

Cabinet – 18 March 2009**St Matthew's Quarter Redevelopment: Market Management**

Portfolio:	Cllr Adrian Andrew Deputy Leader Regeneration
Service:	Development and Delivery
Wards:	St Matthew's
Key decisions:	Yes
Forward plan:	Yes

1. Summary of report

- 1.1 Cabinet will be aware that developers Norton & Proffitt/St Modwen are preparing proposals for the retail and leisure led redevelopment of the St Matthew's Quarter. The area of the project is broadly shown on the attached plan. As part of these proposals, the market will be required to move from its existing location to a permanent new facility in Lower Hall Lane, broadly shown on the attached plan in the shaded area. A new high quality market is a key element of the St Matthew's Quarter project, both in terms of creating an anchor attraction to help support the scheme itself, and to ensure the long term sustainability of the street market in Walsall to assist the viability of the centre as a whole. Essential to the operation of the new market is to consider and review how it might be managed.
- 1.2 Cabinet is asked to consider the options for the future management of the new permanent Walsall market, and to agree a preferred approach to this management, as an integral element of the St Matthews Quarter redevelopment. In considering the preferred approach, Cabinet is asked to note the views of Regeneration Scrutiny and Performance Panel from its meeting on the 12th March, which has previously received advice from the St Matthew's Quarter Working Group. The detailed options analysis is considered below in section 3, but the preferred approach is that a joint venture is established with a partner to operate the market in the long term, and that this partner would be procured through the OJEU process in the coming months.
- 1.3 The redevelopment will continue to be driven by a development agreement which, as well as considering the long term management of the market informed by a more detailed financial appraisal, will relate to the disposal of the Council's land within the St Mathew's Quarter within an agreed development programme. The details of the heads of terms for both the development agreement for the wider St Matthew's Quarter redevelopment and the joint venture approach to managing the market are attached at appendices 1 and 2 respectively, and are

considered in more detail in section 3. The preparation of the development agreement is well advanced and approval is sought for authority to be delegated to the Portfolio Holder for Regeneration and the Executive Director for Regeneration and Performance to agree the details of the development agreement.

- 1.4 Cabinet was made aware last year of the proposal for the temporary relocation of the market from its existing site to the area around The Bridge and Park Street. However, given the threat of an application for judicial review of the planning permission for the temporary relocation in August 2008, by Threadneedle Properties, owners of the Old Square Shopping Centre, Development Control Committee authorised the revocation of that permission, which has now been implemented. A further planning application was submitted in October 2008 for the temporary relocation of the market, but the Local Planning Authority, acting on Counsel's guidance, advised that a further legal challenge was likely, and could be successful, because there was a lack of robust evidence to justify the relocation at that time. That application was subsequently withdrawn. All parties acknowledge that the market will need to move to allow the redevelopment of the St Matthew's Quarter to proceed. Recent discussions with Threadneedle Properties suggest that the company will only support a temporary move of the market upon the achievement of certain milestones linked to the wider regeneration of the St Matthews Quarter.
- 1.5 Discussions with Threadneedle Properties have also considered the future of the Overstrand Restaurant in Digbeth, the demolition of which is necessary for the St Matthew's Quarter redevelopment to be completed. It is assumed that Threadneedle Properties, which owns the Overstrand, and Norton & Proffitt/St Modwen will be able to reach an agreement on the disposal of the Overstrand. However, in the interest of assisting in the regeneration of the St Matthew's Quarter, in principle support for the making of a compulsory purchase order (CPO) for the Council to acquire the Overstrand, should negotiations fail to reach a satisfactory conclusion, is now sought. All costs associated with the CPO process will be met through the development.

2. Recommendations

That Cabinet:-

- 2.1 endorses, in principle, the preferred approach to the long term management of the market, in its new permanent location in Lower Hall Lane, of a joint venture arrangement with a private sector partner, subject to a full financial appraisal to be assessed in the Development Agreement of the viability of this option, whereby the Council and the partner each control 50% of the interests in the new company;
- 2.2 notes the recommendations made by the Regeneration Scrutiny and Performance Panel on the 12th March 2009, which will be explained by the Regeneration Portfolio Holder at the meeting;
- 2.3 delegates authority to the Portfolio Holder for Regeneration and the Executive Director for Regeneration and Performance to agree the details of the development agreement with Norton & Proffitt/St Modwen for the St Matthew's

Quarter redevelopment, which will include the details of the disposal of the Council's interest in that area and be informed by the financial appraisal of the joint venture approach.

- 2.4 agrees, in the event that it is not possible for the Overstrand Restaurant to be acquired by negotiation, to approve, in principle, the making of a CPO subject to the Council's costs being met by the developer.

3. Background information

- 3.1 The St Matthew's Quarter redevelopment project has been the subject of previous reports to Cabinet. At its meeting on the 16th April 2008, Cabinet endorsed the recommendations of Regeneration Scrutiny and Performance Panel concerning the temporary relocation of the market to The Bridge, as well as supporting an urban design brief for the St Matthew's Quarter and authorising a new market rents framework. It also agreed that further reports would be presented to Cabinet concerning the details of a development agreement with the developer, the terms of disposal of Council owned land, and arrangements for the permanent relocation of the market, including its long-term management.
- 3.2 At its meeting on the 16th July 2008, Cabinet endorsed a report from the Regeneration Scrutiny and Performance Panel concerning the principles of the temporary relocation plan for the market and proposals for a new charging policy for all market stalls. That report also recommended that the future management options for the market be considered initially at the Markets Working Group. However, as noted above, the threat of an application for judicial review of the planning consent, and Counsel advice that a further planning application could have been the subject of a similar legal challenge, means that the temporary relocation of the market cannot proceed until the St Matthew's Quarter project can achieve a level of commitment as noted above in paragraph 1.4. In the meantime, it has been necessary to deliver a programme of improvements, events and activities to enhance the attractiveness of the market, which have been agreed with the Walsall Market Traders' Association (MTA). This has included the introduction of reduced rents for traders, and supporting the "Walking the Fair" event on the 24th April and St George's day events on the 25th April. Threadneedle Properties has also indicated a desire to work with the Council to explore ways in which it can contribute to further market improvements.
- 3.3 Walsall market's profit has declined between 2005/6 and 2007/8, and average stall numbers have declined by 26.5 stalls per week, or over 9% per week, between 2006/7 and 2007/8 alone. In order to address concerns around the long-term viability and decline of the market, it had been proposed that in the short term, the market would move temporarily to the Bridge to maximise visibility and accessibility within the town centre until the wider St Matthew's scheme can accommodate new high quality purpose built market facilities. For the reasons outlined above, that will no longer be the case. A recent report by market specialist Quarterbridge noted that the income from Walsall market supports the district markets, and as its income continues to fall the overall financial stability of the market service is under threat, and is currently predicted to under achieve budgeted income targets in 2008/9. Quarterbridge concluded that without the temporary relocation of the market, trader numbers and therefore revenue would

continue to decline, a view which is supported by the MTA. The MTA considers that the decline of the market has accelerated in recent years, especially in the wake of the Shannon's Mill fire, but that numbers had started to recover in anticipation of the market temporarily relocating to the Bridge. In this respect, steps must now be taken through this programme of events to support the market in the short term, so that its long term viability as an essential part of Walsall's retail offer is secured and so that it can ultimately continue to play a role in the attractiveness of the St Matthew's Quarter.

3.4 The redevelopment of the Digbeth/Lower Hall Lane area is being led by Norton & Proffitt/St Modwen through the preparation of a masterplan. The selection of the masterplanning team, architects Leslie Jones, was made during March 2008. To assist this process, an urban design brief has been prepared in consultation with the developers and Walsall Regeneration Company to inform the masterplan. This design brief was endorsed by Cabinet at its meeting on the 16th April 2008. It is envisaged, subject absolutely to the developer being able to secure the commitment of a key retail anchor tenant and completing the Development Agreement, that the masterplan will support the submission of a planning application by mid-2009, and commencement of the first phase of the St Matthews' Quarter development would need to commence by the end of the current calendar year to comply with the anticipated timetable of that retail tenant. Such progress will help to fulfil the requirements of Threadneedle Properties, as noted in paragraph 1.4 above, and enable the temporary relocation of the market to the area around The Bridge to be delivered to a similar timescale. If this development timetable changes then inevitably it would be necessary to review the timing of the temporary relocation of the market. It is significant that, in this period of unprecedented market conditions, Norton & Proffitt/St Modwen remain committed to the delivery of the project, and within this timescale, which reflects continuing confidence in the regeneration of Walsall town centre.

3.5 The delivery of the wider St Matthew's Quarter project will require the acquisition by the developer of Council-owned land in Digbeth and Lower Hall Lane. The project will also facilitate the permanent relocation of the market into the Lower Hall Lane area, which provides the opportunity to review options for its future management. These matters will be addressed in the formal development agreement between the Council and Norton & Proffitt/St Modwen, dependent upon Cabinet's willingness to support the preferred option for the management of the market and informed by a detailed financial appraisal, and will include the basis for the disposal of Council-owned land, the arrangements for the delivery of the permanent market and the development timetable. The details of the development agreement will be largely similar to that agreed in 2005, and the draft heads of terms are attached at appendix 1. The key elements of the development agreement are as follows:

- The scheme will be a high quality mixed use development, of predominantly retail and leisure uses.
- The scheme is conditional upon moving the market into a new location within the development and the temporary relocation of the market.
- Once all conditions are met, the Council will transfer its land to enable the scheme to proceed.
- The heads of terms make reference to timescales for the commencement and completion of the development.

- The developer will meet the costs of the temporary market move.
 - A mechanism will be introduced to share profit over an agreed developer's profit level.
- 3.6 This process has been the subject of ongoing discussions with the developer, but more recently, in terms of the Council's financial context and the wider economic conditions, a review of delivery options for the market has been undertaken. A key driver in this review has been a recognition that the project should bring about a step-change in the offer that the market provides in enhancing both the St Matthews Quarter and the wider town centre. The involvement of the MTA, Scrutiny Panel and its working groups has been central to this process. Discussions with the MTA have been held on a number of occasions, and will continue, to ensure that they play a key role in the establishment and operation of the highest quality market offer. The MTA, however, retain concerns about ensuring that the location of the new market has sufficient visibility to attract footfall from Digbeth, and also about ensuring a continuing role in a number of operational matters.
- 3.7 All partners agree that the new market is an integral part of the St Matthew's Quarter development and forms one of the key elements of the scheme, and as such it needs to be delivered and managed in the most effective way to continue to add value to the overall project. In broad terms, the options of either the Council or a developer owning and managing the market in its entirety in isolation are likely to be less attractive, for financial and management reasons, than the creation of a formal joint venture arrangement. It is essential for the long term management of the market that financial parity is achieved at the outset of the process.
- 3.8 The arguments for and against the different ways of managing the market in the longer term have been considered below. The stance taken throughout the options appraisal has been set against a willingness to grasp the opportunity to introduce a new permanent, well run and high quality market situated in Lower Hall Lane. For the purposes of this process, it has been assumed that the same estimated costs and initial design and layout of the market is applicable to all potential management options. In respect of this analysis, it should be noted that the market's profit has declined since 2005/6, and this decline must be addressed for the market to continue to contribute to the future vitality of the town centre.
- 3.9 Four long-term management options were presented to the St Matthew's Working Group at its meeting on the 28th October, and the Group recommended that two of these options were then considered further by the Regeneration Scrutiny and Performance Panel at its meeting on the 2nd December 2008. The Panel recommended that option 1, as set out below, should be the preferred option for the long-term management of the market. Following further consultation with the MTA and the availability of further information on the proposed joint venture agreement, Scrutiny Panel were asked to reconsider the three options outlined below at its meeting on the 12th March 2009, at which it was recommended to cabinet that the Walsall Market be relocated on a temporary basis by 1st June 2009 and that the market remains under the total managerial control of Walsall Council.

3.10 Option 1: Council continues to manage market

The Council could continue to manage and operate the market in the long-term as a part of the redevelopment scheme. The Council will provide the land for the new market and a developer would build the new market facilities. It may be that the developer would need to contribute some additional land when the exact position and layout requirements of the market are confirmed. Either way, given the currently proposed scheme, the Council would need to acquire a lease of the land owned by Goold Estates Ltd in Lower Hall Lane.

3.11 Costs and values would also need to be reviewed, particularly in the light of the currently difficult economic climate, but it is currently estimated that the cost to the Council of building a new market, and subject to specification, would be in excess of £1m. This would be the cost to the Council if any developer were to build the new market. If it were to be built by Norton & Proffitt/St Modwen, the net cost would be lower because the developer requires other land in the ownership of the Council in the vicinity to fulfil the delivery of the wider St Matthew's Quarter project.

3.12 If the Council were to continue to manage the market facility, there is no guarantee that the required improvement in facilities and longer term operation and maintenance could be achieved within the Council's current financial constraints, and any good practice/operating procedures and entrepreneurial acumen introduced by the private sector would be lost. The developer of the wider scheme would not be supportive of this option because it would deny them an input into the management of the market, and this approach could jeopardise having a co-ordinated approach to the overall management and maintenance of the wider St Matthew's Quarter scheme.

3.13 In this scenario, the long term success of the St Matthews Quarter project in transforming the viability of this part of the town centre could be compromised by the Council's possible financial inability to support the initial development of the market, and in the longer term, to keep pace with good practice and the wider management regimes adopted throughout the new development. Any failure to instil confidence and certainty that the Council can deliver a high-quality management regime in the long term could impact on the investment decisions needed to succeed in delivering this project through the current difficult economic conditions.

3.14 Option 2: Council out-sources the management of the market

The Council could consider outsourcing the long-term management and operation of the market to the private sector. An arrangement could be reached with a potential partner paying an up front premium to the Council for the operation of the market, or an annual dividend or share of the operational profits, whilst consideration would also need to be given to which party meets the infrastructure and any additional land costs noted above. The conclusion of this latter element would greatly affect the value of any premium and annual rent. As this option has not been market tested, it is impossible to assess how much an operator may be willing to pay the Council.

3.15 The critical issue with this option is that the Council would lose control of the market, including rental levels and the range and quality of market stall-holders, and it would have to consider staffing issues in respect of the existing markets

team. This option could be regarded as an abandonment of one of Walsall's most important historic and culturally attractive facilities. Most importantly, and as also referred to in the option of the Council continuing to manage the market, there would potentially be even less long term certainty that the market could maintain that step-change in management quality with the resultant impact on the integrity of the wider project. If the responsibility for the market lay entirely with a third party the control of the essential linkages with the overall St Matthews Quarter development would be permanently lost, which could prejudice its delivery.

3.16 Option 3: Joint venture approach with a partner

The third option for the long-term operation and management of Walsall market is the creation of a joint venture. In effect, the Council would contribute its land assets towards the joint venture, and a partner would build the new facility as its contribution, or the Council and its partner could provide the capital for Norton & Proffitt/St Modwen to be contracted to build the market as a part of the wider scheme. Based on the current design of the market, either the Council or the developer would be required to acquire land from Goold Estates Ltd in Lower Hall Lane, whilst further land may be required from Norton & Proffitt/St Modwen, or the joint venture partnership would have to fund the entire market development costs directly. In the resulting costs and values analysis, there could be a shortfall, which could be met through either party committing a capital sum, an agreement reached on the share of future income until the shortfall is met, or a market built to a specification/cost which ensures that financial parity is achieved at the outset. The meeting of any shortfall would ensure that the joint venture was an equal 50-50 partnership from the opening of the new market. Clearly, this point may be more than two years away, dependant upon the programme for the St Matthew's Quarter development, but it would be essential that the MTA were fully engaged in finalising the specification for the new market.

3.17 The management of the market would be undertaken by a joint management Board, and an agreement would be reached on an appropriate management policy with the partner which would reflect a quality of management to be embodied in the wider scheme. Critically, the Council will share equal risk with the partner, maintain equal ownership and control through an equal number of Board members, control of rental levels and the quality/range of stall-holders, and bring in much needed external business acumen. Any joint venture approach could also bring on board specialist market management knowledge if considered relevant. However, this option would create greater complexity in the management of the overall scheme if the same developer was not involved in both the market and wider scheme.

3.18 Potentially, there may be a number of parties willing to enter into a joint venture with the Council, though this partner will have to be procured through the OJEU process. Critical to the long-term success of the St Matthew's Quarter will be synergies between the various elements of the scheme, both in terms of operation, design, management and maintenance, and such issues will have to be given a great deal of consideration in the appointment of a joint venture partner.

3.19 Should Cabinet endorse the proposed management option, the draft heads of terms for a new market company are attached at appendix 2, the key elements of which can be summarised as follows:

- The new market company will be a 50-50 joint venture between the Council and a private sector partner, procured through the OJEU process.
- The Council will put in land and existing market income into the company.
- The new market will consist of approximately 90 stalls, with a mix of permanent and demountable stalls, in the Lower Hall Lane area, and will commence trading when the St Matthew's Quarter development opens.
- The new market company will have a Management Board to agree a strategy for the new market, and an operations team to deliver it. The Board will comprise 3 representatives of each party, and the company staff will be agreed by the company.
- There will be some form of Markets forum to address strategy and operational matters, and The MTA, or a successor representative body, will have representation on this Forum.
- The freehold of the land occupied by the new market will transfer to the Council, and will be leased back to the company at a nominal fee for 125 years.
- Either party may sell its shares in the new market company, though the other party will have the first option to buy all shares at open market value.
- Rental levels for traders will be determined by reference to trading conditions and the performance of the market.

3.20 Walsall has a number of markets within its district centres (Bloxwich, Darlaston and Willenhall), which together with the Walsall Town Centre market form the overall market provision for the borough, administered and managed by the Council. Consideration must be given, whichever option is chosen, to how these district centre markets will continue to be maintained and serviced by an effective markets team. This would not be possible through the out-sourcing option, as a lone district centres management option is not commercially viable on its own, but can be considered through any proposals resulting from the other options.

3.21 In view of the options analysis outlined above, it is recommended that Cabinet endorses, in principle, a joint venture approach with a private sector partner for the future long-term management of the Walsall Town Centre market; with a commitment that consideration is also given to a mechanism to maintain the long-term effective running of the three district centres markets. The joint venture partner would be procured through the OJEU process in the coming months, and will have to be appointed to coincide with the permanent relocation of the market to new facilities in Lower Hall Lane. A more detailed financial appraisal of the different options outlined above would be undertaken as a necessary precursor to finalising the development agreement, and will be considered in the context of the Council's Financial and Contract Rules. However, if a joint venture is pursued, it should be noted that financial and management parity will be secured between the Council and its partner on the commencement of any agreement.

4. Resource considerations

4.1 **Financial:** Cabinet approval has already been secured for the preparation of a development agreement with Norton & Proffitt/St Modwen which will include the details of the disposal of the Council's interests in the wider St Matthew's Quarter project, and delegated authority for its final agreement is being sought through this Cabinet report. An agreement would also be required to include the details of any proposed joint venture arrangements in respect of the market, if the principle

is endorsed, and would be presented to a later meeting of Cabinet. The terms of the development agreement will have immediate and ongoing financial implications which are still being considered, but will have been concluded by the time the agreement is finalised. The preparation of the development agreement involves external legal advice which is being funded from existing budgets.

Walsall market and the markets in the district centres are currently managed as a single service. However, should Walsall market be managed differently in the future, there will be financial implications for the Council associated with the long term management of the markets in the district centres, and a need to review staffing levels and contractual arrangements.

Work undertaken to date, in preparing for the temporary relocation of the market to the area around The Bridge, has incurred considerable costs. However, whilst the temporary relocation will not be happening at this time, a proportion of the costs have been in helping to improve the attractiveness of the market stalls themselves, which can be utilised in any location. Further costs have been incurred in preparing the infrastructure for the relocation of the market should it move temporarily to The Bridge by the end of the current calendar year. These costs have been met through existing budgets. If the joint venture approach is pursued, it will be possible to take these costs into account as part of the Council's contribution towards the project.

External legal and surveying advice has been required to work on the development agreement, and other consultancy support was required in preparing the planning application for the temporary relocation. All of these costs have been met, and will continue to be met, through existing approved resources. Should a CPO be required to acquire the Overstrand Restaurant, the Council's costs will be met through the development.

- 4.2 **Legal:** The Council has been working, and will continue to work with Norton & Proffitt/St Modwen on a development agreement and, if supported, it will also continue to work upon the proposals for a joint venture to manage the market in the future. The input thus far has been delivered primarily through external legal support, though ultimately there will be an involvement for the Council's legal services team. Counsel's advice was sought by the Council's legal team, on behalf of the Local Planning Authority, on the potential risk of a judicial review of any decision granting planning permission for the temporary relocation of the market.

Internal legal advice has also been sought on the relationship between historical market charters and statute, with the aim of achieving some certainty on the Council's ability to move the market from its existing location to alternate temporary or permanent positions, and on the Council's ability to consider different management approaches. This advice is separate to the need to obtain planning permission to move the market either temporarily or permanently to alternative locations. The Council's legal services have also provided advice on the long term management options for the market and have recommended that a joint venture partner is procured through the OJEU. This view is acknowledged, has been endorsed by external legal advisors, and has shaped the recommendation to pursue the third option outlined above.

- 4.3 **Staffing:** The delivery of the St Matthew's Quarter project will be dependent upon the permanent relocation of the market and will require the Council to enter into an agreement for the transfer of its own land to the developers. As such, there will be resource implications, in terms of staff time, in working up the development agreement, as well as working on the arrangements for the market.

This report recommends the creation of a joint venture company, with its own management team, to manage the market. This will have an impact on existing market staff if some or all of the current markets team is to be involved in a different management regime in the future. The full implications of this, including considerations around TUPE, will be presented to a future meeting of Cabinet.

5. Citizen impact

- 5.1 The delivery of this redevelopment scheme will make a huge impact on the overall attractiveness, vitality and viability of the town centre, and will be hugely beneficial to the retail and leisure offer and the environment of the town centre. The successful implementation of the scheme will lead to the creation of job opportunities and make Walsall a more attractive place to live, work and shop. In short, the project will be very positive for Walsall's and its citizens.

6. Community safety

- 6.1 There are existing buildings within the St Matthew's Quarter which are currently under-utilised, un-safe and the subject of vandalism, and which therefore attract anti-social behaviour. As such, there are threatening environments which present problems to community safety. The redevelopment of the St Matthew's Quarter will help to eradicate these issues, and ultimately create a new quarter and environment which provides increased working and living in the area, therefore improving the perception of community safety and helping to deter crime. Consideration is currently being given to a series of events in support of the market, which will vary the day and night time economies and provide a presence that might enhance security and eliminate the opportunities for crime.
- 6.2 As the St Matthew's Quarter will be a development site for a number of years, there is the possibility that this will present issues for community safety. Every effort will be made with the developers to ensure that all sites are effectively secured and the subject of rigorous health and safety precautions.

7. Environmental impact

- 7.1 The delivery of the St Matthew's Quarter project will have a hugely positive environmental impact. Central to the scheme will be the demolition of some largely unattractive buildings, including the Overstrand Restaurant, within the core of the town centre. These buildings will be replaced with buildings of a much higher quality of design, and vastly improved public realm. The quality of the market infrastructure and market square will also be improved through the delivery of the scheme, making the general town centre environment and shopping experience much more enjoyable.

8. Performance and risk management issues

- 8.1 **Risk:** The delivery of the St Matthew's Quarter project is included in the Council's project management regime. As such, it will be risk managed on a monthly basis through the project register process. It is acknowledged that the project contains considerable elements of risk, including land assembly and planning issues, not least because the delivery of the St Matthew's Quarter project is dependent upon the commitment of private sector partners in a time of recession. However, should the Norton & Proffitt/St Modwen development not proceed, every effort will be made to bring forward a comparable project, in terms of impact and scale, to regenerate this important part of the town centre and reinvigorate the market.

Through the decision not to proceed with the temporary relocation of the market, risk to the authority of judicial review has been eliminated. It should be noted that on the 28th October 2008, Members of Development Control Committee resolved to support the revocation of a previous planning consent for the temporary relocation of the market, and the formal implementation of this has now been completed.

As noted above, a financial appraisal of the various long-term management options for the market will be undertaken to inform the development agreement. There is a risk that this analysis will conclude that the recommended management option has significant financial implications. If that is the case, then the Council will have to consider the wider benefits of the joint venture approach outlined above when considering the detail of the development agreement.

If Cabinet endorses the recommended option for the long-term management of the market, it should be noted that any procurement risks will be eliminated because the procurement will be undertaken in accordance with European Union procurement guidelines. This route has been recommended by both internal and external legal advisors.

- 8.2 **Performance management:** As stated above, the delivery of the wider St Matthew's Quarter project is included on the Council's project management database. As such the project will be performance managed on a monthly basis.

Central to those elements of the projects within the control of the Council will be the provision of a development agreement with the developer, and support for the preparation of this with Norton & Proffitt/St Modwen has been endorsed previously by Cabinet. If the proposed long-term management option is endorsed, officers will continue to work up the detail of the joint venture agreement. Officers will also continue to work with the developer on any planning applications, to ensure that they are submitted to currently anticipated deadlines and with a high quality of design in accordance with the design brief.

9. Equality implications

- 9.1 The introduction of a wide range of retail, leisure sector and other jobs within Walsall town centre will be open to all Walsall residents. The project will provide a good opportunity to help to deliver the aims of "Think Walsall", which aims to ensure that the benefits of large capital projects are felt by local people, through training opportunities, supply chain jobs and other economic benefits. The design of the redeveloped St Matthew's Quarter will evolve to ensure accessibility for all.

10. Consultation

- 10.1 The St Matthew's Quarter project has been widely publicised as one of the key transformation projects in Walsall Regeneration Company's Prospectus for Growth.
- 10.2 Significant consultation with the Market Traders' Association and stakeholders was undertaken during 2008 through the Markets Working Group (and more latterly the St Matthew's Quarter Working Group) and Regeneration Scrutiny and Performance Panel, and this consultation has continued into 2009. The consultation process culminated with the consideration of the long term management options for the second time at the Regeneration Scrutiny and Performance Panel at its meeting on the 12th March 2009. The meeting will not take place until after the dispatch of this report, so the recommendations of the Panel will be reported verbally to Cabinet.
- 10.3 In preparation for the submission of the planning application, a process of consultation and information sharing was conducted during the summer of 2008 with individual market traders, retailers and stakeholders including the Town Centre Partnership. An event was held in June 2008 inviting all interested parties to attend and comment of the proposed layout of the market. This was subsequently followed up with a letter and accompanying plan that was sent to all businesses in the vicinity of the temporary market. This consultation was supported by pre-planning application discussions with statutory consultees, including the emergency services and which led to a number of changes to the scheme, and further consultation will have been undertaken in the determination of the planning application. Though the temporary relocation will not now be happening to the timeline originally envisaged, the Council will continue to engage all stakeholders in considering a way forward for Walsall Market, and will communicate regularly with these stakeholders and the wider community through press releases and other forms of communication.
- 10.4 Future planning applications for the project will be the subject of formal consultation periods and, in addition, details of the project will be presented to meetings of the St Matthew's/Birchills-Leamore Local Neighbourhood Partnership as required.

Background papers

Report to Cabinet, 16th April 2008.

Report to Cabinet, 19th July 2008.

Report to Regeneration Scrutiny and Performance Panel, 2nd October 2008.

Report to Regeneration Scrutiny and Performance Panel, 3rd December 2008.

Report to Regeneration Scrutiny and Performance Panel, 12th March 2009.

Author

Richard Chadwick
Team Leader – Development and Delivery Service

☎ 652576

✉ chadwickr@walsall.gov.uk

Tim Johnson
Executive Director
Regeneration & Performance
18th March 2009

Councillor Adrian Andrew
Deputy Leader
Portfolio Holder : Regeneration
18th March 2009

DRAFT

Appendix 1: St. Matthew's Quarter Development Agreement.

1. The development agreement is between the following parties: Walsall Metropolitan Borough Council (WMBC), Norton & Proffitt Developments Ltd (NP) and St. Modwen Properties PLC and it uses the existing development agreement dated 25th August 2005 as the basis for this new development agreement.
2. All the parties want to promote a high quality mixed use town centre development comprising approximately:
 - a. 250,000 sq ft of retail, including the provision of a new outdoor market and associated facilities
 - b. 100,000 sq ft of leisure
 - c. 100,000 sq ft of offices
 - d. 100 apartments/new homes

The composition of the different parts of the scheme will be appropriate to a town centre and will also depend on demand.

3. The agreement is conditional until:
 - a. Planning permission is granted.
 - b. The anchor units and 25% of the remaining units are let.
 - c. The site is vacant.
 - d. The development is financially viable and can be funded. NP will operate an open book with WMBC on viability and the costs of the scheme.
 - e. The parties agree to move the Market into a new location within the development.
 - f. WMBC gets planning permission for the temporary market during construction and agrees to move the market there.

NP reserve the right to waive any of the conditions as appropriate.

4. Once the conditions are met WMBC will transfer its land at agreed values to NP to enable the scheme to go ahead.
5. NP will endeavour to meet the conditions within 2 years of this agreement. WMBC will assist where possible.
6. Once the conditions are met work will start on site within 12 months.
7. NP will finish the scheme within 3 years – this may be phased by agreement with WMBC.
8. NP will meet the costs of the temporary market move, but not any premium as a result of an early move, or abortive costs. In the meantime WMBC will meet these costs and NP will reimburse the Council once the conditions are met.
9. A structure for the operation of the new market will be attached to this development agreement.
10. WMBC will endeavour to secure a CPO to acquire any outstanding land interests required to enable the development. This will be at NP's request and all costs associated will be underwritten by NP.
11. After the first anniversary or the disposal of the scheme, whichever is sooner, the costs will be reviewed and in the event that NP's profit is in excess of 15%, after allowance for all development expenses including those agreed in the existing development agreement then the overage above 15% will be shared equally between the parties.
12. Each party bears their own costs in this agreement

Appendix 1: St. Matthew's Quarter Development Agreement.

13. If nothing has happened in 5 years then this agreement is void.

DRAFT

St. Matthew's Quarter - Principles of the "New Market Company"

1. The parties wish to form a 50:50 joint venture to run the outdoor market in its new location and to jointly agree a strategy to enhance the market, ensure its longevity and maximise returns for the parties.
2. The company will be owned 50% by Walsall Council (WMBC) and 50% by its joint venture partner.
3. The joint venture partner will be required to build the new facility and WMBC will move the market to its new facility.
4. WMBC will put land and existing market income into the Company. The joint venture partner will put in the costs of building the New Market into the Company.
5. The New Market will consist of approx. 90 stalls with a mix of permanent and demountable stalls in the Lower Hall Lane area constructed to a specification to be agreed by the Company. The detailed design of the market will be part of the planning process but the objectives are:
 - a. To make the market an integral part of the St. Matthew's Quarter scheme
 - b. That the market is on the main pedestrian circuit within the St. Matthews Quarter with good visibility from Digbeth
 - c. The design and layout of the market enhances its role as an anchor within the St. Matthews Quarter and the wider TC
 - d. The market complements the other uses in the St. Matthews Quarter.
6. The New Market will be open for trading no later than the St. Matthews Quarter development opens. If St. Matthews Quarter is phased then it will need to be agreed which phase includes the New Market.
7. WMBC will ensure that the existing outdoor market commits to move from its location on the Bridge to the New Market facility prior to start on site of construction of the New Market.
8. Before the New Market opens, the value of the assets put in by both parties will be valued. To achieve 50:50 parity then either WMBC or the joint venture partner will take the shortfall due from the New Market gross rent in the first year or such other period as may be agreed by the Company. WMBC and the joint venture partner will ensure that any difference can be met within the first year.
9. The Company will have a Management Board to agree the strategy of the New Market; the board will have 3 representatives from each of the parties. There will also be some form of Markets forum to address strategy and operational matters, and the MTA or their successor organisation will have representation on this forum.
10. The freehold of the New Market Land will be transferred to WMBC who will grant a 125 year lease at a nominal value to the Company.
11. The Company will agree on any change of use or subletting of any part.
12. The existing market traders will have a rent freeze for the first 12 months after moving to the new market facility.
13. Rental levels would not be increased unless determined by reference to trading conditions and the performance of the market.
14. Either party may sell its shares. The other party will have first option to buy all the shares at open market value.

St. Matthew's Quarter - Principles of the "New Market Company"

15. Disputes shall be referred to the President of the Royal Institute of Chartered Surveyors for arbitration, for issues relating to the development and values.
16. An additional model for dispute resolution regarding ongoing operational and management issues within the JV company will be developed and agreed.

DRAFT