

Cabinet – 18 March 2015

Darlaston Market – Darlaston Town Centre – External Operator Outdoor Market Proposal

Portfolio: Councillor M Nazir, Deputy Leader and Regeneration Portfolio

Related portfolios: None

Service: Regeneration: Development and Delivery

Wards: Bentley and Darlaston North

Key decision: No

Forward plan: No

1. Summary

- 1.1 In April 2011 the Council run outdoor market in Darlaston was closed due to poor income levels and low numbers of active market traders. The three remaining markets in Walsall, Bloxwich and Willenhall town centres also face a number of challenges, although on a combined basis the markets continue to generate a surplus.
- 1.2 All three markets are operated by the Council under Charter and regulation as well as under the Walsall Corporation Act 1969 and the Council's Constitution. In addition, the Council has the authority to prohibit any other market operating within six and two thirds of a mile of any Council run market.
- 1.3 On 9 October 2013 a proposal was received on behalf of Bescot Stadium Sunday Market Ltd to host a commercial outdoor market in King Street, Darlaston, trading three days a week at no cost to the Council
- 1.4 In order to meet the Council's financial and contract rules an invitation was sent to 6 external market operators to return an expression of interest to provide an outdoor market in King Street Darlaston. The invitation included trading days of Monday, Tuesday and Thursday. Such days were chosen to reduce any impact on existing Council run borough markets.
- 1.5 Following procurement guidelines on receipt of two expressions of interest both operators were invited to quote to operate the market and as a result only one market operator met the criteria.
- 1.6 In order for an external operator to deliver a market in Darlaston the Council legally has to 'hold' the market allowing another body to 'operate' the market. This is to comply with the Market Charter and ensures that any operator never acquires a 'right' to hold a market in Darlaston.

- 1.7 The purpose of this report, therefore, is to seek formal Cabinet approval to allow Bescot Stadium Sunday Market Ltd to operate an outdoor market in King Street Darlaston under a licence agreement.

2. Recommendations

- 2.1 That Cabinet approve that the Council enters into a 2 year licence with Bescot Stadium Sunday Market Ltd with the option to extend a further 12 months to enable the operator to manage a market trading three days a week (Monday, Tuesday and Thursday) in King Street, Darlaston.
- 2.2 That Cabinet approve a nominal fee of £250.00 to be paid to the council for the first 12 months of trading to be reviewed on an annual basis.
- 2.3 That Cabinet notes that the market is required to be advertised as a Walsall Council market being led operationally by the external operator.

3. Report detail

- 3.1 From 2008 onwards Darlaston Market slowly went into decline as the recession affected local spending power and shopping habits changed. By 2010 there were only 4 traders producing an annual income of £7,094.00. Low income levels resulted in the market trading at a loss for some years. Therefore, in April 2011 the market was closed which provided a £20K per annum saving associated with agency staff, trade waste, energy, business rates and stall erection. Two of the traders from this market have since taken on a street trading licence and their businesses continue to flourish on King Street, Darlaston.
- 3.2 Currently, Walsall Council owns and operates three outdoor markets which have been in existence for hundreds of years and are each an integral part of the heritage and culture of those communities. These markets add value and contribute to the vitality of the centre and provide a wide range of commodities and affordable fresh produce adding value to the existing shopping experience for residents and visitors to those centres.
- 3.3 On 9 October 2013 a proposal was received on behalf of Bescot Promotions who are known to the Council and run several other markets in the Black Country including the large outdoor market at Bescot Football Stadium. The proposal expressed an interest in hosting a commercial outdoor market in King Street, Darlaston. This proposal included the trading day of Friday and it was suggested the market would be run at no cost to the Council.
- 3.4 On receiving both legal and procurement advice and in order to test the interest from the private sector in delivering a market and to comply with the Council's Financial and Contract Rules, an invitation was sent to 6 external market operators to return an expression of interest to provide an outdoor market in King Street, Darlaston on a Monday, Tuesday and Thursday. Such days were chosen to reduce any impact on existing council run borough markets. Two expressions of interest were received and each operator was subsequently invited to

complete a quotation to operate the market along with a site plan where the operators were free to decide how many stalls they were willing to provide.

- 3.5 Only one market operator met the criteria and offered to manage the market on 3 days a week paying the council an initial fee of £250.00 per annum to be reviewed on an annual basis and that the market would be run at no cost to the Council. This is deemed a reasonable return notwithstanding that it was the only interest received and is seen as the market value at the time.
- 3.6 There will be some resource will be required of the District Centre Regeneration Officer for Darlaston, particularly around marketing and ensuring the market adds value to the existing retail offer in the locality.
- 3.7 To re-instate a market there are a number of formalities to be adhered to including the provision of statutory notices and publicity. The Council would be required to advertise the re-launch of the market giving one month's notice in a local newspaper and on placards around the market site. The market would require to be advertised as a Walsall Council market being let operationally to Bescot Promotions. Formal agreements will be required to be entered into to enable the Council to either approve market traders or include exclusion clauses within the agreement. Other activities such as advertising will need agreement as in essence the management of the market whether positive or negative will be reflected on the Council as market holder.
- 3.8 In order for an external operator to deliver the market the Council legally has to 'hold' the market allowing another body to 'operate' the market. This is to comply with the Charter and ensures that any operator never acquires a 'right' to hold a market. As such, if the Council were to proceed with this proposal for Bescot Promotions to operate the market on the Council's behalf, a licence would require to be entered into with Bescot Promotions.
- 3.9 We have been approached periodically by the private sector to either run markets on behalf of the Council or enter into a partnership agreement. Whilst it seems unlikely that the Council will terminate its current markets in the future, a partnership approach has been adopted by other Councils. Such partnerships allow the private sector to run the operations of the markets with the Council still retaining control and taking a share of the profits. With this in mind, it may become less attractive in the longer term to contract out Darlaston Market, albeit that a breakout clause would be included within the aforementioned contract.

4. Council priorities

- 4.1 The Council's Corporate Plan 2015-2019 seeks to ensure that with fewer resources available there is concentration on protecting the most vulnerable and reducing inequalities through a small number of key priorities. The introduction of a new market in Darlaston will meet two of these priorities:-
 - Creating jobs and helping people get new skills;
 - Helping local high streets and communities.
- 4.2 The introduction of a new externally operated market into Darlaston town centre meets the following objectives as set out in the Marmot Review:

- Supporting business to thrive and supporting local people into work
- Improving Health and well being, including independence for older people

5. Risk management

- 5.1 A pilot scheme was launched in Brownhills several years ago and a partnership agreement was entered into with an external market operator. Unfortunately, this market failed. It was highlighted that overhead costs including business rates contributed to its demise. With this in mind, there are no guarantees that the market in Darlaston will be successful or that the market fee will increase annually given that various external factors such as inclement weather and competition from other markets are beyond our control.
- 5.2 If the market fails to be successful the risk that members of the public may believe that it is the Council's responsibility regardless of the support the operator has been given by the Council will need to be managed.

6. Financial implications

- 6.1 There is a cost of around £300.00 to advertise the re-launch of the market in the local press as referred to in 5.2, which can be funded from existing revenue budgets.
- 6.2 There is a risk that the £250 fee paid to the council does not increase upon annual review as the market may need more time to develop and grow in trader numbers.
- 6.3 Some resource will be required of the District Centre Regeneration Officer for Darlaston, particularly around marketing and ensuring the market adds value to the existing retail offer in the locality. This will be a reallocation of officer time and will not result in additional cost.

7. Legal implications

The licence agreement will be for a period of two years with the opportunity to extend a further 12 months mentioned in this report will be prepared by Legal Services with the District Centre Regeneration Officer ensuring that all conditions with the licence are adhered to.

8. Property implications

The market will be operated on Council owned land. The licence agreement shall contain clauses regulating the use of the site and identifying the respective responsibilities of the Council and the operator.

9. Health and wellbeing implications

Enhancing the retail offer and offering fresh and cost effective produce will support the health and well being of local people.

10. Staffing implications

This initiative will continue to be supported by the District Centre Regeneration Officer with support from Legal Services and Procurement.

11. Equality implications

- 11.1 The proposal is not likely to affect people with particular protected characteristics differently and therefore an Equality Impact Assessment is not required. In addition, the licence agreement will prohibit the market operator from unlawfully discriminating under the Equality Act and require them to take all reasonable steps to ensure that staff, suppliers and subcontractors meet their obligations under the Equality Act.

12. Consultation

Local businesses within the Darlaston Business Partnership have been consulted and welcome the additional economic activity in the town centre.

Background papers

Black Country Core Strategy 2011
Walsall UDP 2005 – “saved” policies

Adopted Core Strategy and “Marked Version” of UDP are available on Council website:
http://www.walsall.gov.uk/index/environment/planning/local_development_framework/ldf_core_strategy.htm

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