management; and
- to introduce an initiative could adversely affect the viability of the most 'attractive' part of a fragile town centre should be avoided.

It is difficult to deduce how relocating 110 metres from its current position will substantially impact on market revenue. There has been a general downturn in market trader figures but only because of the downturn in the UK economy and the dominance of local supermarkets.

The declining trading performance of the market is not confined specifically to the location of the market.

By contrast, the applications show an increase in occupancy for the market in September 2009, and that the Traders Association believes this is due to the Council's aspiration to move the market. This is an unsubstantiated statement: as the increase could be equally attributable to trading levels recovering after the opening of Asda.

It seems ill-conceived for the Council to incur significant costs in relocating the market on a "temporary" basis and ignore the option of improving the market in its current location. The benefits of an improved setting could be realised in the market's current location. This, and the Council's policy for improving the market in situ (UDP Policy WA2, referred to in the Planning Statement) has been ignored by the Council, despite both being substantial issues weighing against the grant of permission for the New Application.

None of the alternatives considered by the Council involve the market remaining in its current location. However, this is the most obvious solution because increases in trading and occupancy levels could be achieved through improvements to the stalls. There would be no need for the Council to waste the costs of the "temporary" relocation (e.g. for extra security staff for the anticipated vandalism). This would offer continuity for the market (referred to in the Planning Statement) with the minimum disruption. The Council should give the viable solution of improving the existing market greater weight.

3. Impact on Old Square Shopping Centre

The market in its current location makes a very significant contribution towards the vitality and footfall of the Old Square Shopping Centre with its current tenant mix and layout. The relocation of the market would lead to further shop closures and increase pressure on the anchor tenant, Debenhams, to seek alternate locations.

This would have substantial adverse impact on the value of Threadneedle's asset and prejudice its ability to secure Debenhams as the anchor within the new developments in and around Old Square, undermining its viability.

The limited analysis of the effect on Old Square and other parts of the town centre caused by the temporary removal of the market negative. It is not only Threadneedle that have concerns about the loss in footfall but also Asda and St Modwen. The Council should have had proper regard to the need to assess the impact on the Old Square Shopping Centre.

Under Circular 01/2006 'Guidance on Changes to the Development Control System': a major part of a design and access statement is the explanation of how local context has influenced the design and this is not done.

It is difficult to see how the proposed relocation of the market can have anything but a detrimental effect on the Old Square because it relies so heavily on it for footfall. The new applications fail to take into account the importance of and implications for a key retail site within Walsall Town Centre.

4. Impact on the remainder of the Town Centre

We have seen no evidence that the relocation would benefit either the market traders or the retailers. Little regard has been had to the impact of the relocated market on these retail units, a view shared by GVA Grimley, the Council's Consultants who confirm that this will have a detrimental effect .

The introduction of 80 stalls will only add to this "visual clutter" within the Bridge Street Conservation Area. The CA Appraisal and Management Plan seeks to reduce clutter in this area.

No consideration has been given to the impact on the Conservation Area.

5. Health and Safety

Because the market as proposed also extends into Park Street, this potentially increases congestion around The Bridge. There are health and safety concerns. In amending the TRO, if market traders were allowed vehicular access in a pedestrian-only area from 1700 hours onwards they would be likely to start dismantling their stalls at 1600 hours, when children are walking through the town centre after school. This will be dangerous.

The temporary move is illogical unless there is a location to move to at the end of the temporary period. As St Modwen/ Norton and Proffitt are no longer including a Market Area within their proposal, the move is premature as a final location has not been identified.

VR Investments Ltd (28/30 Park Street and Park Street Arcade)

Support for 09/1276/FL (16 stalls in Park Street)

as it will increase footfall through the arcade bringing benefit to tenants.

Objects to 09/1277/FL (8 stalls in Park Street)

as the market appears to be unfinished, customer footfall will be diverted from the bus station around and past the fountain bypassing the arcade having adverse impact on retailers.

Agents to the BBC Pension Trust (landlords of 1-11 Park Street, Walsall and 82-87 Bradford Street)

Object to both applications

Believe the proposed relocation of the market will detract from the current trading ability of these retail units. The stalls will detract from the free flowing circulation that both streets currently have the benefit of, and generally deter footfall actually into the current traders units.

We have concerns with regards to waste disposal, from discussions with the tenants on site they have advised that when markets have previously occupied the streets to the front of their units the amount of litter has been uncontrolled and has quickly become unsightly.

The aesthetics of the market stalls detract from the overall appearance of the parade and would generally affect the client's ability to re-let the current vacant units.

The general feeling from tenant's also mirrors clients concerns that the type of clientele that will be attracted may conflict with the current occupiers of the units.

Toni and Guy, Bradford Street:

Toni & Guy has been situated in Bradford St for nearly 7 years now and has worked very hard to build up it's reputation within the area. Due to the current economic climate, times are very difficult for ourselves, we rely on passing trade for a significant percentage of our business and we are extremely concerned that the location of market stalls outside our shop frontage will deter potential customers from walking past the shop. We are also very concerned that the market stalls will also put off existing customers.

This loss of trade could have a disastrous effect upon our business which is struggling to keep it's head above water at present. We currently employ and provide an excellent continual training programme for just under 20 persons from Walsall (up to 25 during better times), should our business have to cease trading, these people will struggle to find work in the same trade as times are hard for everyone in the beauty industry at present and very few salons are looking to recruit.

Retailers such as Toni & Guy are the sort of forward looking retailers that Walsall is looking to attract to complement the regeneration of the area, the current plans will only assist in making life harder for us to remain in Walsall and could indeed, drive us out.

Whilst they acknowledge the need for and indeed welcome the regeneration of the area around Digbeth and Walsall in general, they believe that a more mutually beneficial proposal could be made.

David Menzies Associates:

Severe effect on our clients (Toni & Guy) business, proposal needs to be relocated to a site which will be less disruptive to retailers

All letters of representation are available for inspection upon publication of this committee report.

Determining Issues

There are a number of issues common to both applications. In the following list, and where used as sub-headings, these are in upper case. Broadly, the issues where there are differences between the applications, then follow the common sections.

~THE DEVELOPMENT PLAN AND POLICY IMPLICATIONS

~ MATERIAL CONSIDERATIONS

~ACCESSIBILITY / FREE FLOW OF PEDESTRIANS / AMENITY / SAFETY

- IMPACT ON BRADFORD PLACE BUS SERVICES

- ~IMPLICATIONS FOR THE CONSERVATION AREA
- ~TOWN CENTRE SECURITY
- ~REFUSE COLLECTION, RECYCLING AND DISPOSAL
- ~STREET CLEANSING
- ~STORAGE OF GOODS
- ~DAYS OF MARKET OPERATION
- Viability / vitality of the market and its role in the town centre
- The number of stalls in Park Street
- The future
- Temporary period and review processes

Observations

THE DEVELOPMENT PLAN AND OTHER POLICY IMPLICATIONS

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

Policies S2 and WA2 of the Walsall Unitary Development Plan set out the importance that Walsall town centre and its market play in the retail hierarchy of centres in the town and in the region. Policy WA2 recognises that steps must be taken to maintain and improve the attractiveness of the market to support the position of the wider town centre in attracting business and visitors. The General Principles highlighted in Policy S4(a) seek to sustain and enhance the range and quality of shopping, leisure and other town centre uses.

Whilst Policy WA2 seeks the improvement of the market, it is clear from the wording that this was envisaged, when the policy was originally drafted, as being in Digbeth / High Street. The policy also makes much of the improvement of Old Square and St. Matthews Quarter as the setting for the market.

However, the objective of the policy is clearly to ensure that a vital and viable market is retained in the town centre. Officers do not consider that it was the intention of the policy to prevent movement or expansion of the market into new areas if that were necessary to sustain its health. If it is concluded that the relocation would materially improve the vitality and viability of the market to the benefit of its long term retention whilst not materially reducing the footfall in Digbeth and elsewhere, then relocation would not be inconsistent with the objectives of the policy. Whilst not strictly in accord with the wording of the policy there would be no conflict with the underlying objectives which would be a significant factor to weigh in the balance. Officers conclude that the policy, while expecting the market to remain in its traditional location, is not written to require that to happen. An application to move the market, such as this, should, sensibly, offer justification both to support the proposal and to show why the traditional location is no longer adequate. This application does so, and the offered justification must be tested by the planning authority in the decision making process.

The terms of the application need to be assessed. A temporary location is proposed. The planning issues are

- (1) whether the market should remain where it is (option 1) or where it is now proposed in the alternative options Option 2 and 3;

(2) if either options 2 or 3 are favoured, whether it should be there temporarily; These issues require consideration of what are the consequences of the move to a new location and what could happen at the end of any temporary period . These are examined in more detail below, but it is clear that there is nothing in the policy base which specifically precludes moving the market.

National planning policy guidance cites the importance of street and open markets to town centre vitality.

PPS6 'Positive Planning for Town Centres: A plan-led approach' invites local authorities to consider retaining and enhancing markets to diversify the retail offer in town centres:

Street and covered markets (including farmers' markets) can make a valuable contribution to local choice and diversity in shopping as well as the vitality of town centres and to the rural economy. As an integral part of the vision for their town centres, local authorities should seek to retain and enhance existing markets and, where appropriate, re-introduce or create new ones. Local authorities should ensure that their markets remain attractive and competitive by investing in their improvement." (PPS 6, p13)

Retention and improvement of a market is important in both national and local planning policy.

MATERIAL CONSIDERATIONS

Members will already be familiar with the concept that a decision on a planning application must only be made on the basis of planning matters.

In this case, some of the issues in the application need careful and subtle distinction to meet this test. This is complicated because the Council is the applicant, market operator and regeneration agency, and it is also the Local Planning Authority.

For example, it is entirely appropriate for the applicant, as market operator, to seek to maximise the income of traders. It is also legitimate for the applicant, as a regeneration agency, to facilitate a wider development as an intended spin off from a particular proposal.

However, for the planning authority,

- the issue of the revenue of existing individual traders is not material, it is the viability of the market as an entity which is material , and indirectly the viability of its traders.
- it is legitimate to consider the value of the market to the town centre as a whole, and
- the significance of the proposed move for the attractiveness, organisation and function of the town centre as a whole (including impacts positive or negative on shop keepers, and the owners of shopping centres) is highly material.

Equally, it is not appropriate for the planning authority to support this proposal because it may facilitate a wider redevelopment scheme that has no current planning status. In particular, the planning authority should consider the merits of the market relocation without taking account of any possible connection with proposals for the St Matthews Quarter which presently have no certain timescale. This report seeks to maintain such distinctions between Council functions, and it is important for the debate and decision that the distinctions are maintained.

ACCESSIBILITY / FREE FLOW OF PEDESTRIANS / AMENITY / SAFETY

Consultation has been undertaken with West Midlands Fire and Police Services and appropriate Council officers to ensure the operation of the new market does not adversely affect access for emergency vehicles, servicing vehicles and pedestrians. Neither the Fire Service nor the Police Authority have objected to either of the planning applications before you.

The proposed site will maintain access for both vehicular and pedestrian access. The layout provides

- a 4 metre vehicle route through Park Street and Bradford Street, and across The Bridge particularly for emergency vehicles
- 3 metre gaps between stalls and shop fronts
- a minimum of 1.2 metre gaps between stalls for pedestrian circulation

The applicants have been working with the Market Traders Association to develop a series of operational guidelines to ensure vehicle and pedestrian access is maintained during operating hours. The enforcement of such guidelines will be undertaken by the Council's Markets Team mainly but it is also envisaged that the Council's Civil Enforcement Officers and the emergency services will have a role in helping to enforce the management of the proposed new market area.

There is an objection on health and safety issues. This argues that the proposed market potentially increases congestion around The Bridge, and if market traders were allowed vehicular access in a pedestrian-only area from 1700 hours onwards they would be likely to start dismantling their stalls at 1600 hours, when children are walking through the town centre after school. This, it is concluded will be dangerous.

This appears to be a misunderstanding of the situation. The stalls will not be removed at the end of a days trading. Only goods and operational items will be removed from stalls. Even under the amended TRO, vehicles would be excluded from these areas before 1700. The increased risk from market traffic will be marginal, and does not concern the Local Highway Authority, as set out in the comments from Transportation officers.

OTHER MECHANISMS TO SUPPORT SERVICING/ DELIVERY AND COLLECTION OF GOODS

Walsall Council Markets Team has worked with the Traders Association to agree that two members of staff will be present between 0700 and 0900 and 1700 and 1800 to oversee the servicing and setting up of the market. This will ensure that encroachment on all vehicle routes is not compromised. Walsall Council has also commenced a process to amend the Traffic Regulations Order (TRO) in the proposed location to enable market traders to pack down their stalls at 1700 - an hour earlier than the current TRO allows vehicles to access the area.

This will allow the traders to depart from the market during a period of trading time which is very quiet for them and also to allow street cleansing operations to commence. The current TRO allows service/ delivery vehicles to enter the proposed location between 1800 and 1000 (overnight) and this will be maintained (with the exception of the amended 1800 to 1700) by ensuring that all market traders will be expected to have set up their stalls by 0830 to allow unrestricted deliveries to other retailers/ businesses in the remaining time.

The process of amending the existing Traffic Regulation Order (TRO) to reflect these issues is at an early stage. However, the Council's constitution provides that if there are a significant number of objections to a TRO, the decision whether to proceed is delegated to this Committee. It is therefore important to discuss the planning implications of the access times, without prejudging your role in relation to the TRO, if that should come to a future meeting

Clearly there is a possibility that the change to the TRO will not proceed, and as a result, the decision on these planning applications must be made on the basis of the existing TRO, but also reflecting the desired amendments to the existing TRO (should that come to pass). If the amended TRO does not become effective, then traders would have to comply with the existing TRO. Should that happen, the applicant and traders would have to decide whether they could operate in that way. That is a choice that has no significant consequences for the applications before you.

This logic also defines that the suggested condition from Transportation (to require the TRO changes to be in place before the use commences) is not warranted, and does not appear in the recommendation.

MECHANISMS TO SUPPORT ACCESS FOR PEOPLE WITH DISABILITIES

The overall design considerations to maintain pedestrian and vehicle access as previously outlined have been designed to ensure pedestrians (whatever their disability) have opportunities to access the proposed market site, and move safely through it. The designs have been led by best practice design guidance for people with disabilities such as the Department for Transport's Inclusive Mobility Guide (2005) and have been informed through consultation with disability groups (Walsall Disability Forum).

The 3 metre distance between shop fronts, and stalls and the 4 metre access for vehicles, will enable mobility impaired and visually impaired pedestrians to circulate in the market area. These distances meet with minimum good practice guidelines (DfT 2005 pg 7). A distance of 2 metres is maintained between each market stall and the street furniture (e.g. benches and phone boxes) where possible. The exception is in Bradford Street where a pinch point is found due to the location of a bin serving a market stall, but alternative routes between stalls can be found and the distance over which the pinch point is created is less than 2 metres.

A series of benches will be relocated through the proposed market area. It is important to maintain seating for all users of the area, adding to the vitality of the town centre. Benches on Park Street and Bradford Street are located within 50 metres of each other; this provision will re-use the existing benches. Bollards will be installed to ensure pedestrian and vehicular areas are defined. The opportunity to re-use bollards that will be removed by the relocation proposals will be taken. Where new bollards are necessary they will have an improved design, with a 150mm reflective strip around the top of the bollard, to assist people with vision issues.

As outlined, measures have been taken to ensure this proposal meets with best practice guidance and it aims to comply with a legal framework relating to ensuring accessibility for all.

Concerns were expressed in previous applications about the congestion, increased traffic levels, and the safety of users of the street. Those issues remain relevant. However, the existing market is, at times, characterised by such issues. There is no record of injury or

significant safety problems in the market as it exists. Having looked at these issues in the light of the proposed stall locations and likely footfall, officers have concluded that there is no good reason to suppose the new location would give rise to any different or greater effects or be unacceptable.

Access for the disabled, as an issue of social exclusion, has been identified. The street surface will remain, effectively, unchanged. The stalls are being arranged to allow free passage for all users. The proposal is acceptable in these terms.

The market proposal has also been designed with the public realm in mind. The proposal, where possible, maintains existing street furniture. However it is necessary to remove some, and where this has been done, temporary replacements have been positioned elsewhere.

In addition the exhibition space will be maintained on The Bridge through the layout of stalls being positioned around it.

This is the most appropriate site in the town centre for the proposed relocation as these streets have limited traffic levels, have sufficient road widths and are in close proximity to the current market location and public transport hubs.

IMPACT ON BRADFORD PLACE BUS SERVICES

Centro support the application, but identify a range of issues of concern in particular the suggested need for a transport assessment / surveys to ensure bus services will not be unduly delayed by traders' vehicles, and how this will be controlled. They also support the idea of a temporary permission of one year to test the proposals.

In addition, the trading hours suggest there will be conflict with buses at a peak time, and the risk that there will also be a potential safety issue for stallholders and customers.

They also identify that Centro is working on a strategy for the bus terminal at Bradford Place as part of a Transport Action Plan to support the scale of redevelopment and regeneration in and around the Town Centre. While welcome and important for the continued regeneration of the town centre, this is not a material issue, as it has no planning status (it is in this sense comparable to the St. Matthews Quarter ideas).

The suggestion that a Transport Assessment is appropriate is not supported by officers. Transportation do not identify this as the necessary way forward. It is, however, accepted that it is important to assess the implications of market traders vehicles in Bradford Place. The starting point for this assessment is that Bradford Place is a public highway, and is already used by vehicles servicing Park Street and Bradford Street.

Some of the market traders will use Lower Hall Lane to leave the market. The applicants also advise that some traders occupy several stalls. Overall, the increase in traffic in Bradford Place is not judged to be a significant risk to the safety of this area.

Transportation officers agree with these conclusions.

IMPLICATIONS FOR THE CONSERVATION AREA/LISTED BUILDINGS

Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas when considering applications for development within them.

Section 66(1) of that Act also provides that in considering whether to grant planning permission which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building and its setting.

The main part of the site is on The Bridge, and the associated Conservation Area. In Digbeth, the changes are more modest, and in essence reduce the presence of the market, by restricting its extent in that area.

The proposal has no significant, permanent effects on the street scene. It has no physical effects on the nearby Listed Buildings (Lloyds Bank, and the Arcade) or the buildings in the Conservation Area (the remainder of the area round the application site).

There is an objection that the introduction of 80 stalls will only add to visual clutter within the Bridge Street Conservation Area, and that the CA Appraisal and Management Plan seeks to reduce clutter in this area. As a result it is argued that no consideration has been given to the impact on the Conservation Area.

The Appraisal and management Plan contains much information, and the relevant material is set out in the Policy section. Overall, it seeks improvements to buildings (not affected by this proposal) and improvements to paving / surfacing / tree planting. It does not envisage the relocation of the market. However, nothing in the document argues against the market. Indeed it can be argued that the idea that the public realm needs to be revamped is one which is addressed by the proposal. The benefits of better looking paving can be equated with the benefits of an active use, introducing the complexity and interest associated with a street market.

The presence of the street market in the area around The Bridge will without doubt change the character and appearance of the Conservation Areas, and the setting of the Listed Buildings. The judgement to be made is whether it will preserve or enhance the Conservation Areas, or harm the setting of the Listed Buildings. With a proposal such as this, the conclusion is very much a judgement. Officers conclude that the enhanced design and proposed materials to be used in the stalls together with other proposed changes will enhance the character of the CAs and be beneficial to the setting of the listed buildings by adding a new experience and activity in the street and locality. This is a town centre location where activity and vitality are an important part of the character and the market will sit comfortably in views within the CAs and of the Listed Buildings.

TOWN CENTRE SECURITY

There are no objections or concerns raised by the Police.

MARKET MANAGEMENT (REFUSE COLLECTION, RECYCLING AND DISPOSAL , STREET CLEANSING, STORAGE OF GOODS)

Refuse collection will introduce new arrangements for the separation, recycling and disposal of waste from the Market.

All bins and roll cages will be monitored by the market staff during trading hours and replaced if full.

On trading days the whole Market site will be cleansed, including

- sweeping by mechanical sweeper or by hand of all paved areas including those beneath and behind stalls and up to all shop frontages,
- power-washing to remove all liquid spills as necessary
- and at least once every two weeks all paved areas susceptible to heavy soiling will also be power washed.

The storage of goods within the existing Lower Hall Lane Market Stores will continue for the foreseeable future.-Access to the stores will be maintained through Lower Hall Lane and the lower Digbeth area.

The consultants see these steps as important in delivering a good market. Some can be addressed by the use of conditions, as recommended. However, even with such a condition, planning officers also conclude that a trial period is appropriate for the market (addressed in more detail, and on a wider basis, elsewhere in this report). With such a condition, the assessment of that trial period can consider these issues, and whether or not the desired outcomes are being met.

DAYS OF MARKET OPERATION

The market will continue to operate on Monday, Tuesday, Wednesday, Friday and Saturday, but with occasional markets on other days. The stalls will remain in position.

Viability / vitality of the market and its role in the town centre

There is a clear relationship between the market, the shops around it (wherever it may be) and the way pedestrians move through the town centre. The applicant's consultants identify that there was general support (from their contacts in preparing their report) for the proposition that the market is a positive component of the town centre. This is at a time when the town centre is declining, because of the recession (national and international), competition from other centres, the decline in the market (from lower footfall, poor management and competition from low-value-shop operators). They also point out the scope for increased rental yields in the prime areas of the town centre flowing from the benefits of the appropriate market scheme (the 8 stalls in Park Street version) though they also identify the consequences of moving the market out of Digbeth (falling rents etc. as a result of the relocation). The latter effect is explored further elsewhere in this report).

The consultant's analysis demonstrates that the market plays a small (2% of turnover) but significant role in the vitality and viability of the town centre.

The consultants were appointed to consider the economic impact of relocating Walsall market on the overall performance of Walsall town centre. Options were considered for the future of the market.

These have been tested against a number of evaluation criteria (as set out above) to assess their likely impact upon the town centre.

One of the objectors states that none of the alternatives considered by the Council involve the market remaining in its current location, and that this is the most obvious solution to the issues because increases in trading and occupancy levels could be achieved through improvements to the existing market. They conclude that the Council should give greater weight to improving the existing market.

Contrary to this comment, the applicant's consultants **have** commented on the idea of retaining the market in its present position, at length, in various places, as they assess the implications of the choices available. For example, they conclude this is likely to lead to an inevitable decline in the market with consequential adverse effects on the town centre (para 8.19), and that footfall would gradually decline over time (8.26).

The consultants also record that “... it is understood that improvements to the market management and investment in improvements will not take place in the context of a declining market without the opportunity to increase footfall and hence patronage.” (8.24, and similar comments in 8.27). This is a statement about the position of the Council as landowner / operator. The Council as Local Planning Authority has to weigh such statements, in the same way it would have regard to such comments from any other applicant.

The consultants conclude that if the market were to remain in situ and in its current state it would continue to decline in appearance and vitality and this, when combined with the deterioration in appearance of the shops and public realm would increasingly detract from the vitality and viability of the town centre as a whole.

The market if relocated as proposed will be surrounded by major retail units both on Park Street and Bradford Street. It will draw support from them, but in addition has the potential, over time, to act as a beneficial catalyst for shopping activity that will in turn generate an important footfall for town centre retailers and businesses.

As defined by Policy WA1 the primary shopping area includes Park Street, Digbeth / High Street and extends into Bradford Street, Bridge Street, Old Square and The Saddlers Centre.

The applicant is making an active response to both national and local planning guidance by taking steps to enhance this market to ensure its longer term sustainability and increase and ensure the viability and vitality of the role of the town centre as a whole is maintained.

One of the objectors refers to a report submitted with the application arguing that relocating could affect the viability of the area of the proposed market, essentially because stalls could obscure shops and make units more difficult to let. That is clearly an issue considered by the consultants (para 9.6). However, they go on to conclude that this is less significant in the option which only has 8 stalls in Park Street (9.7) as “... there is a better opportunity to re-let vacant units in the main (and most attractive part of the) shopping centre as a consequence of keeping most of Park Street clear of stalls.” (para 8.22).

The same objector also argues that the modest distance between the existing and proposed market sites will not impact on market revenue, as this is affected more by the general

economy. They also argue that the increase in stall occupancy in September 2009 is not, as the Traders Association believes, a result of the aspiration to move the market, concluding this is an unsubstantiated statement which could equally be attributable to trading levels recovering after the opening of Asda.

Clearly trading patterns are the result of complex, different influences and different views will be held by different people. The applicant's consultants advise that locating the market in an area of higher footfall will improve the potential for better trading conditions, and create the conditions for investment in the market and its viability (para 8.25).

It seems likely to your planning officers that increased footfall would have those effects. Conversely, as identified by those consultants, leaving the market where it is will lead to a continued decline in footfall, and an associated decline in the value of the market for Old Square. Moving the market carries with it the ability to increase the popularity of the market. Over time, that increased strength in the market also carries the potential to support the rest of the town centre, including Old Square, as that growing strength creates better trading conditions for the market and three town centre as a whole.

Equally, the reasons for the reported increase in stall take up are not known. However, explanations such as the attraction of Asda (while possible) may well be insignificant in the face of the extremely poor state of the economy recently. It is entirely possible that the take up has been influenced by the potential for a better market location.

Other locations for the temporary market have been explored by the applicants and their consultants. The conclusion has been reached by the applicants that there is no other viable alternative than the one proposed, and that the proposed location offers the best alternative to address issues of servicing, emergency vehicle access etc. This is on the basis of the currently available options – the search for a longer term permanent site will continue.

One of the objectors considers that the market in its current location makes a very significant contribution towards the vitality and footfall of Old Square and that the relocation of the market would lead to further shop closures and threatens the ability to retain the anchor tenant, Debenhams, in new developments around Old Square. They argue not enough analysis has been done of these effects, and the reasons for the design / location choices made are not adequately explained in the application. They conclude that the proposed relocation of the market will have a detrimental effect on Old Square because it relies so heavily on the market for footfall.

Of relevance to this position, it is also important to consider the reverse of the situation being examined. i.e. If the market does not change as proposed. The applicant's consultants conclude " it would continue to decline in appearance and viability. This, when combined with the deterioration in appearance of the shops and public realm in the Old Market Square, would increasingly detract from the vitality and viability of the town centre as a whole, .. " They add " ... In order to ensure the survival of the market, it is critical that its viability is enhanced. This rationale underpins the relocation to busier parts of the town centre where passing trade will be higher than in Old Market Square. ... ". They judge that simply improving appearance, in the current location, is not adequate.

Your officers have considered the consultant's advice and the applicant's position and whether there are any realistic alternatives to achieving the objective of giving the market's viability an essential boost other than by re-locating. They are satisfied that in the absence of relocation there is no realistic prospect of any material investment in its enhancement given the likely spiral of decline. The conclusions of the consultants are accepted by officers, and underpin the recommendations in this report.

The number of stalls in Park Street

The Walsall Market Traders Association are objecting to application 09/1277/FL (the scheme with only 8 stalls in Park Street) on the grounds that it gives the overall impression of a stunted market layout which will have a hugely negative effect on the viability of both the market and the town centre whilst also discouraging wider footfall to all areas of the town. The association do however fully support the other application (16 stalls in Park Street).

However, the result of the consultants assessment is that the 16 stall scheme would have a greater, and an unacceptable, impact on the primary retail frontage of Park Street by virtue of the stalls obscuring unit frontages and hamper free flow of pedestrian.

The assessment concluded that the proposed larger number of stalls in Park Street could adversely affect the viability of these shops, which are the most attractive part of the town centre retail area for shops and shoppers. They conclude that the 8 stalls along Park Street are less strung out and are strategically placed in front of the blank elevation of the bank and currently vacant premises thereby minimising the adverse impact upon the retail frontages. Whilst ideally they would advise that there be no stalls in Park Street. they support the option with the smaller number of stalls in Park Street and oppose the scheme for the larger number. Whilst the market traders argue that this option would result in a stunted market, that is not a view shared by the consultants, nor by your planning officers.

In relation to the 16 stall scheme, the consultants also judged that the relocation of the market in respect of the Saddlers Centre would have mixed impacts. On one hand there would be increased footfall to the benefit of some traders but on the other hand some businesses would have their frontages obscured by the siting of the stalls, increase congestion and affect the attractiveness of some units. However the proposed improvements made to the appearance of the stalls are specifically designed not to blight the appearance of the existing shops. Furthermore, the consultants conclude, the presence of the stalls along this primary shopping frontage would make vacant units more difficult to let to high quality businesses, which would reduce the existing shopping experience along the main town centre shopping street.

The consultants conclusions on these issues are supported by officers, and are embodied in the recommendations. Whilst ideally officers agree with the consultants that no stalls should be sited in Park Street, they are satisfied that

- the need to rejuvenate the market by providing a critical mass of the number of stalls proposed
- coupled with the need to provide at least some stalls in **prime** locations to boost its vitality and viability and to provide a good trading link between Park Street and all parts of the market

requires there to be some presence in Park Street. Whilst Option 3 amounts to a compromise, it is on balance an acceptable one provided that the length of the permission

allows for a process of review so that, should there be any adverse effects, changes in the market can be secured in a sensibly short time.

The future

One of the objectors refers to prematurity, in relation to the uncertainties of the redevelopment of the St Matthew's Quarter. Temporary permissions are defined by a period or timescale and the Council cannot know the timescale. The temporary relocation is premature, speculative and unnecessary.

The current applications are for a temporary facility, and there is clearly an associated question – what happens then? The applicants have a view, and an intention. As has been set out elsewhere in this report, that can not be a factor for the Council as planning authority (other than legitimate planning issues from such considerations).

In planning terms there is no reason (subject to the conclusions on policy WA2 addressed elsewhere and assuming the issues of detail are acceptable) why a street market should not be located where it is now proposed, provided it does not adversely impact on the vitality and viability of existing town centre occupiers. That conclusion holds good whether the proposal is temporary or permanent.

At the expiry of a temporary permission, the use must cease, unless the permission is extended by a further application. In the prevailing circumstances, the market would have to revert to its present location. That is a legitimate outcome, in planning terms. It would also be possible to create a new home for the market, subject to getting planning permission. That could be a legitimate outcome, but it depends on further action by the market operators, or other parties, and it is uncertain of outcome. However, one or more of these outcomes answer the “what next” question, and it is not therefore an impediment to approving this application.

Temporary period and review processes

The applicants seek (on both applications) a three year period for the permission. Their position is that this preserves the functioning of the market (in the prevailing financial situation) and allows scope for a more fundamental review of the market.

As already set out, during this period, further moves to regenerate the town centre may come forward, in the Digbeth area. As a major regeneration agency and market operator, the Council is continuing to explore these issues. All parties recognise that there is no planning status attached to such ideas, and that accordingly they can have no weight in the determination of this application.

As Local Planning Authority, it is necessary to answer the question, how long a permission should be given. The applicant's consultants indicate that the Local Planning Authority should be considering granting only a one year temporary planning permission to allow for review of the relocated market's impact on the rest of the town centre and particularly Park Street and whether it has become strong enough to warrant further relocation, e.g. when / where it can bring more trade / footfall to less effective parts of the town centre, as a result of its own improved / stronger trading qualities. The applicants have chosen not to follow this advice, and have specifically applied for a three year permission.

Planning officers consider that it is appropriate in this instance to limit the duration of the planning permission to allow for a trial run. As already set out, officers support Option 3, but not Option 2 (because of its greater effects). The trial run will allow for monitoring of the effect of the market relocation on the town centre as a whole. On this basis, your officers conclude that the risk of potential harm arising from Option 3 is outweighed by the benefits of the relocation. However, three years is seen as too long a trial period given the fragility of the town centre identified by the consultants. Planning officers agree with the consultants on this aspect of the proposal and a one year permission is recommended for Option 3.

In your officers' view, on balance, the risk of potentially significant harm from the more extensive Option 2 is not outweighed by the benefits of relocation, even if such a planning permission were limited to one years duration.

If either of the the schemes is to be supported, there is a role for a Market Management Strategy to be required by condition, to be submitted and approved by the LPA. The applicant's consultants advise this should cover:-

Market offer - The introduction of a wider range of goods and traders to improve the offer and attractiveness of the market;

Town centre security – addressing Police concerns over CCTV coverage and crime;

Refuse collection, recycling and disposal - New, more effective arrangements are needed to separate and recycle waste from the market. Better monitoring is required by market staff during trading hours to remove rubbish if necessary;

Street cleansing – the current market area is heavily soiled and very untidy at the end of each trading day. Substantial effort (and a change in behaviour of market traders) will be required to resolve this key issue. Stringent monitoring and enforcement will be an essential element of this;

Storage of goods – the efficiency of the use of the Lower Hall Lane Market Stores will need to be reviewed in relation the new market location;

Market upkeep and repair – we note that the stalls will be repaired and refurbished when moved. However, these works will need to be checked and the appearance of the stalls kept in first class condition if the environmental quality of the centre is to be enhanced; and

Vehicle access – the routes and requirements for delivery vehicles servicing the market will have to be strictly controlled and enforced by Traffic Regulation Order as there will be greater potential for pedestrian/vehicular conflict than with the present market. Pedestrian routes should remain free of obstruction at all times.

Not all of these are properly planning matters (e.g. control over the types of traders to occupy stalls). The Market Management Strategy should address a more limited selection from this list. Such a condition is recommended.

The one year period, suggested for option 3, is also well suited to testing the effectiveness of the management measures such as refuse collection. A longer period runs the risk that poor management (should that happen) could have very damaging effects, before a three year permission could deliver a review.

Conclusions

The decision facing the Local Planning Authority must focus on the effects of the proposal. However, this must include short terms effects (such as traffic safety) and longer term effects such as the growth and decline of parts of the town centre, but a major issue is the future of the town centre **as a whole**. As part of this it will be evident that the loss of the market (should that result from such decision making) will not benefit the town or any part of it.

It has been concluded by the consultants that Option 3 with 8 stalls in Park Street (application 09/1277/FL) would have less overall impact on the town centre as a whole whilst benefiting the economy of the market in the required way than the scheme for 16 stalls in Park Street.

It has been argued that the continued existence of the market is at risk if it remains in Digbeth, mainly due to costs rising slowly, revenue from stalls falling rapidly as a result of fewer traders attending the market, and that a break even position now exists. Some of this is attributable to changing shopping patterns (e.g. increased power for the major supermarkets and the growth of competition from retailers like Primark in low priced fashion goods). It is seen as important that the new location be trading in advance of Christmas, to maximise the gains.

The degree to which the relocation could damage Old Square must be carefully weighed. A number of issues are identified, but a key issue is that a failed market will be of no benefit to the Old Square, or any other part of the town centre.

The consultants have argued that market traders are better support for regeneration initiatives than the major shop chains as they generate a higher density of employment, and recycle money more quickly and more directly into the local economy. Consequently there is a need for continuity of trading if traders are to be retained. Leaving the market in Digbeth will not achieve that continuity because of the effects of the proposed redevelopment and associated building works.

It will also be apparent that the effects of the relocation are not the same in all parts of the town centre. However, the issue for the Local Planning Authority is whether the health of the town centre overall is improved.

Additionally, improvements and enhancements to the appearance and management of the market are vital to its success as well as to protecting the existing businesses around The Bridge.

The clear conclusion of the operators is that unless the market moves urgently to this new site, it will cease to operate. If the move takes place, the applicants are advised to review the trading implications of the new location in about 1 year. Changes may flow from that review, potentially including planning applications for further moves, or a reversion to the present position.

The recommendations reflect these conclusions, but draw a distinction between the effects of the two schemes, where they differ in Park Street.

Item 1 Recommendation: Refuse

The development would be likely to have an unacceptable detrimental impact on the viability and vitality of a primary shopping area namely Park Street on the grounds of the number of

stalls being sited in Park Street which would obscure the primary shop frontages and hamper the free flow of shoppers along that street, contrary to policies 2.1, 2.2, GP1, GP2, GP4, 3.6, 3.7, 3.15, 5.1, 5.2, S2, S3, and S4 of the Walsall Unitary Development Plan and national policy as set out in PPS1 and PPS6.

Item 2 Recommendation Grant Planning Permission Subject to Conditions

Summary of Reasons for Granting Planning Permission

Local and National planning policy states that maintaining the viability and vitality of a town centre is essential. The relocation of the town's market on an important crossroads, surrounded by major retail units will act as a catalyst for intense shopping activity, generate important footfall for town centre retailers and businesses, and secure the long term future of the market (as a trading entity). That trading status creates opportunities for further relocation, reflecting the temporary nature of the permission. Without the proposed relocation the market is unlikely to continue to operate which in turn will have a negative impact on the operation of surrounding businesses therefore reducing the viability and vitality of the town centre as a whole.

Policy WA2 of the Unitary Development Plan seeks the improvement of the market. While it is clear from the wording that this was envisaged, when the policy was originally drafted, as being in Digbeth / High Street, the objective of the policy is to ensure that a vital and viable market is retained in the town centre. It is concluded that the relocation would materially improve the vitality and viability of the market to the benefit of its long term retention whilst not materially reducing the footfall in Digbeth and elsewhere, such that relocation is not inconsistent with the objectives of the policy.

The issues raised by the objectors about the impacts of the new market location are recognised but not accepted. Whilst the stalls will have an effect on existing traders in Park Street, the number and siting of stalls coupled with the proposed design and management measures are such that there should be no unacceptable effect on any existing individual unit or group of units or the town centre as a whole. The consequences of relocating from Digbeth, on traders and owners in that area, are comparable with those which would result from the continued decline of the market if it remains in that location, such that this is a neutral factor in the decision to approve the relocation. The anticipated growth in the strength of the market, drawing from this permission, will offer potential gains for traders such as those in Digbeth from the stronger and more attractive market close to their shops.

Limiting the duration of the planning permission to one year will enable the effects of the relocation to be monitored and reassessed at the end of the temporary period. The positive benefits of the markets presence support this proposed location as opposed to other options which would have a detrimental impact on the vitality and viability of the town centre, in particular the primary frontages of Park Street, the proposed layout will allow and maintain good accessibility and free flow of pedestrians, protect the amenity, security and safety of users and occupiers of the town centre and conserve and enhance the appearance of the conservation area and Listed Buildings.

Consequently, subject to the improvement of a town centre management plan and vigorous control through the use of planning conditions and other regulations, the resiting of the market is considered to be in accordance with the Unitary Development Plan in particular policies 2.1, 2.2, GP1, GP2, GP 4, GP5, GP6, GP7, 3.6, 3.14, 3.15, 3.16, ENV29, ENV32, 4.6, 5.1, 5.2, S2, S3, S4, T1, WA1, WA2, WA5, and WA19 and national policy as set out in PPS1, PPS6, and PPG15.

Conditions and Reasons

1. The relocation of the Walsall market to the approved site shall cease no later than 1 year from the date of this decision. Within two months of the market vacating the temporary site approved by this permission, that site shall have been made good and returned to its original condition prior to the market's temporary siting (with the exception of any below ground works), unless otherwise agreed in writing by the Local Planning Authority. The works shall include reinstatement of bins, benches, planting areas and advert hoardings and making good any surfaces which may have been damaged resulting from the siting of the stalls and power supply pods, or other works/activity.

Reason: To enable the Local Planning Authority to retain effective control over the site and to protect the amenities of the area.

2. Within 2 months of the proposed market relocation, all power supply pods from the existing vacated site shall be removed and the street surface layer reinstated to match the existing finishes. Any new power supply points shall only be installed within the areas shaded indicating the stalls on the plan. No supply pods shall obstruct the pedestrian or vehicular corridors

Reason : In the interest of highway safety.

3. The shaded footprint area of the individual stalls shall dictate the limit of the stall sales area and no stall shall extend the display sales table surface area beyond the limits of the stall.

Reason : To ensure free movement is maintained around the stalls at all times in the interest of highway safety.

4. No stall retractable canopy extensions shall encroach onto the vehicular corridors at any time and any stall retractable canopy extensions which may be required to overhang over the pedestrian corridors shall not be below a height of 2.1m, at any point.

Reason : To prevent accidental vehicle and pedestrian contact and in the interest of highway safety.

5. Those areas designated for pedestrian movement shall be retained for that purpose only and shall be kept clear of obstructions at all times.

Reason : To allow for the free flow of pedestrian movement

6. The areas designated for vehicular and emergency access shall be kept clear of obstructions at all times and retained for those purposes only.

Reason : In the interests of highway safety and to ensure access for emergency vehicles is maintained at all times.

7. All waste generated by the market during trading hours and temporary or removable bin storage shall at the end of trading be removed from the site fully. Only public waste bins which have been re-sited as a result of the market relocation will be allowed to remain in situ.

Reason : To ensure the satisfactory appearance of the development and to ensure the visual amenity of the area.

8. The materials used shall be those indicated on the approved plans.

Reason: To ensure the satisfactory appearance of the development.

9. The use shall not be commenced until details of a management strategy for the following issues have been submitted to and approved in writing by the Local Planning Authority:-

Refuse collection, recycling and disposal to separate and recycle waste, and monitor the removal of rubbish from the market area.

Street cleansing to ensure the market area is clean and tidy at the end of each trading day.

Market upkeep and repair – to ensure that the stalls will be repaired and refurbished as necessary, to keep the stalls in first class condition

Reason: To ensure the environmental quality of the town centre is enhanced.

10. All arboricultural work to the existing trees envisaged in the application must be undertaken by a suitably qualified and experienced tree contractor. All tree surgery work shall be undertaken in accordance with British Standard 3998: 1989 "Recommendations for Tree Work".

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policies ENV 16 and ENV17 of Walsall UDP 2005.

Note For Applicant

Pest & diseases: The existing trees are showing signs of scale aphid infestation and may require regular spraying with an insecticide to control the spread of the problem. The uncontrolled infestation may cause harm to public health or nuisance if there are food trader stalls & food concession vans located directly beneath the crown of the trees.

Roosting & nesting birds: Inevitably the trees are likely to attract roosting and possibly nesting birds, particularly pigeons. Again this may cause a problem to public health from bird droppings, feathers and other related debris dropping onto food trader stalls & food concession vans located directly beneath the crown of the trees.

WALSALL MARKET RELOCATION PLAN



- key:**
- Emergency access only
 - Access for traders & deliveries
 - Proposed food traders
 - Food concession vans
 - Other market trader stalls
 - Proposed 1100 litre bins
 - Proposed 360 litre bins
 - Existing bins & benches to be removed
 - Re-located bins & benches

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REGENERATION - DEVELOPMENT & DELIVERY

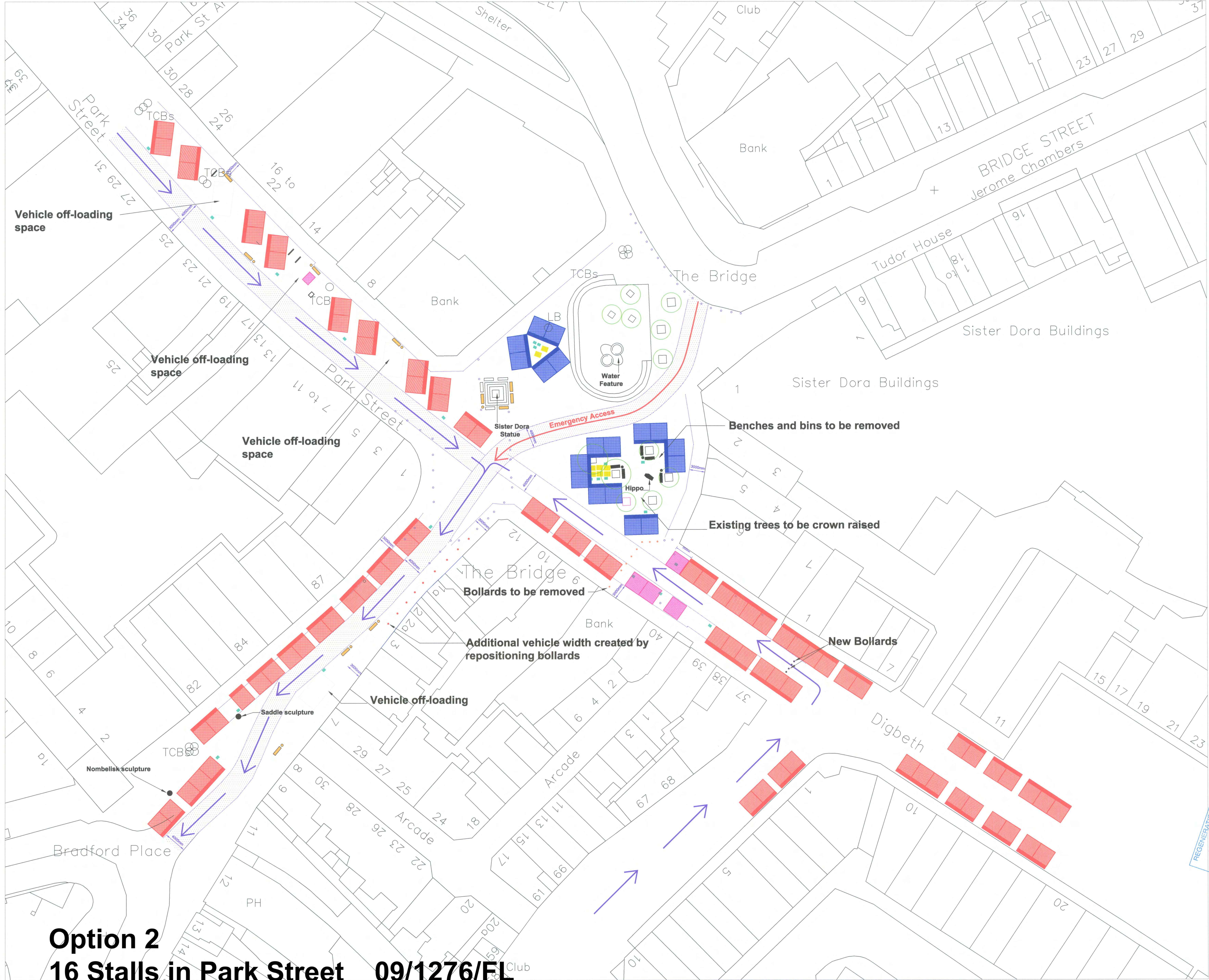
PROJECT: **Walsall Market Relocation**

LOCATION: **Walsall Town Centre**

DRAWING TITLE: **Proposals Plan**

SCALE: **1:250 @ A0 size** DATE: **22nd September 2009**

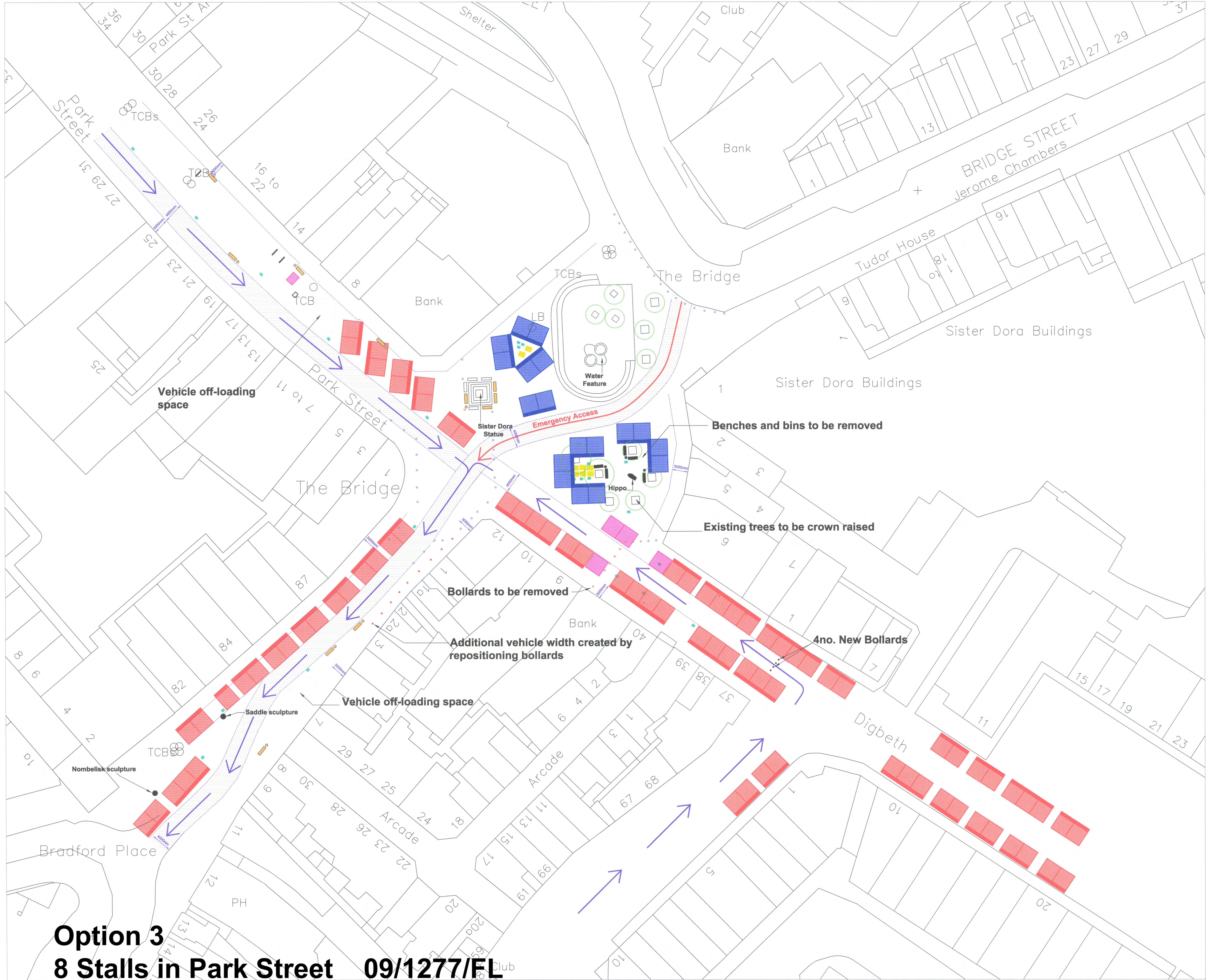
DRAWN BY: **JAW/RO** Dwg No.: **V18**



WALSALL MARKET RELOCATION PLAN



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REGENERATION - DEVELOPMENT & DELIVERY

PROJECT: **Walsall Market Relocation**

LOCATION: **Walsall Town Centre**

DRAWING TITLE: **Proposals Plan**

SCALE: **1:250 @ A0 size** DATE: **25th September 2009**

DRAWN BY: **JAW/RO** Dwg No.: **V20**