



LANCASTER
CITY COUNCIL

Promoting City, Coast & Countryside

COUNCIL MEETING

**Wednesday, 16 November 2011
2.10 p.m., or at the rise of the
Special Council meeting,
whichever is the later**

Morecambe Town Hall

Mark Cullinan,
Chief Executive,
Town Hall,
Dalton Square,
LANCASTER,
LA1 1PJ



LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside

Sir/Madam,

You are hereby summoned to attend a meeting of the Lancaster City Council to be held in the Town Hall, Morecambe on Wednesday, 16 November 2011 commencing at 2.10 p.m., or at the rise of the Special Council Meeting, whichever is the later, for the following purposes:

1. **APOLOGIES FOR ABSENCE**

2. **MINUTES**

To receive as a correct record the Minutes of the Meeting of the City Council held on 14th September, 2011 (previously circulated).

3. **DECLARATIONS OF INTEREST**

4. **ITEMS OF URGENT BUSINESS**

5. **ANNOUNCEMENTS**

To receive any announcements which may be submitted by the Mayor or Chief Executive.

6. **QUESTIONS FROM THE PUBLIC UNDER COUNCIL PROCEDURE RULE 11**

To receive questions in accordance with the provisions of Council Procedure Rules 11.1 and 11.3 which require members of the public to give at least 3 days' notice in writing of questions to a Member of Cabinet or Committee Chairman.

ITEM DEFERRED FROM LAST MEETING

7. **LANCASTER INDOOR MARKET** (Pages 1 - 50)

To consider the item deferred from the September meeting of Council.

8. **LEADER'S REPORT** (Pages 51 - 52)

To receive the Cabinet Leader's report on proceedings since the last meeting of Council.

OTHER BUSINESS

9. **LANCASTER CITY COUNCIL - ELECTORAL REVIEW** (Pages 53 - 54)

To consider the report of Head of Governance.

The Local Government Boundary Commission for England will provide Council with a presentation.

10. **MEMBERS' ALLOWANCES SCHEME - REPORT OF THE INDEPENDENT REMUNERATION PANEL** (Pages 55 - 69)

To consider the report of the Head of Governance.

11. **REVIEW OF POLLING DISTRICTS AND POLLING PLACES 2011** (Pages 70 - 77)

To consider the report of the Chief Executive.

12. **THREE TIER FORUM** (Pages 78 - 80)

To consider the report of Head of Governance.

13. **CHARGES FOR PARISH COUNCIL BY-ELECTIONS** (Pages 81 - 83)

To consider the report of Head of Governance.

14. **APPOINTMENT TO OUTSIDE BODY - LANCASTER UNIVERSITY COUNCIL** (Pages 84 - 86)

To consider the report of the Head of Governance.

15. **QUESTIONS UNDER COUNCIL PROCEDURE RULE 12.2**

To receive questions in accordance with the provisions of Council Procedure Rules 12.2 and 12.4 which require a Member to give at least 3 working days notice, in writing, of the question to the Chief Executive.

16. **MINUTES OF CABINET** (Pages 87 - 118)

To receive the Minutes of Meetings of Cabinet held on 6th September and 4th October 2011.



.....
Chief Executive

Town Hall,
Dalton Square,
LANCASTER,
LA1 1PJ

Published on Tuesday 8th November, 2011.

COUNCIL

Lancaster Indoor Market 16 November 2011

Report of Cabinet

PURPOSE OF REPORT

To consider the report on Lancaster Market which was deferred at the meeting on 14 September 2011.

This report is public

RECOMMENDATIONS

- (1) **That Council gives further consideration to the report concerning Lancaster Indoor Market.**

1.0 Introduction

- 1.1 At the meeting on 14 September 2011, Council deferred consideration of the Lancaster Market report. The report is again attached for information along with the appendices that formed part of that report and the supplementary information published prior to the meeting.
- 1.2 This report incorporates the various elements of information that were provided at the meeting as a result of the information arriving after the reports were published or as a result of questions raised by Council.

2.0 Additional Information

- 2.1 The original Council report made reference to the costs of achieving the trader's request to move to the ground floor of the market hall. The cost of the move was assessed by independent quantity surveyors from the NPS Group, and the figure of £272K referred to in the report was derived from this information. A copy of the breakdown is attached at appendix A of this report. Stall numbers and trades have been removed to maintain confidentiality.
- 2.2 Rent arrears have continued to rise. The debt within the market from current traders at the time of writing this report stands at £15,651. This is from 8 traders of which only one trader has agreed a payment plan to reduce the arrears.
- 2.3 As outlined in the appendices to the original report, the Council's position is that legal action will be taken against all tenants who are in arrears. Council should be aware

that ultimately this may involve taking forfeiture action, which could eventually lead to the council taking possession of the stalls affected.

- 2.4 Council should also be aware that since the previous meeting, a further trader has served notice to leave the market at the end of December 2011 and one further trader will be leaving in the near future. However one additional trader has moved into the market, leaving a net reduction of one trader.
- 2.5 Such changes increase the net costs of operating the market. In comparative terms, however, over the longer term these changes are marginal and therefore they do not change the conclusions of the attached financial appraisal. For this reason, revised figures have not been presented. The reduced occupancy does give rise to more uncertainty over whether the market could have a future even for the short to medium term, however.
- 2.6 Separately, a number of questions were raised by members at or around the time of the meeting, the information on which is contained below.
- 2.7 There is currently no user lined up for occupation of the upper floor as the market is still an operational market until such time as the Council takes a decision that changes this. There is therefore no user lined up for this space. Once a decision is taken, if this leads to the need to find a user(s) then appropriate marketing will be required.
- 2.8 The costs for moving the market to the ground floor do not include removal of the escalators. From previous information, if the escalators were to be removed and the void that work created was to be filled in, then there would be an additional cost of approximately £200,000.
- 2.9 As no use has been identified for the upper floor (see above) it is not possible at this stage to provide a full assessment of potential income. However, if a single retail user is to be sought, it is unlikely in the current climate that a user for the upper floor would result in significant income during the four year period identified within the report. This is due in part to the current financial climate in general and retail in particular and in part to the limited number of retailers who would use an upper floor. In addition if a user was to be found, the incentives that the letting market would demand would result in rent free periods etc.
- 2.10 The Landlord (Allied) has been approached to see if the upper floor can be used for non-retail purposes as such uses have been discussed at cabinet in the past as an option. The response indicated that such a proposal would be something that would have to be discussed in more detail before making comment. Allied indicated that the premises is for retail and they would like to protect the pedestrian flows as such. Allied would be happy to look at any proposals that the Council may have.
- 2.11 As an alternative to retail use of the upper floor consideration has been given to possible "retail" exhibition space on the upper floor of the market be set up with exhibitions. If the council is to hold exhibitions, it would be on the basis of the space being available for a user to bring in their own exhibition at their own cost. There are some potential uses to work with other organisations on subjects such as healthy eating where it might be possible to utilise funding from other organisations.
- 2.12 As part of the discussions with Allied, discussions have taken place regarding the prospects for a surrender of the lease which would release the council from the lease in its entirety. If the lease were to be terminated in this way, the total cost to the

council would be capped at the total of the negotiated lump sum to the Landlord plus the compensation payable to the remaining traders.

In this respect the original report identifies the estimated implications of this option as part of option F in paragraph 5.1.1 of the financial appraisal and the final option referred to in the table at paragraph 5.2.1 of the same financial appraisal.

- 2.13 Council is also advised that it has utilised its own internal legal advice on this matter as it is considered inappropriate to increase costs further by taking external advice.
- 2.14 Council should also be aware that since the September meeting the Council has been involved in a Case Management Conference (CMC) at the County Court with regard to the proposed renewal of the leases. As with all complicated cases or matters exceeding a set value the Lancaster County Court had scheduled the hearing in order to give directions to trial.
- 2.15 Prior to the CMC hearing there was disagreement between the Council and a number of tenants as to the level of rent. At the hearing the Court heard that 16 of the tenants now agreed with the level of rent as proposed by the Council. Furthermore it was asserted that all of these tenants were in agreement with the terms of the new lease save for the Council's proposed redevelopment break clause.
- 2.16 However, there is still one tenant who disagrees with the level of rent as proposed. Furthermore, the same tenant opposes the Council's proposed redevelopment clause and cannot agree, at this stage, the other terms of the draft lease.
- 2.17 In order to progress the outstanding issue of the redevelopment break clause, the Court as part of its general directions for the timetabling of the case, has ordered the Council to set out by 15 December 2011 the following:
1. What steps it has already taken as to rebuilding, revitalisation or reconstruction of the Market Hall or the transfer of the Defendants' interest therein;
 2. Details of any proposals to provide alternative accommodation;
 3. Any reasons known to the Council at the date of reply as to why the steps and proposals may not be put into effect;
- 2.18 The Court's directions go on to detail various other steps that both parties need to comply with. A further CMC hearing is to be scheduled by the Manchester County Court on the next available date after 7 March 2012

3.0 Details of Consultation

- 3.1 No further consultation has taken place on this matter since consideration of the last report was deferred by Council

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The options are as set out in the deferred report.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

It is considered that there is no such direct impact arising.

FINANCIAL IMPLICATIONS

As set out in appendix B of the original report.

OTHER RESOURCE IMPLICATIONS

Human Resources/Information Services/Property/Open Spaces:

As set out in the appendices

SECTION 151 OFFICER'S COMMENTS

The s151 Officer's comments are included on the attached original report. In addition, she would advise Council to consider and take into account what impact the more recent reductions in occupancy may have on the future viability of the market operation.

LEGAL IMPLICATIONS

As set out in the appendices.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments to make.

BACKGROUND PAPERS

Background papers are exempt

Contact Officer: Graham Cox/Nadine Muschamp

Telephone: 01524 582504/2117

E-mail: gcox@lancaster.gov.uk

nmuschamp@lancaster.gov.uk

Ref:



Lancaster City Council – Lancaster Market Hall

Background

Lancaster City Council currently leases out the Upper and Lower Ground Floors of the above mentioned property.

Due to falling demand the Council is considering the option of relocating all traders and stalls to the Lower Ground Floor.

On Friday 1st July 2011, Officers from NPS NW Ltd met with the Council's Assistant Chief Executive who asked that a Budget Estimate be calculated by NPS based upon the proposed plan and a schedule containing outline proposals.

Proposals

It is proposed to relocate all traders and stalls so that only the Lower Ground Floor is occupied and the Budget Estimate is based on the following works to achieve such:

- Taking down partitions where possible and rebuilding.
- Erecting new partitions as necessary.
- Carrying out all necessary electrical and plumbing works including relocating/renewing meters and sub-meters.
- Relocating/renewing extraction units for the cafeteria.
- Relocating catering equipment.
- Enlarging door opening to Service Corridor.
- Painting to walls and woodwork.
- Taking up carpets where applicable and making good existing floors.
- Painting of areas only where affected by the works.
- A Provisional Sum of £5,000 has been allowed for general repairs and sundry decorations.
- Professional fees have been included at 12.5% of the works cost. This is for budget purposes and would be open to negotiation.
- Adjusting heating and ventilation to Upper Ground Floor to reduce energy consumption.
- Disabled accessible separate male and female toilets.
- Cafeteria areas full height partitions to 50% of area with glazed half height to the other 50%.
- The budget estimate excludes:
 1. VAT.
 2. Removal of Traders stock, fixtures and fittings unless specifically requested.
 3. Sign writing to stalls.
 4. Works to Upper Ground Floor.
 5. Full toilet suites.

Summary

Site visits were made by NPS Mechanical and Electrical Engineers and by the Quantity Surveyor as part of the preparation of a Budget Estimate. The Budget Estimate was prepared as per the proposals on page 1 and it is expected that costs would be in the order of £272,000.

The schedule of costs showings the build up to the figure of £272,000 is included on the next page.

11th July 2011.

COUNCIL

**Lancaster Market
14 September 2011**

Report of Cabinet

PURPOSE OF REPORT

To consider options regarding the future of Lancaster Market and the associated recommendations of Cabinet.

This report is public.

RECOMMENDATIONS:

1. That Council considers the following recommendations of Cabinet:
 - i. That all market traders be moved onto the ground floor and rents or service charges not be increased at this point.
 - ii. That legal agreement be reached with traders on the move to the bottom floor and to costs that traders would pay for moving and fitting out.
 - iii. That the move in (i) above be done with some urgency to protect existing businesses on the top floor and to protect the Council's future rental income.
 - iv. That alternative tenants be sought for the upper floor.
 - v. That the recommendations in terms of improved marketing and management recommended to Council in the NCS report received in December 2010 be carried out.
 - vi. That the Council's costs of running the market be examined and it be considered whether these can be reduced.
2. That the above be subject to the outcome of a financial appraisal of all relevant options for Lancaster Market, now attached at Appendix B, to reflect the Council's fiduciary responsibilities to council taxpayers as a whole, and that this appraisal be considered by Council to inform its final decision-making.

1 INTRODUCTION

- 1.1 At the meeting on 26 July 2011, Cabinet considered a report on Lancaster Market covering, amongst other things, whether it was feasible to move the market into the museum. The public Cabinet report and associated minute are attached at **Appendix A** for reference.

- 1.2 At that meeting, Cabinet resolved that in view of the consultant's report the market should not be moved to the museum, but in addition it also made various other recommendations on the market's future, as reflected above.
- 1.3 In making its recommendations, however, Cabinet acknowledged that no final decision could be made on whether to move tenants to the ground floor or what level of rent and service charge to pay until a full financial appraisal had been undertaken. In addition, in reaching any final decision, it was recognised that whilst market traders would be most (or directly) affected by any decision, the Council has a much wider financial duty to council taxpayers as a whole. The market is a costly operation and therefore any decision to invest in the market must stack up financially.
- 1.4 Accordingly, a full financial appraisal of various options is now attached at **Appendix B** to inform Council's decision-making. This has been prepared by Financial Services with significant input from Property and Legal in particular. To help Members in understanding the specific legal position and considerations, a briefing is attached at **Appendix C**.

2 **OPTIONS AND OPTIONS ANALYSIS (INCLUDING RISK ASSESSMENT)**

- 2.1 The full range of options and their analysis are set out in Appendix B. In essence, Council could:
 - a. Approve the recommendations of Cabinet. In this case the Council's financial and other plans would be updated accordingly and the capital investment required would be financed from General Fund Balances; these are higher than expected following the net underspending in last year (see separate item elsewhere on the agenda).
 - b. Approve an alternative option as set out in the Appendix. Any particular financial implications or subsequent decisions required would then be factored into the Council's financial and other planning as appropriate.
 - c. Seek further information and defer any decision. Given the need to gain certainty one way or another on the market operation, however, this option is to be avoided, unless it becomes apparent that additional essential information is needed to inform Members' deliberations.

3 **CONCLUSION**

- 3.1 A clear way forward needs to be determined for Lancaster market. In doing so, however, Council needs to ensure that its decision-making is based on appropriate consideration and with due regard to all relevant factors.

CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

It is considered that there is no such direct impact arising.

LEGAL IMPLICATIONS

As set out in the appendices.

FINANCIAL IMPLICATIONS

As set out in Appendix B.

OTHER RESOURCE IMPLICATIONS

Human Resources / Information Services / Property / Open Spaces:

As set out in the appendices.

SECTION 151 OFFICER'S COMMENTS

Generally Council is advised to consider all proposals for capital or other growth alongside each other, to allow for prioritisation in context of all other competing demands. The need to determine a way forward for Lancaster market is recognised, however, and so this means that a decision is being sought now. If Council approves the capital investment, the £270K of funds clearly cannot be used for any other purpose.

The financial appraisal indicates that over the longer term, considerable financial savings would be expected if the market operation was to close and an alternative future for the building secured.

Other aspects of the appraisal, including the points raised in the July Cabinet report, have indicated that the benefits to be gained from continuing the market operation in some form, with the associated capital investment, are comparatively small.

Council is advised to scrutinise and challenge these conclusions, but then use the outcome of this challenge to inform its decision-making. This supports rational, lawful decision-making.

She reiterates that in considering options and as in previous years Members are advised to consider whether and to what extent the market facility achieves (or could achieve) value for money for local taxpayers as a whole. From an accounting viewpoint, markets are currently classed as a trading undertaking, albeit that Lancaster market operates at a substantial deficit.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer's comments have been incorporated in the report and its appendices. The Monitoring Officer would emphasise that any decision taken must be reasonable and rational, and must take account of all relevant considerations.

BACKGROUND PAPERS

Background papers are exempt.

Contact Officer: Graham Cox / Nadine Muschamp

Telephone: 01524 582504 / 582117

E-mail: gcox@lancaster.gov.uk

nmuschamp@lancaster.gov.uk

Ref:

APPENDIX A

Extract from Cabinet minutes 26 July 2011 (No. 21)

Resolved unanimously:

- (1) To not move the market to the museum.
- (2) To move all market traders onto the ground floor and not to increase rents or service charges at this point.
- (3) That legal agreement be reached with traders on the move to the bottom floor and to costs that traders would pay for moving and fitting out.
- (4) That the move in (2) be done with some urgency to protect existing businesses on the top floor and to protect the Council's future rental income.
- (5) To seek alternative tenants for the upper floor.
- (6) To carry out the recommendations in terms of improved marketing and management recommended to Council in the NCS report received in December 2010.
- (7) To examine the Council's costs of running the market and to consider whether these can be reduced.
- (8) That all recommendations with the exception of recommendation (1) be referred on to Council for consideration, and that they also be subject to the outcome of a financial appraisal of all relevant options to reflect the Council's fiduciary responsibilities to council tax payers as a whole, and that this appraisal be reported to Council for consideration to inform its final decision-making.



**LANCASTER
CITY COUNCIL**

Promoting City, Coast & Countryside

SUPPLEMENTARY INFORMATION

Cabinet

Tuesday, 26 July 2011

Agenda Item Number	Page	Title	Officer Responsible For Late Report
6	1 - 9	LANCASTER MARKET	HEAD OF PROPERTY SERVICES
		A public report was produced following publication of the exempt report on Lancaster Market. The public report was circulated prior to the Cabinet meeting in order that the item could be considered in public. The public report is attached.	

CABINET

**Lancaster Market
26 July 2011**

Report of Head of Property Services

PURPOSE OF REPORT			
To consider options for the future of Lancaster Market including the opportunity to integrate with the City Museum.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan		6 July 2011	
This report is public			

RECOMMENDATIONS OF COUNCILLOR JON BARRY

- (1) To not move the market to the museum.
- (2) To move all market traders onto the ground floor and not to increase rents or service charges at this point.
- (3) That the move in 2. be done with some urgency to protect existing businesses on the top floor and to protect the Council's future rental income.
- (4) To seek alternative tenants for the upper floor.
- (5) To carry out the recommendations in terms of improved marketing and management recommended to Council in the NCS report received in December 2010.
- (6) To examine the Council's costs of running the market and to consider whether these can be reduced.
- (7) That recommendations 2 to 4 above be referred on to Council for consideration and that they be subject to the outcome of a financial appraisal which would also be reported to Council for consideration to inform its final decision making.

1.0 Introduction

1.1 At their meeting on 15 February 2011, Cabinet resolved:

- (a) That approval be granted to undertake further investigations into the conversion of the City Museum to accommodate Lancaster Market and that a further report is made to cabinet in due course with the costs being funded from the proposed reserve.

- (b) To confirm the importance of the King's Own Royal Regimental Museum in the heritage offer of the district and to seek to improve that offer as part of any change to the City Museum.
 - (c) That officers be instructed to enter into leases with traders at Lancaster Market Hall that would allow for the potential relocation to new premises or a break or redevelopment clause for the purpose of refurbishing and revitalising the market hall (should transfer into alternative premises not prove feasible).
 - (d) That whilst investigations are undertaken into the conversion of the City Museum, measures continue to be implemented within Lancaster Market to improve its appearance and to continue with improved management and marketing of the market, with any costs funded from the proposed reserve.
- 1.2 Since that meeting various items of work have been undertaken to provide a report to members on the options involved.

2.0 Issues

Museum report

- 2.1 As a consequence of the consultancy work carried out in accordance with the resolution of cabinet identified in 1.1 (a) and 1.1 (b) above, the consultants have now reported the findings of their work which are summarised via the executive summary in **Appendix A**.
- 2.2 The report clearly identifies the important role that the museum provision can contribute to the heritage offer of the city centre, and that it is currently not being utilised to its full capacity. It also identifies that the retail offer could be improved, however, this could be accommodated within the square and complement the existing 'outdoor' market.
- 2.3 There is clearly further discussion needed on the outcomes of the museums report, and this will be reported to members in early autumn as part of the museum partnership review and implementation of the cultural strategy.
- 2.4 With regard to the future of the market, clarity has now been sought that it would not be possible to move the existing market offer and upgrade the museum.

Market issues

- 2.5 Members are also advised that with regard to resolution (3) of the 15 February report (see 1(c) above), traders have now been offered new four year leases, with a break clause to allow for potential relocation to new premises or redevelopment of the existing market which would require relocation.
- 2.6 Members should note that whilst this offer has been put to the tenants, not all the tenants are prepared to accept the break clause for relocation, and have subsequently referred the new leases to the courts for determination.
- 2.8 A further issue which needs to be addressed is the level of rent that members

agree to set for the units. At a previous cabinet meeting in June 2010, members resolved to set a rent at the previous level plus 2.5% and to leave the service charge at the previous level. The proposal was that this would be reviewed 12 months into the lease arrangements on 1 April 2012 (or such other date as may be determined by the courts). Due to the amount of time that has elapsed, and the information now available, members may wish to review this position.

- 2.9 In addition, it should be noted that if traders were to move to the ground floor as referred to in option 2, new leases would need to be provided for those traders that take new spaces and in such circumstances the leases determined by the courts would be redundant.
- 2.10 Members will be aware that in considering the future direction of the market, the Lancaster Market Cabinet Liaison Group considered evidence from other markets in the region where total occupation costs were generally higher than adjacent commercial premises because of the additional services required. Such information could be produced for the court to consider, but the conclusion is entirely in the hands of the courts.
- 2.11 In considering the options set out below, it would be necessary to consider what the council wishes to achieve. Although the council has a further 84 years to run on its lease from the owner of Marketgate, the council is now committed to operating the existing market in the building for a further period until at least 31 March 2015. This follows the council resolution from March 2010 as reinforced by the cabinet resolution of February 2011 (see paragraph 1.1 above). In accordance with those resolutions the council has served notice on the traders to terminate their leases and to offer them new lease terms. The council cannot unilaterally withdraw those notices.
- 2.12 As a result, the council has options below under which it could consider investing in the market as per the NCS review (option 1); relocating the traders within the market (option 2); leaving the market as it is and renewing leases at existing levels (option 3); leave the market as it is but increase rents and service charge levels (option 4). It should be noted that options 1 and 2 support the Council resolution from March 2010 to refurbish and revitalise the market. Regardless of which option is chosen, the rent and service charge levels on a per square foot basis relating to each individual stall would not reduce, although it should be pointed out that there is a high chance that the council's overall income would reduce if the council does not invest in the market or chooses to increase rents and service charges – see the details of each option in section 3 below.
- 2.13 Dependent on the option chosen, a further appraisal can be undertaken if required. However, it should be noted that in any further option appraisal, it is not possible to undertake any meaningful assessment of the future income to set against the capital costs of works.

3.0 Options and Options Analysis (including risk assessment)

- 3.1 Considering all the above issues the council has several options on how it might move the market forward. These options are based on the decision taken by Council in March 2010 to retain a refurbished and revitalised market in Lancaster.

	<p>Option 1:</p> <ul style="list-style-type: none"> To implement the finding of the NCS review which would require the following investment <table border="1"> <thead> <tr> <th></th> <th>Budget Figure (£)</th> </tr> </thead> <tbody> <tr> <td>Entrance doors</td> <td>40K per entrance</td> </tr> <tr> <td>Internal layout changes</td> <td>400K</td> </tr> <tr> <td>Drop down banners</td> <td>1K</td> </tr> <tr> <td>External glazing vinyl transfers</td> <td>12K (+ original images)</td> </tr> <tr> <td>Demountable stalls</td> <td>1K each</td> </tr> <tr> <td>Part-time business development manager</td> <td>20K per annum</td> </tr> </tbody> </table> <ul style="list-style-type: none"> Review the rents to market value once the refurbishment works are completed 		Budget Figure (£)	Entrance doors	40K per entrance	Internal layout changes	400K	Drop down banners	1K	External glazing vinyl transfers	12K (+ original images)	Demountable stalls	1K each	Part-time business development manager	20K per annum
	Budget Figure (£)														
Entrance doors	40K per entrance														
Internal layout changes	400K														
Drop down banners	1K														
External glazing vinyl transfers	12K (+ original images)														
Demountable stalls	1K each														
Part-time business development manager	20K per annum														
Advantages	<ul style="list-style-type: none"> The NCS proposals would provide an opportunity to reinvigorate the market and potentially bring in new tenants. 														
Disadvantages	<ul style="list-style-type: none"> There would be a substantial cost to the council and no guarantee that the scheme would be a success or that the existing deficit, currently estimated at £619,500 for 2011/12 would be reduced. 														
Risks	<ul style="list-style-type: none"> There is a risk that reduced number of traders would continue in the market as a result of the increased rents. This could lead to a further spiralling down of the market prior to refurbishment works being undertaken. 														

	<p>Option 2:</p> <p>As a consequence of discussions held with the market traders there is a proposal to move all tenants down to the ground floor, and retain first floor accommodation for either a single let or a let at some other use, e.g. exhibition space. Costs of the works, including a plan of the proposal, are show at Appendix B.</p> <ul style="list-style-type: none"> The costs of refurbishing the ground floor to accommodate such usage, with minimal refurbishment to the first floor are estimated at £270K including fees. However, it should be noted that this does not include the cost of any particular fitting out requirements in individual stalls other than specialist works to relocate café kitchen equipment. Market traders have expressed the view that the council should be responsible for all costs of any move, although cabinet may wish to indicate whether they feel that traders should contribute to fit out costs as part of this agreement Consideration could be given under this arrangement to increase rents to full market value on completion of works.
Advantages	<ul style="list-style-type: none"> The move of all units to the ground floor will give the traders more visibility and create a greater sense of vitality to the market Traders appear to be in agreement with the option, and

	<p>this cooperation of the traders may well encourage a quicker resolution to current underutilisation.</p> <ul style="list-style-type: none"> • The option would cost less than full refurbishment
Disadvantages	<ul style="list-style-type: none"> • There would still be a substantial cost to the council, with no guarantee that the scheme would be a success • There would be limited assurance that the deficit would be reduced as there is currently no confirmed tenant to take the upper floor at a market rent and no absolute guarantee that all existing traders would remain in the market after a move to the ground floor. • Tenants may find the new rents and service charges on the ground floor unaffordable, and the council would still have a significant deficit, currently estimated at £619,500 for 2011/12, with reducing numbers of stalls
Risks	<ul style="list-style-type: none"> • Increased rents and service charges may reduce stall holder numbers • Significant investment with no guaranteed return • The Landlord and Tenant process will result in new leases being granted, without a break/redevelopment clause, and if this was to happen, any move by the tenant would need to be by agreement of <u>all</u> the tenants. Should a single tenant not wish to relocate, the proposal could not be implemented.

However, should the council wish to consider the option of not retaining a refurbished and revitalised market in Lancaster, the following options are appropriate:

	<p>Option 3:</p> <ul style="list-style-type: none"> • To renew the existing tenancies on a four year lease (subject to the outcome of the application to court) • Not to invest any further funds in remodelling the market building • Keep rents at the level set by cabinet on the 22 June 2010. (subject to court determination)
Advantages	<ul style="list-style-type: none"> • Certainty will be given to the tenants regarding the future of the indoor market, which may encourage new tenants to take units and prevent stall holders leaving • No capital allocations will be required other than the repair and maintenance funds needed to implement the conditions of the lease.
Disadvantages	<ul style="list-style-type: none"> • Stall holders will continue to leave because no investment has been made • The market will continue to run at a significant financial loss to the council, which may increase should further stall holders leave • There will be no significant change programme for the market, and as identified in the NCS report, such change is required to try and achieve a vibrant and vital market for the future.
Risks	<ul style="list-style-type: none"> • Ongoing general deterioration of the market hall • Tenants will continue to leave • Landlord/Headlease costs are fixed, and the revenue losses to the market, currently estimated at £619,500 for

	2011/12, may increase
	Option 4: <ul style="list-style-type: none"> • Renew the existing tenancies on a four year lease (subject to the outcome of the application to court) • Provide no further investment in to the premises for remodelling purposes • Increase the rent and service charges to the full market value (subject to court determination)
Advantages	<ul style="list-style-type: none"> • Certainty will be given to the tenants regarding the future of the indoor market, which may encourage new tenants to take units and prevent stall holders leaving • No capital allocations will be required other than the repair and maintenance funds needed to implement the conditions of the lease.
Disadvantages	<ul style="list-style-type: none"> • Tenants may continue to leave due to lack of investment • The increased rent may encourage tenants to leave at a greater pace • The 'net' cost of holding the building will increase and revenue/rent decreases.
Risks	<ul style="list-style-type: none"> • Ongoing general deterioration of the market hall • Tenants will continue to leave • Landlord/Headlease costs are fixed, and the revenue losses to the market, currently estimated at £619,500 for 2011/12 may increase

5.0 Officer Preferred Option (and comments)

- 5.1 In light of the findings of this report, and on the assumption that the council still desires a thriving indoor market in line with cabinet and council decisions, it is evident that investment of some sort is needed in the market but achieving that desire is by no means guaranteed. It would be normal to carry out some form of cost benefit analysis to determine the benefits of investment in the market. However, it is impossible to predict the future income of the market due to the uncertainty of whether all existing traders would remain in the market and whether there would be any additional take up of stalls. As a result, whilst the main conversion cost for the ground floor of the market is known, any meaningful assessment of future income is not possible. However, the council is committed to the market until at least March 2015 and a view needs to be taken as to the operation of the market during that period.
- 5.2 It is considered that, taking into account all known risks, option 2 would provide the best resolution to the very difficult, complicated and complex issues that surround the market.

RELATIONSHIP TO POLICY FRAMEWORK

Economic Regeneration – supporting our economy is one of the City Council's key priority areas. It includes heritage and cultural tourism for the district including creative industries and employment.

The improvement of the Lancaster indoor market could attract more food-based businesses

(particularly local food), attracting key businesses, such as a bakery, and marketing the market as a visitor attraction for the city centre. Looking at improving the provision of the market could therefore be aligned to supporting our local economy and the cultural agenda, depending on the retail offer made available within the market.

Nonetheless, as well as being in line with priorities the Council's Medium Term Financial Strategy (MTFS) requires that options for capital investment must be appraised to meet the requirement of the Prudential Code namely that investment is affordable, prudent, and sustainable, and that such investment represents real value for money for people in the district.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The City Council wishes to maintain an economically sustainable city centre and retaining and improving the provision of the indoor market can help to facilitate this.

LEGAL IMPLICATIONS

Legal Services have been consulted and option 2 could only be implemented by agreement unless the courts rule in the council's favour and approves the break clause for relocation/refurbishment.

Should the court approve the council's request for a break clause, the council would have to take further steps to bring this into effect. If all the tenants agree to move to the ground floor then it may not be necessary for a redevelopment/relocation break clause to be inserted into the new lease. Members may wish to stipulate whether such a break clause will be required in the event that all the tenants agree to the move. Without the break clause the Council would not be able to bring the lease to an end (other than in the event leading to forfeiture) until the stipulated end term date.

As this report highlights, all of the remaining tenants have brought a claim for lease renewal. The Council has filed with the court its acknowledgement of services setting out the basis on which it will agree to a new lease.

It is expected that the Court will list the cases for a directions hearing shortly. At the directions hearing it is expected that the Court will set the matter down for trial. It is difficult to give a precise indication of when the matter will finally be resolved by the Court. However, as a rough estimate (and bearing in mind the number of claims issued and the arguments in dispute) one would expect the Court to set the matter down for a final hearing within three to four months after a directions hearing has been heard.

FINANCIAL IMPLICATIONS

All the costings identified within this report are 'estimated' costs and they are by no means complete. Should Cabinet wish to take forward any option involving capital investment, this would require consideration by Council as it would fall outside of the current budget framework. Any such Council referral report would include a full capital investment appraisal and estimated revenue implications together with associated sensitivity analysis.

Members are reminded that the current market is being operated at an estimated annual deficit of £619,500 subject to the number of vacant stalls arising during any given year.

Should members wish to invest capital into this scheme, this must be balanced against other priorities the council may have for its capital expenditure or other council priorities.

OTHER RESOURCE IMPLICATIONS

Human Resources:

There are no direct implications within this report although depending on the resolution of cabinet, consideration does need to be given to future management of the market in line with the NCS report

Information Services:

There are no IS implications within this report.

Property:

The property implications are included within the body of the report.

Open Spaces:

Not applicable.

SECTION 151 OFFICER'S COMMENTS

Members need to ensure that their decision-making is based on appropriate consideration of relevant factors, including cost, risk, value for money and other finance related matters as outlined in the report. This is in recognition of their fiduciary duties to local taxpayers as a whole.

Clearly at this stage the options presented do not take account of any investment appraisal and therefore information is incomplete.

Should Cabinet wish to take forward any capital investment options therefore, at this stage this would be in principle only, subject to further consideration and a final decision by Council. A full options appraisal would be produced and included in the referral report. To ensure appropriate comparison, this may include options that are not necessarily preferred by Cabinet at this stage. This is to protect the Council in its future decision-making; care needs to be taken in the reasoning for discounting any potentially viable options at this stage, given that full information is not currently available. In the body of this report references are made to the difficulties in undertaking cost benefit analyses and it being impossible to predict future income levels etc. Nonetheless, officers have responsibilities to make reasonable estimates based on a range of potential outcomes or scenarios using sensitivity analysis and other techniques, as well as highlighting the inherent risks attached.

Should Cabinet wish to take forward options not involving capital investment (such as options 3 and 4), clearly the financial implications and the extent of any discretion available to Members in terms of setting rents and service charges would be dependent on the decision of the court.

Overall, in considering outline options and as in previous years the s151 Officer would advise Members to consider whether and to what extent the market facility achieves (or could achieve) value for money for local taxpayers as a whole. From an accounting viewpoint, markets are currently classed as a trading undertaking, albeit that Lancaster market operates at a substantial deficit.

In addition it should be noted that recommendations 2 to 4 above should be referred on to Council for consideration and that they be subject to the outcome of a financial appraisal which would also be reported to Council for consideration to inform its final decision making.

Any further comments will be fed into the meeting.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer concurs with the views of the Section 151 Officer, and would reiterate the need to take into account all relevant considerations in making a decision. In this respect a full financial appraisal will be essential. The Monitoring Officer is also mindful that because of the current court proceedings, the final terms of any lease may be ordered by the court and would thus be outside the control of the Council. Further, any move to the ground floor relies on the consent of all tenants, which again is outside the control of the Council.

BACKGROUND PAPERS

Previous council and cabinet reports and minutes

Contact Officer: Graham Cox

Telephone: 01524 582504

E-mail: gcox@lancaster.gov.uk

Ref:

APPENDIX B

LANCASTER MARKET – FINANCIAL OPTIONS APPRAISAL

1 INTRODUCTION

- 1.1 Council has been requested to consider a capital investment proposal for Lancaster market. The Prudential Code for Capital Finance in Local Authorities has been developed to support councils in considering such investment. Under the Local Government Act 2003, authorities are required to have regard to the Code.
- 1.2 In summary, the objectives of the Code are to ensure, within a clear framework, that the capital investment plans of the authority are affordable, prudent and sustainable and in turn they support local strategic planning, local asset management planning and proper options appraisal. The ultimate aim is to help ensure value for money from capital investment.
- 1.3 The Council has incorporated these obligations into its Medium Term Financial Strategy, and this options appraisal has been produced in line with those requirements.
- 1.4 The background to this proposal is complex. In recent years Members have considered various proposals regarding the future of Lancaster market. The most recent specific consideration by Council was in March 2010 (minute 113 refers). The outcome of that meeting can be summarised as follows:
 - The single trader option was not pursued, primarily due to risks attached to the newness of the company involved.
 - The single floor (upper level) market was not pursued, primarily because of cost.
 - The Council desired a thriving indoor market in terms of employment and service to the district, and therefore arrangements to take forward refurbishment and revitalisation of the market were put in place.
- 1.5 Cabinet's latest proposals arise from the third bullet point above. It is emphasised, however, that at the time of Cabinet making its latest recommendations to Council, a financial options appraisal had not been undertaken. This work has now been completed and therefore this report incorporates both the financial and non-financial impact of the proposals. It also includes information that could not be made available for the July Cabinet meeting. Cabinet did request this information to be provided to Council to give a fuller picture.
- 1.6 Council is therefore advised to consider all the information set out in this appraisal and the supporting legal implications set out in Appendix C. It is reiterated that Members need to ensure their decision-making is based on appropriate consideration of relevant factors, including cost, cost benefit, risk, and value for money. This is in recognition of their fiduciary duties to taxpayers as a whole.

2 CURRENT POSITION

2.1 Aims and Objectives of Markets Operation

- 2.1.1 In terms of formal financial reporting on local authority markets, the facilities are classed as trading operations on the assumption that they should at least break even, if not generate a surplus. This may be considered as a general financial objective, therefore; markets are not considered to form part of the net costs of providing 'services' to the district.
- 2.1.2 Lancaster market operates at a significant deficit, however, and therefore the Council is effectively subsidising its operation. Typically this is expressed as a subsidy per tenant and whilst it should be recognised that this does not represent a physical cash payment to any tenant, effectively it is considered correct to say that the Council is (or council taxpayers are) indirectly subsidising the provision of market stalls.
- 2.1.3 Alternatively or in addition, markets may provide wider benefits both from their retail offer or from their appeal as a focus for the community. Indeed the Council has recognised this, in its desire for a vibrant and revitalised market. Whilst not the primary objective of market undertakings, other benefits such as employment can also be delivered.
- 2.1.4 Currently, however, it is widely accepted that the current offering does not effectively and efficiently contribute to these aims. The impact of different decisions based on the options on this position has also been considered in completing the options appraisal.

2.2 Annual Net Running Cost

- 2.2.1 The 2011/12 budget for the market was approved at a net cost of £553,400 (excluding internal recharges) by Council on 02 March 2011. Since then, between 31 March and 31 July, eight tenants have left and only three new tenants recruited, of which one has since left and another is still subject to satisfactory references. In total, this is a net reduction of six tenants and reduces the occupancy level to approximately 50% or 24 tenants occupying 35 stalls. Taking account of these reductions, the latest income projections are showing a further shortfall of £80,000 when compared to the original budgeted income.
- 2.2.2 In addition, provisions for bad and doubtful debts must also be recognised, as set out in section 2.4 below.
- 2.2.3 Taking on board the reduction in income, bad debt provisions and other minor adjustments, the latest projected cost for 2011/12 is £89,900 more than the comparative approved budget. This revised position has been used as the initial basis for comparison against other options. There is no information currently available to justify a significantly different starting point.

2.3 Stallholder Leases

- 2.3.1 In accordance with the instructions of Council in March 2010, traders were advised that their leases would be renewed (except in those cases where there were significant arrears) and as a result the renewal process is currently underway, with traders having made a formal application to the court to agree the terms of a new lease. In addition, a small number of traders initiated the renewal process themselves by serving notice on the Council as previously reported. It is not expected that the court hearing will take place before the

Council meeting and therefore the Council decision can inform the process of lease renewal.

2.3.2 The most significant issue for the traders was the inclusion of a break clause in the lease and the outcome of the current debate will identify to what extent such a clause will continue to be needed.

2.3.3 The court would also determine the level of rent that is applicable. Rent levels currently being proposed under the new lease for all traders (and currently being paid by most traders) are in accordance with Member resolutions, being 2.5% higher than in the previous standard lease. However where a trader has a significant floor space and has benefitted from reduced rents in the past, applying these new rent levels could lead to such a trader leaving the market. This has implications for the core assumptions underpinning the financial appraisal, as outlined in section 4.3.

2.4 Arrears and Provisions for Bad or Doubtful Debts

2.4.1 In respect of the current year, the level of income arrears at the end of July was running at just over 10% of the amount due and equates to approximately £13,000. Of the 24 tenants, 6 are currently in arrears as follows:

2011/12 Arrears:

	£	
3 Tenants	7,899.28	(100% in arrears, but one agreement to pay now in place)
1 Tenant	1,791.20	(50% arrears)
1 Tenant	652.83	(35% arrears)
1 Tenant	<u>2,373.62</u>	(24% arrears)
Total	12,716.93	

2.4.2 In terms of previous years, outstanding amounts are shown below. Only one current tenant has such arrears and an instalment plan has been agreed; all other amounts relate to former tenants.

Prior Year Arrears:

	£	
1 Tenant	2,212.84	(agreement to pay now in place)
Referrals to Legal	29,405.49	(currently being pursued)
Write Offs	<u>1,369.82</u>	
Total	32,988.15	

2.4.3 Whilst the cost of covering and writing off bad debts is provided for centrally, Members need to be aware of the current level of debt and the potential impact from arrears. Whilst the uncertainty regarding the future of the market may cause some tenants to hold off paying their rents and service charges, arrears may also indicate:

- Trading difficulties, increasing the risk that outstanding amounts (and/or potential bad debts) will increase further.
- A lack of commitment to the future of the market. Whilst this could be attributed to the uncertainty of its future arising from the Council's position,

such uncertainties may also be caused by other factors such as changes in shopping habits over the years.

- Blame culture: some may view that the Council is wholly responsible for the market's difficulties, with little collective or individual responsibility being taken by stakeholders.

2.4.4 In operational terms, the Council's position is that legal action will be taken against all tenants who are in arrears. In financial terms, the cost of providing for bad or doubtful debts must be reflected in any options appraisal.

3 IDENTIFICATION OF OPTIONS

3.1 Drawing on the July Cabinet report and the decision not to relocate the Lancaster market into the museum, the initial options identified for appraisal are as follows. To some degree, these are all subject to the resolution or outcome of the application to the court:

- A) Move tenants to the ground floor but maintain rents and service charges (as recommended by Cabinet in July and a version of Option 2 within that attached report).
- B) Move tenants to the ground floor but charge a commercial rent and full recovery of service charges (another variation of Option 2 within the Cabinet report).
- C) Keep the current layout and maintain rents and service charges (effectively Option 3 within the Cabinet report).
- D) Keep the current layout but charge a commercial rent and full recovery of service charges (effectively Option 4 within the Cabinet report).

3.2 Options were appraised over the period to March 2015; this being chosen to reflect the expected end date of any new leases agreed.

3.3 In completing this first stage of the appraisal, it became apparent that broadly the options could be categorised into two expected longer term outcomes:

- either a market operation would continue in some form; or
- the market operation would close, either through proactive or passive means.

3.4 Furthermore it became apparent that a number of the options considered by Cabinet in July fell into the category of those that are expected to result in the market closing. The additional two options shown at 3.5 below may therefore be considered as a more proactive approach in this regard, but with the same end result.

3.5 To reflect the need to appraise comparative value for money, particularly over the longer term, these two options are as follows. On face value they represent a different direction to that previously taken by Council in March and by Cabinet in July:

- E) Close the market after any new lease term expires and secure an alternative future use for the building, but maintain rents and charges in the interim.

F) Seek to close the market through agreement before any new lease is granted or expires, and secure an alternative use for the building, but maintain rents and service charges in the interim.

3.6 After considering the medium term implications for all options, the second stage of the financial appraisal focuses on the whole life costs estimated over the remaining life of the Council's lease (i.e. around 83 years, to June 2094). The options for this second stage were identified as:

- the market continuing in some form on a leasehold basis; or
- an alternative future for the building being secured; or
- the building remaining empty (as much for comparison).

3.7 In terms of any alternative future for the building, this would cover scenarios such as securing a single tenant or seeking to surrender the Council's leasehold interest.

3.8 The final stage of the appraisal draws together the main considerations to give a summary for each option. In particular, the expected outcome for each option is highlighted, as are other actions that would need taking forward should Council decide on that course at this stage. Any key sensitivities are also included.

4 **GENERAL ASSUMPTIONS AND RISKS**

4.1 In undertaking such an options appraisal many assumptions and estimates are made; the future cannot be accurately foreseen. Inevitably, differences will arise between estimates and what actually happens over time but it is essential that in making assumptions and in applying professional judgement, the Council can demonstrate that it was being reasonable in doing so and therefore scrutiny and challenge of key assumptions and associated risks is crucial.

4.2 To this end, the key financial, legal and other operational assumptions are highlighted:

- key common assumptions are outlined below;
- other specific assumptions and risks are included within each option appraisal.

4.3 **Common Assumptions**

Financial

- i. Costs in the current year are assumed to be unaffected irrespective of which option is pursued; any actual changes would not have a material impact on the financial appraisal overall.
- ii. Future years' costings are based on 2011/12 prices; rent levels include the 2.5% increase previously approved by Members and it is assumed that all traders will pay the same rent per square foot; these assumptions are now subject to the court application. No assumptions have been made regarding inflation or future rent reviews.

- iii. To cover bad and doubtful debts, an indicative provision of 5% (of income collectable) has been allowed for.
- iv. Reasonable estimates of any one-off costs such as redundancy, tenant compensation or other incentives to secure an alternative future for the building have been used, drawing on previous reports to Members. Any associated borrowing costs have also been factored in.
- v. In respect of business rates, once the building is assumed to be empty or half empty then the current total rates bill has been provided for, but a formal revaluation would need to be undertaken at that point in time. Where it is assumed for any option that occupancy reduces over time, however, no increased rates liability has been provided for during that period; many stalls are below the chargeable threshold.
- vi. Other running costs are assumed to be broadly static, except where an alternative can be justified, particularly where the building is assumed to be empty or half empty.
- vii. When taken as a whole, it is considered that the assumptions have no material bearing on the outcome of the financial appraisal.

Legal

- i. All of the options either make assumptions about the progression or otherwise of the existing court action regarding lease terms, or they would require further litigation at some future point in time. Appendix C sets out the implications in much more detail.

Other Operational

- i. Where quoted, occupancy percentages represent tenancies rather than stalls or square footage. This is easier, taking account of current and proposed layouts etc.
- ii. Basic estimated occupancy levels from 2012/13 onwards have been reduced slightly to reflect all traders paying the same rental and service charge rates per square foot. Where considered appropriate, any recent trends or previous experience has been used to inform other future assumptions, as have comments and responses made by stallholders in recent times, but exact changes in occupancy are impossible to predict with any certainty.
- iii. For options that involve seeking an alternative use for the building, whilst currently the retail market is struggling, it is considered reasonable to assume that, for example, it would be possible to attract a single occupier for the whole building in the medium term, say by 2016. Even if there are some years' delay on this, it is not considered material from a whole life costing point of view.
- iv. No additional rental income has been assumed for options A and B in relation to letting just the upper floor of the market building. This is based on advice from the Head of Property Services, which is that it is very unlikely that a new retail tenant would take over the upper floor in the current economic climate, and upper floor units can prove very difficult to let even in good market conditions. Furthermore, currently there are restrictions on alternative uses under the terms of the lease and very specific proposals on alternative uses would need to be submitted to the Council's landlord to ascertain whether consent would be forthcoming. In assessing any alternative uses, the prime

concern would be to maintain or increase footfall within the adjoining shopping centre. For these reasons, it is considered unrealistic to assume any additional rental income in the main appraisal, but potential financial implications are outlined in the options summary.

- v. At this stage no option for acquiring the freehold has been included. This is because in asset management terms, at present there is no case for doing so. It is considered that this position may change in future only if the Council was to take forward the ground floor market option and it proved successful, and it became apparent that a suitable alternative and sustainable use for the first floor could be found. Again though, the indicative financial impact is outlined in the options summary.

5 FINANCIAL OPTIONS APPRAISAL

5.1 Stage 1: Medium Term

- 5.1.1 The following table provides a summary of the first phase of the options appraisal, over the medium term to March 2015.

MEDIUM TERM FINANCIAL PROJECTIONS							
	Approved Budget / Forecast	A	B	C	D	E	F
		Move all tenants to the Ground Floor		Keep Current Layout			
		Current Rents & Service Charge	Increased Rents & Service Charge	Latest Income Projections at Current Rents & Service Charge	Increased Rents & Service Charge	Close after end of leases on 31 March 2015	Buy Out leases before 31 March 2015
	£	£	£	£	£	£	£
Annual Net Cost:							
2011/12	569,100	643,300	643,300	643,300	643,300	643,300	643,300
2012/13	526,000	648,800	700,900	706,500	715,000	706,500	660,000
2013/14	537,500	658,700	828,200	753,000	836,600	753,000	660,000
2014/15	555,600	668,600	661,200	780,900	661,200	799,500	660,000
One-Off Costs:							
2011/12 - Refurbishment Costs (Payback Period w.e.f. 2012/13)		+270,000 (3 Years)	+270,000 (6 Years)	+0	+0	+0	+0
2014/15 - Compensation / Relocation / Redundancy estimates		+0	+111,000	+0	+111,000	+111,000	+286,000
Total Indicative Cost to March 2015	2,188,200	2,889,400	3,214,600	2,883,700	2,967,100	3,013,300	2,909,300

Comparison to Approved Budget / Forecast (for whole period) +701,200 +1,026,400 +695,500 +778,900 +825,100 +721,100

Comparison to Latest Projection (Option C) (for whole period) +5,700 +330,900 N/A +83,400 +129,600 +25,600

2012/13 Average Net Subsidy per tenant based on estimated occupancy £28,200 £30,500 £30,700 £31,100 £30,700 £28,700

It is reiterated that costs of around £84K equate to a 1% increase in Council Tax.

LONGER TERM SCENARIOS	<i>Continue Trading</i>	<i>Cease Trading</i>	<i>Continue or Cease Trading</i>	<i>Cease Trading</i>	<i>Cease Trading</i>	<i>Cease Trading</i>
------------------------------	-------------------------	----------------------	----------------------------------	----------------------	----------------------	----------------------

- 5.1.2 This shows the annual costs of the various options at current prices. They are effectively split over two main themes – either keeping the current layout or moving the tenants to the ground floor.

5.1.3 The cumulative cost to 31 March 2015 is first compared to the current *approved* budget projections, and then to the updated budget projections if the Council continues with the current set up (Option C):

- From this it is apparent that whatever route Council chooses, the market is expected to cost more than approved budget forecasts. Just for next year, the estimated increase ranges from £123K to £189K. Over the full period, the total increase ranges from £696K to £1.026M.
- Option A (Cabinet's recommended option) is estimated to be only very slightly more expensive than Option C. The difference between these two options is not considered significant given the financial assumptions made.
- Option B is the most expensive over the medium term.
- Interestingly, an empty market is estimated to cost around £661K per year (excluding any upfront costs to reach this position). This is virtually lower than all options, with the exception of Option A up to 2014.

5.1.4 The payback of any refurbishment costs is also provided within the table, based on a comparison with the current set up. Option A meets the Council's general 5-year payback requirement, whilst Option B does not.

5.1.5 The average net subsidy per tenant based on estimated occupancy levels is shown. For simplicity, these have not been adjusted for the financing of any capital investment costs; this means that for Options A and B, they could be viewed as slightly understated.

5.1.6 Based on the outcome of this medium term projection two longer term scenarios have been highlighted and they are basically either:

- Continue Trading (Options A & C) or
- Cease Trading (Options C,B,D,E & F)

Note that Option C falls into both categories, as potentially it could result in the market continuing in some form albeit it with a very low occupancy, or eventually the market could end up closing.

5.1.7 At this stage it should be noted both of the options that involve increasing charges to tenants (Options B and D) are expected to result in the market closing in the medium term. This is because the increased charges are considered unaffordable to stallholders.

5.2 **Stage 2: Longer Term**

5.2.1 The following table therefore draws on the results of the first stage and re-categorises the options into the two longer term scenarios. It then projects the costs over the remaining 83 years of the lease.

	Longer Term : Market Continues Trading			Longer Term : Market Ceases Trading & Alternative Future Use Sought	
	Move all tenants to the Ground Floor		Keep Current Layout	Continue with existing layout then buy out remaining tenants and leave empty	Alternative Future Use Secured
	Current occupancy maintained	Occupancy reduces over time to leave a core number of tenants	Continue with existing layout but occupancy reduces to leave a core number of tenants		
	£	£	£	£	£
Years 1 - 4	2,558,800	2,889,400	2,883,700	2,883,700	Potentially between £13M and £20M
Years 5 - 15	7,023,500	7,998,100	8,589,900	7,804,200	
Years 16 - 83	43,418,000	52,196,800	53,101,200	44,961,600	
Total Indicative 83 Year Cost	53,000,300	63,084,300	64,574,800	55,649,500	

- 5.2.2 It is now assumed that for Options B,D,E and F, as a result of either falling occupancy, stallholder leases not being renewed at the end of the lease term or the Council proactively buying them out, the market would no longer continue and therefore would cease trading. For all these options, therefore, the ultimate aim would be to secure an alternative use for the building.
- 5.2.3 It is felt that Option C, continuing with the current set up, is eventually more likely to result in the market ceasing and an alternative use for the building being required. It could also potentially see the market continuing, however, albeit at a high cost and with occupancy at around say 20% of the total market, to reflect a small core of traders who have sustainable, established businesses in their own right.
- 5.2.4 If the tenants were moved to the ground floor with no changes in rent or service charges (Option A), there are again two main scenarios envisaged; either it continues at a relatively high occupancy level or again reduces over time.
- 5.2.5 Should the market cease trading then as mentioned earlier, the Council would need to consider options for its interests in the building and secure an alternative future use. This could include either “white boxing” and sub-letting the whole building to a tenant or negotiating to seek surrender of the lease.
- 5.2.6 Alternatively, in the worst case the building could remain empty into the future. This is considered unlikely but the indicative cost is shown, not least for comparison purposes.
- 5.2.7 Even given the inherent difficulties in projecting so far into the future, in summary it is considered that in the long term it would be much cheaper to find an alternative future for the building (with it not being empty). In the worst

case, there is a reasonable chance that operating a market in the longer term could be more expensive than simply just having an empty building.

- 5.2.8 A more comprehensive summary for each option is included in the following section, incorporating the non-financial aspects too and any other key sensitivities.

6 SUMMARY APPRAISAL FOR EACH OPTION

OPTION A	<ul style="list-style-type: none"> ■ Move all tenants to the ground floor. ■ Keep market stall rents and service charges at rates proposed in new lease (subject to court application). ■ Undertake capital investment and update Capital Programme / MTFS. ■ Implement other recommendations of Cabinet.
<p>EXPECTED OUTCOME:</p> <p>Market operation would continue trading on the ground floor; Council would have surplus upper floor space with no clear use for it nor any clear or immediate opportunities to relet it.</p>	
<p>SUPPORTING ACTIONS REQUIRED:</p> <p>As reflected in Cabinet recommendations. In addition, any emerging legal developments would need to be considered and the ongoing performance of the market would be kept under review.</p>	
<p>KEY ASSUMPTIONS:</p> <ul style="list-style-type: none"> ■ The Council would pay for the refurbishment costs of £270K to change the layout of the ground floor to accommodate all current tenants, but only after agreement on layout and relocation costs being reached with tenants. ■ Any continuation of the current court action would result in leases being granted to traders that are not significantly different to the terms assumed (e.g. there would be no other changes to current rents or service charges.) ■ For the purposes of these projections, it is assumed that the upper floor would remain empty for the reasons stated. ■ No cost of borrowing or loss of investment interest has been assumed in connection with the capital investment. ■ For the medium term, it is assumed that occupancy would reduce slightly each year, down to 80% by the end of 2014/15. ■ Two scenarios have been assumed in terms of longer term occupancy. Firstly, it could continue to reduce gradually over time leaving occupancy levels at about 40% of the lower floor availability, or it could be maintained at a relatively high level at a little over 90%. 	
<p>SUMMARY APPRAISAL:</p> <ul style="list-style-type: none"> ■ In simple terms, the £270K investment would have a pay back period of 3 years, when compared with Option C (the 'do nothing' option). ■ At a total cost of £2.889M to 2015, this option is projected to cost virtually the same as keeping the market in the current layout in the medium term, allowing for the £270K investment. ■ This equates to an indicative average tenant 'subsidy' of around £28K per tenant based on the 2012/13 projected cost of £649K and approximately 90% occupancy. ■ In the longer term, this option is expected to cost significantly more than finding an alternative future for the building. ■ In terms of supporting employment or providing services or community benefits to the district, this option would, at best, broadly maintain any current contributions to these aims, but at a cost of around £700K per year, allowing for capital investment. There is no real quantitative information to support any such significant benefits, however. The definition of what constitutes a 'thriving' market needs careful consideration and clarification. ■ There would still be an opportunity to let the upper floor if a single tenant could be found. 	

- If no tenant was found, in the longer term this option could prove to be more expensive than having an empty market.

The main risks are considered to be:

Strategic / Reputational: It is considered a high risk that investment in the market and not taking an opportunity (albeit long term) to save money may not be in the district's best interests overall. Any future savings would need to be made in other service areas, with the likelihood that other such service provision would be adversely affected – with potentially a greater impact on the wider community than if the market was to close.

Operational: This option would be dependent on all traders agreeing to the proposals prior to implementation and agreeing to meet their own relocation costs; there is the risk that such formal agreement will not be reached. In addition, there is the risk that even with investment, occupancy levels cannot be maintained, thereby reducing any benefits in terms of service to the community but increasing costs at the same time.

The potential opportunities are considered to be:

Any opportunities are dependent on how the Council defines a thriving market and how success would be measured, and how the market operation could perform in future against these aims. Potentially there would be the opportunity to increase occupancy over that assumed. If full occupancy proved possible this could generate around an additional £89K per year, over the better case scenario given.

Key Additional Sensitivities:

There would also be the need to find a single tenant for the upper floor, which could contribute significantly to reducing ongoing net costs. As a broad indication, over the longer term income of say around £11M could be possible.

Furthermore, if the market proved successful and a stable tenant was found for the upper floor, and the landlord was amenable, the Council could consider purchasing the freehold of the building. Again as a broad indication, this could result in savings of say £22M over the longer term. This would increase costs significantly (approaching £400K per annum) over the first 25 years or so, however, before any financial benefits were gained.

If these two scenarios both materialised and high occupancy was maintained, then whilst they could significantly reduce the longer term net costs of £53M down to around £20M for this option, over the 83 years this would still only be on a par with finding an alternative future for the building, and would significantly increase costs over the first 25 years or so.

OPTION B	<ul style="list-style-type: none"> ■ Move all tenants to the ground floor. ■ Charge a commercial rate for market stall charges, subject to court determination. ■ Charge a full recovery rate for service charges. ■ Undertake capital investment and update Capital Programme / MTFS; incorporate into future updates of the Corporate Plan.
-----------------	---

EXPECTED OUTCOME:

Market operation would cease and capital investment of £270K would therefore be wasted. Whilst it is impossible to be accurate regarding timing, it is expected that no tenants would remain by March 2015. An alternative future use for the building would be required.

SUPPORTING ACTIONS REQUIRED:

None given. **Officers advise against this option: it does not represent value for money and does not meet the requirements of the Prudential Code.**

KEY ASSUMPTIONS:

- Current court action would continue and result in full commercial rents applying, and also Members would approve an increase in service charges.
- All stallholders would relocate to the ground floor at a cost of £270K to the Council for refurbishment costs.
- No cost of borrowing or loss of investment interest has been assumed.
- Over the next 2-3 years the market would be empty.
- Tenant compensation would be avoided but provision made for up to £111K potential redundancy costs.

SUMMARY APPRAISAL AND RISK CONSIDERATIONS:

- At a total cost of £3.215M to 2015, the most expensive option in the medium term.
- The investment cost would only repay itself over 6 years, but by then the market operation is expected to have ceased trading.
- Equates to an average tenant 'subsidy' of £30K per tenant per year based on the 2012/13 projected cost of £701K and approximately 90% occupancy.
- More certainty regarding outcome (market closure), as much higher probability that tenants could not afford combined rents and service charges.
- If the market closed ultimately, this would present opportunities to consider alternative uses for the building and save money each year thereafter, but in the meantime the capital investment would have been wasted.
- No significant loss to district in terms of market services or employment, or wider community benefits (outdoor market and other developments may fill any gap).

The main risks are considered to be:

The Council fails in its fiduciary duties and calls into question the legality and rationale of its decision-making. Various other risks and issues would stem from this.

The potential opportunities are considered to be:

None (that override the risks).

OPTION C

- **Keep current market layout.**
- **Keep market stall rents and service charges at rates proposed in new lease (subject to court application).**
- **Incorporate into future updates of the Corporate Plan and MTFS.**
- **Authorise Officers to develop future options for consideration by Members in due course.**

EXPECTED OUTCOME:

Market operation still exists by March 2015 but with only core tenants envisaged and therefore market considered unviable in the longer term. Would therefore probably require negotiation / legal action to bring operation to an end, at some point beyond 2015. (A passive approach that would result in closure of the market at some point in the longer term.) An alternative future use for the building would be required.

SUPPORTING ACTIONS TO BE TAKEN:

Support only any short term measures that may improve the market's financial position to March 2015, including short term lettings. Do not undertake take any longer term investment or improvements.

In due course, consider when/how best to end the market operation (including compensation or other incentives) and options for future of building after closure, and

associated decision-making. Consideration be given to the staffing implications.

Keep timescales for the above under review, informed by financial and legal positions and occupancy levels.

KEY ASSUMPTIONS:

- Agreement reached on current leases with or without court approval.
- Tenant numbers reduce over time leaving a small core number of tenants (20% occupancy of the full market).
- Any internal stall relocations (initiated by stallholders themselves) would have no material impact on the viability of the market operation.
- The Council would be faced with a decision at some later point on whether / how best to terminate the market operation. With such low occupancy levels, it is not considered that the Council would really seek to maintain an essentially unviable market for the longer term.

SUMMARY APPRAISAL AND RISK CONSIDERATIONS:

- At a total cost of £2.884M to 2015, the option is virtually the same as Option A in the medium term, but the most uncertain option to cost.
- Equates to an average tenant 'subsidy' of £31K per tenant per year based on the 2012/13 projected cost of £706K and approximately 50% occupancy.
- If the market closed ultimately, this would present opportunities to consider alternative uses for the building and save money each year thereafter.
- On any ultimate closure, no significant loss to district in terms of market services or employment, or wider community benefits (outdoor market and other developments may fill any gap).
- If the market continued on but with very low occupancy levels of say 20%, over the life of the lease this would be the most expensive option (approximately £65M as an indication).

The main risks are considered to be:

Strategic / Reputational: This could prove to be a 'slow death' for the market over the medium term, with adverse impact on the Council's image and relationship with stakeholders. The Council could also fail to take a firm decision in future (after 2015), with the risk that any residual market continues at an unacceptably high cost and involving disproportionate Member and Officer time. Alternatively, the Council may fail to find a single occupier or exit from its leasehold and would have to continue to pay the landlord for rent and service charges for an empty building. Legal risks exist regarding the termination of stallholder leases.

Operational / Financial: Collection of rents and service charges and markets management generally may prove more difficult (but in turn this could result in earlier termination of affected tenancies).

The potential opportunities are considered to be:

Significant financial savings over the longer term, with only comparatively small losses in employment or services for the district. Potentially, any sustainable businesses may move into the city centre, and the offer (and employment) opportunities in the Marketgate building could improve depending on future use.

This option could, by default, present an opportunity to seek an alternative use for the building earlier than 2015. If such a use was found, this could also reduce medium term costs. It may also provide an opportunity to consider additional support for traders, if the Council wished to secure an alternative use for the building sooner.

OPTION D	<ul style="list-style-type: none"> ■ Keep current market layout. ■ Charge a commercial rate for market stall charges, subject to court determination. ■ Charge a full recovery rate for service charges. ■ Incorporate into future updates of the Corporate Plan and MTFS ■ Authorise Officers to develop future options for consideration by Members in due course.
<p>EXPECTED OUTCOME:</p> <p>Market operation would cease and an alternative future use for the building would be required. Whilst it is impossible to be accurate regarding timing, it is expected that no tenants would remain by March 2015.</p>	
<p>SUPPORTING ACTIONS REQUIRED:</p> <p>Support only any short term measures that may improve the market's financial position to March 2015, including short term lettings. Do not undertake any longer term investment or improvements.</p> <p>In due course, consider how best to end the market operation (including compensation or other incentives) and options for future of building after closure, and associated decision-making. Consideration be given to the staffing implications.</p> <p>Keep timescales for the above under review, informed by financial and legal positions and occupancy levels.</p>	
<p>KEY ASSUMPTIONS:</p> <ul style="list-style-type: none"> ■ Current court action would continue and result in full commercial rents applying, and also Members would approve an increase in service charges. ■ Over a short space of time traders would leave and the market would empty. ■ Any internal stall relocations (initiated by stallholders themselves) would have no material impact on the viability of the market operation. ■ Tenant compensation would be avoided but provision made for up to £111K potential redundancy costs. 	
<p>SUMMARY APPRAISAL AND RISK CONSIDERATIONS:</p> <ul style="list-style-type: none"> ■ At a total cost of £2.967M to 2015, the third most expensive option overall in the medium term. ■ Equates to an average tenant 'subsidy' of £31K per tenant per year based on the 2012/13 projected cost of £715K and approximately 50% occupancy. ■ More certainty regarding outcome (market closure), as much higher probability that tenants could not afford combined rents and service charges. ■ If the market closed ultimately, this would present opportunities to consider alternative uses for the building and save money each year thereafter. ■ On closure, no significant loss to district in terms of market services or employment, or wider community benefits (outdoor market and other developments may fill any gap). <p>The main risks are considered to be:</p> <p>Strategic / Reputational: Whilst charging full commercial rents and requiring tenants to meet their full service charges is not in itself unreasonable, the Council could be portrayed as 'forcing' tenants out of the market and worsen stakeholder relationships. Also the Council may fail to find a single occupier or exit from its leasehold and would have to continue to pay the landlord for rent and service charges for an empty building. Legal risks exist regarding the termination of stallholder leases.</p> <p>Operational / Financial: Collection of rents and service charges and markets management</p>	

generally may prove more difficult (but in turn this could result in earlier termination of affected tenancies).

The potential opportunities are considered to be:

Significant financial savings over the longer term, with only small real losses in market employment or services for the district. Potentially, any strong businesses may move into the city centre, and the offer (and employment) opportunities in the Marketgate building could improve depending on future use.

This option may present an opportunity to seek an alternative use for the building earlier than 2015. If such a use was found, this could also reduce medium term costs. It may also provide an opportunity to consider additional support for traders, if the Council wished to secure an alternative use for the building sooner.

OPTION E	<ul style="list-style-type: none"> ■ Keep current market layout. ■ Keep market stall rents and service charges at rates proposed in new lease (subject to court application). ■ Leases are not renewed after 31 March 2015, to allow future alternative use for the building thereafter. ■ Authorise Officers to develop future options for consideration by Members in due course (from now).
EXPECTED OUTCOME:	
Market operation would cease by 2015, and an alternative future use for the building would be secured.	
SUPPORTING ACTIONS REQUIRED:	
Support only any short term measures that may improve the market's financial position to March 2015, including short term lettings. Do not undertake any longer term investment or improvements.	
Consider (sooner rather than later) how best to end the market operation, including compensation arrangements or other incentives and options for future of building after closure, and associated decision-making. Consideration be given to the staffing implications.	
Keep timescales for the above under review, informed by financial and legal positions and occupancy levels.	
KEY ASSUMPTIONS:	
<ul style="list-style-type: none"> ■ Current court action would continue but current leases would not be renegotiated or extended after 31 March 2015. No future increase in rents & service charges assumed, however. ■ Over time tenants would leave and the market would empty. ■ Any internal stall relocations (initiated by stallholders themselves) would have no material impact on the viability of the market operation. ■ Tenant compensation would be avoided but provision made for potential redundancy liabilities. 	
SUMMARY APPRAISAL AND RISK CONSIDERATIONS:	
<ul style="list-style-type: none"> ■ At a total cost of £3.013M to 2015, the second most expensive option overall in the 	

medium term.

- Equates to an average tenant 'subsidy' of £31K per tenant per year based on the 2012/13 projected cost of £706K and approximately 50% occupancy.
- More certainty regarding outcome (market closure), and much higher probability that tenants could not afford combined rents and service charges.
- This option would present opportunities to consider alternative uses for the building and save money each year thereafter.
- No significant loss to district in terms of market services or employment, or wider community benefits (outdoor market and other developments may fill any gap).

The main risks are considered to be:

Strategic / Reputational: Legal risks exist regarding the termination of stallholder leases. The Council could be viewed as effectively 'forcing' tenants out of the market by not renewing the leases after 31 March 2015.

Also the Council may fail to find a single occupier or exit from its leasehold and would have to continue to pay the landlord for rent and service charges for an empty building.

The potential opportunities are considered to be:

Significant financial savings over the longer term, with only small real losses in market employment or services for the district. Potentially, any strong businesses may move into the city centre, and the offer (and employment) opportunities in the Marketgate building could improve.

This option may still present an opportunity to seek an alternative use for the building before March 2015. If such a use was found, this could also reduce medium term costs. It may also provide an opportunity to consider additional support for traders, if the Council wished to secure an alternative use for the building sooner.

OPTION F	<ul style="list-style-type: none"> ■ Keep current market layout. ■ Keep market stall rents and service charges at rates proposed in new lease. ■ Buy out tenant leases before 31 March 2015, to allow a future alternative use to be secured. ■ Authorise Officers to develop future options for consideration by Members in due course (from now).
-----------------	---

EXPECTED OUTCOME:

Market operation would cease before 2015, and an alternative future use for the building secured.

SUPPORTING ACTIONS REQUIRED:

Minimise day to day spending and investment in market.

Commence negotiations with traders to buy out the leases, which would incur compensation costs and potentially relocation costs to assist tenants in setting up in new premises.

Develop options for future of building from 2015/16 onwards or sooner. Consideration be given to the staffing implications.

Determine appropriate decision-making arrangements to effect the above and keep timescales for the above under review, informed by financial and legal positions.

KEY ASSUMPTIONS:

- It is assumed that there would be no reduction in the current level of tenants as they would seek to achieve maximum compensation and relocation costs from the process, which have been provided for within the costs.
- Provision made for up to £111K potential redundancy liabilities.

SUMMARY APPRAISAL AND RISK CONSIDERATIONS:

- At a total cost of £2.909M to 2015, the lowest cost option that clearly aims for closure of the market, but the difference in medium term costs between this and Option C is not considered significant.
- Equates to an average tenant 'subsidy' of £29K per tenant per year based on the 2012/13 projected cost of £660K and approximately 50% occupancy.
- Certainty regarding outcome (market closure), as the Council is taking a course of action that would result in an empty market.
- Opportunities to consider alternative uses for the building and save money each year thereafter.
- No significant loss to district in terms of market services or employment, or wider community benefits (outdoor market and other developments may fill any gap).

The main risks are considered to be:

Strategic / Reputational: Legal risks exist regarding the termination of stallholder leases. The Council could be viewed as effectively 'forcing' tenants out of the market by not renewing the leases after 31 March 2015.

Also the Council may fail to find a single occupier or exit from its leasehold and would have to continue to pay the landlord for rent and service charges for an empty building.

The potential opportunities are considered to be:

Significant financial savings over the longer term, with only small real losses in market employment or services for the district. Potentially, any strong businesses may move into the city centre, and the offer (and employment) opportunities in the Marketgate building would improve.

This option should present an opportunity to seek an alternative use for the building before March 2015. If such a use was found, this could also reduce medium term costs. It may also provide an opportunity to consider additional support for traders.

7 CONCLUSIONS

- 7.1 Decisions for the market should be informed by longer term considerations, particularly given the nature of the Council's leasehold interest.
- 7.2 Whichever option is chosen, in the medium term the market is expected to cost more than is currently provided within approved budget forecasts.
- 7.3 Of the options appraised, only Option A, the preferred option of Cabinet, is expected to result in the market operation continuing much beyond 2015.
- 7.4 Option A is expected to be virtually the same as Option C in the medium term, but it is expected to prove much more costly in the longer term, when compared with an option that involves closing the market and securing a future alternative use. Its financial implications could be improved by letting the upper floor and potentially by considering any opportunity to buy the freehold, but even then, it is not expected to be the lowest cost option.

- 7.5 Option A is considered to make at best only small contributions to the previously desired aims of supporting employment and service to the district. The 'returns' on the annual investment or net operating cost are therefore considered very small for the community or taxpayers as a whole.
- 7.6 Accordingly Option A is considered to be of greater benefit to market traders than for the community or local taxpayers. This is because of the subsidised nature of the market undertaking.
- 7.7 All other options, even that of Option C (the current set up, or "doing nothing") are reasonably expected to result in the closure of the market at some point with the need to secure an alternative future use for the building. Some of these (Options E and F) are proactive, whereas others may be viewed as more passive.
- 7.8 Officers advise against Option B, as it is expected that any capital investment would prove to be a waste.
- 7.9 Whilst not without risk, it is considered that options that result in closure of the market and provide an opportunity to secure an alternative future for the building, represent a better deal for the community and taxpayers as a whole, with opportunities to make significant financial savings.
- 7.10 Whilst there would be a cost to the community for as long as the market building is empty, this is comparable to the cost of the current operation and therefore is not considered a significantly worse deal than that currently experienced.
- 7.11 Of the options that result in the market's closure and require an alternative use to be secured for the building, Option F (the lowest cost option) is considered to be clearest in terms of setting future direction, with opportunities to assist current stallholders in exiting the market, thereby helping to minimise any employment / service losses.

Lancaster Market – Legal Implications

1. Appendix B of the report provides Members with a number of financial options for appraisal of Lancaster Market. This appendix will briefly provide the Council with an overview of the current legal position with regard to the Market Hall and will provide analysis of the legal implications of each proposed option to be considered by Members.

Background

2. Lancaster City Council (LCC) entered into a lease with Centreville Property Investment Limited on 23 September 1996 for the use and occupation of the Lancaster Market Hall. The lease was subsequently assigned to Allied (Lancaster) Ltd. This is a building consisting of two floors designed for the use as an indoor market. This lease is for a term of 99 years and will end on 24 June 2094. In accordance with the terms of this lease LCC has divided the Market into units and has sub-let these units to various tenants.

Position with regard to the Head-lease

3. The lease between LCC and Allied (Lancaster) Ltd is called a head-lease and Allied (Lancaster) Ltd is referred to as the head-landlord. LCC pays the head-landlord an annual rent and has various obligations under the head-lease. As the head-lease is for a fixed term of years LCC cannot 'get out' of its obligation under the lease and is liable to perform its obligations until 24 June 2094. The only ways in which LCC can 'get out' of its obligations to the head-landlord would be:
 - a. To buy the freehold from head-landlord;
 - b. To pay the head-landlord to release LCC from its lease; or
 - c. To claim that the head-landlord are in breach of their obligations under the lease entitling LCC to treat the lease as brought to an end.
 - d. To transfer the Head Lease to another Head Tenant (with the Head Landlord's consent)
4. There have been no breaches of obligations by the landlord.
5. The lease contains a user clause that currently restricts the use of the market to retail use. When the Marketgate Shopping Centre was developed, the market was seen as being an anchor tenant which had the ability to draw customers through the shopping centre and therefore increasing footfall to the centre as a whole. Any significant changes to the market or to its use, would need appropriate approval from the head-landlord.

Sub-tenants

6. A property can be sub-let to a business or person by way of a licence or lease. It will depend on the type of tenant, their proposed use of the site

and the landlord's desire to control the site as to whether a licence or lease will be granted.

7. A licence provides both the licensee and the licensor greater freedom with regards to terminating an agreement and vacating a stall. A lease will provide both a landlord and tenant with greater security. The tenant will trade in the knowledge that he/she has the stall for a fixed period and this will hopefully transfer into goodwill and develop customer relations. For the landlord, he/she has the security of knowing that a stall will be filled for a fixed term and that he/she will get a fixed return for the rent of the property. Whether or not a trader has a licence or lease is a question of law.
8. The Landlord and Tenant Act 1954 (the Act) provides that in certain circumstances leases will enjoy statutory security of tenure. This means, that where the Act applies a tenancy can be protected from termination unless the landlord has a statutory reason to terminate the tenancy (for example, he can show he is to redevelop his property) or unless there is a breach of the agreement allowing him to forfeit the lease (e.g. tenant fails to pay rent). In addition to this, the Act provides that a landlord or tenant can only end their tenancy following the procedure provided for in the Act.
9. A tenancy subject to the Act (meeting certain conditions) can only be terminated after either the landlord has served a notice under Section 25 of the Act or the tenant has served a notice under Section 27 of the Act. In addition to this, at the end of a fixed term a tenant can apply to the Court for a new lease under Section 26 of the Act. This may happen where a landlord refuses to grant a lease or refuses to grant a lease on the terms proposed by the tenant.
10. If a landlord serves a Section 25 Notice on a tenant he/she is entitled to ask the landlord for a new lease. Should the landlord refuse a new lease or refuses a lease on the terms the tenant has suggested then the tenant can apply to the Court, in accordance with Section 24 of the Act, for a new lease and for a determination of the terms of the lease.
11. A landlord may, having served a Section 25 notice on a tenant, make an application to the court for either the termination of the lease or for determination of the terms of the new lease.

The Council's position regarding its sub-tenants/Licensees

12. Under the terms of the Head-Lease, LCC has the right to sub-let part or all of the Market Hall.
13. LCC currently has 24 tenants in Lancaster Market Hall. Depending on the tenant and the purpose/type of occupancy, LCC has given traders either a lease or a licence to trade from their stall. Some traders have signed leases/licences and returned them to LCC and some traders have failed to provide LCC with signed lease/licences. It has previously been reported to both cabinet and Council that the traders' leases expired on 31 March 2010 but traders remain in occupation on the terms of those leases.
14. On 27 September 2010, in accordance with Section 25 of the Act the Council served a notice on each of the Market tenants (except three

tenants who had already served section 26 Notices on LCC). Taking a considered approach the Notice was served on all traders, whether or not they were given a lease or had a licence. This was done as a 'catch all' approach to ensure that all traders were given adequate protection and to ensure that the Council was not dragged into a litigious dispute over whether a stall occupier, in law, was or was not a tenant.

15. Since serving the Notices on the traders the Council has sought to negotiate the terms of a new lease. This provided that the tenant would pay LCC an increased rent (by 2.5%) and service charge. Provision was made for a redevelopment break clause to be inserted into the new lease and the tenancy was to be for a fixed period of four years.
16. A redevelopment break clause would allow the Council to 'break' the lease or bring it to an end before the expiry of the fixed period specified in the lease. The break would only become operative once the Council had served a section 25 notice on the tenants on the grounds that the Council is to redevelop the market. If the tenants disputed such a notice or the Council's reasons for terminating the lease, the tenants could apply to the court for a new lease and a determination as to whether or not the Council is entitled to rely on the break clause.
17. A copy of the proposed lease was sent out to all of the traders, the Market Association and to their legal representatives (where applicable). However, the market traders have opposed the terms of the new lease.
18. In accordance with Section 29 of the Act, LCC, in agreement with the solicitors representing most of the tenants, on a number of occasions, extended the period by which the parties had to apply to the Court for a determination of the new lease under Section 24 of the Act. This was done to enable the parties to try to reach an agreement on the terms of the agreement. The deadline was finally extended until 20 May 2011.
19. Unfortunately by 20 May 2011, no agreement had been reached despite numerous meetings between Council officers, Market Traders' Association and its tenants. Accordingly, 16 businesses (some having more than one stall or tenancy) have lodged claims with the Lancaster County Court for a new lease under the Act.
20. LCC has not opposed the tenants' claim for a new tenancy. However, the Council has objected to the traders' proposed terms of a new lease. This is because they have rejected the Council's original proposed terms. Specifically, they have sought a lease without provision for a break clause. In some cases, they have opposed the increase in rent and service charge.
21. In accordance with court procedure the Council has filed an 'Acknowledgment of Service' setting out its opposition to the terms of the tenants' proposed new leases. Accordingly, the Court is to schedule a Case Management Conference in order to provide the parties with directions to trial.
22. In the meantime and in accordance with the Cabinet's resolution of 26 July 2011, officers have sought to ascertain, on a without prejudice basis, whether or not, the tenants would agree to a proposed ground floor plan.

The tenants have been informed that both Cabinet and Council are looking at the possibility of such a move on the basis that the tenants would bear the cost of relocation and the fitting out of their unit.

23. With regard to the tenants who have not sought to protect their position by lodging a claim with the Court, officers are seeking, as with the protected tenants, a resolution to the terms of their tenancy.

Financial options for appraisal and their legal implications

24. This appendix follows the indexation of options at paragraph 3.1 and 3.2 of appendix B:

Option A

Move tenants to the ground floor but maintain current rents and service charges (As recommended by Cabinet in July and a version of Option 2 within that attached report)

25. For this option to work practically, all of the affected current tenants will have to agree to a move to the ground floor and will have to agree the new location of their stall. In effect the tenants who would have to move either from their current location on the ground floor or from the first floor would have to agree to surrender their current lease/licence and accept new leases on the ground floor.
26. If not all of the affected tenants agree to move to the ground floor (or those already on the ground floor do not agree to move to allow a new layout to be agreed) the Council could be left with a situation where some tenants remain on the first floor and pursue renewal of their existing leases. In this scenario, the Council could look to remove the first floor tenants by obtaining a redevelopment break clause in the remaining tenants' lease. Alternatively the Council could look to bring the remaining first floor traders leases to an end at the end of the new contractual term.
27. However, we do not know, at this stage, how many tenants will agree to a move to the ground floor or whether a thriving indoor market could be created on this floor. If not enough tenants agree to a rearranged ground floor market then it is unlikely that this option would work.
28. The level of rent and the terms of the lease generally would have to be agreed with the traders. If this is not possible it may be necessary for the court to determine the new terms of the lease and the rate of rent. The Council can set the level of service charge in accordance with the proposed lease. This could be either charged at a discounted rate or at a full rate.
29. If a move to the ground floor is possible then the need for a redevelopment break clause may be removed. The aim of this option is to provide a further opportunity to cultivate a thriving indoor market.
30. Members will have to consider whether such an option is realistically possible. Thus the Council will have to be satisfied that all the affected

traders will agree to accommodate the move to the ground floor. Otherwise, Members will have to be content for the majority of the tenants to be moved to the ground floor and for further action to be taken to terminate the tenants remaining on the first floor. Unless the Council is able to obtain a redevelopment break clause this could not be done until the end of the remaining tenants' new four year lease. It could not be done immediately and may be difficult to achieve.

31. Members should be aware that there is no guarantee that should there be some traders left on the top floor that the Council will be able to move them to the ground floor before the end of their new four year lease. Indeed, there is no absolute certainty that they could be moved to the ground floor at the end of their four year term. To move the remaining tenants to the ground floor will depend on the Court finding that it is appropriate for a redevelopment break clause to be inserted into the remaining tenants' lease.
32. Following this and assuming the courts do grant the insertion of a redevelopment clause into the remaining tenants' leases, the Council may have to convince the court that it is reasonable to terminate their leases on the grounds that the Council intends to redevelop the first floor. Again there is no guarantee that the courts will agree to this.
33. Should Council decide to move all the tenants to the ground floor Members will have to specifically consider whether they still require a redevelopment break clause inserting into the ground floor leases.
34. The Market tenants are currently in dispute with the Council as to whether such a break clause is needed/ reasonable. If Members consider that a redevelopment break clause is needed (for example to ensure the option of redevelopment can be considered before the expiry of the fixed four year lease) then it is likely that the court will have to decide whether this is necessary.

Option B

Move tenants to the ground floor but charge a commercial rent and full recovery of service charges (another variation of Option 2 within the Cabinet report)

34. The legal implications in this option are the same as in option A. The level of rent would have to be agreed between the Council and the Market Traders or the court would have to determine the level of rent.
35. The Council can set the level of service charge in accordance with the proposed lease. This could be at either a discounted rate or at a full rate.

Option C

Keep the current layout and maintain rents and service charges at current levels (effectively Option 3 within the Cabinet report)

35. The level of rent will have to be agreed by the Market traders and the Council. Otherwise, the court will have to determine what it considers is a reasonable rate of rent. The service charge can be determined by Members in accordance with the proposed lease.
36. The Council may consider that it needs to keep its options open re possible redevelopment of the market before the end of the 4-year lease period. If this is the case, Members may want to ensure that the lease contains a redevelopment break clause allowing the Council to close the Market in the event that it seeks to redevelop.
37. As explained above, the market traders are opposed to the Council's proposed redevelopment break clause. Unless the stall holders agreed to the insertion of the break clause the issue would have to be resolved by the court. The court may or may not consider such a break clause reasonable.

Option D

Keep the current layout but charge a commercial rent and full recovery of service charges (effectively Option 4 within the Cabinet report).

38. The legal implications for this Option are the same as in Option C.

Option E

Close the market after any new lease term expires, but maintain rents and service charges in the interim.

39. As with the options already discussed, the level of rent would have to be agreed between the tenants and the Council. Otherwise, the court would have to determine the level of rent.
40. To terminate the leases at the end of the four year period the Council would have to serve appropriate section 25 notices on the tenants. Should any of the tenants oppose the termination and request a new lease the Council would have to oppose the tenants' application for a new lease on one of the grounds set out in Section 30 of the Act. For example it would have to show one of the following grounds: persistent delay in paying rent, failure to repair, substantial breaches of other terms of the lease, that there is suitable alternative accommodation elsewhere offered to the tenant, that possession is required for letting or disposing of the property as a whole, that the property is to be demolished or redeveloped or that the Council intends to occupy the premises. It should be noted that in the context of this option, "the property to be demolished" does not refer to the market hall building, but rather to the individual stalls which are the areas let to traders.
41. Should the Council successfully oppose the grant of a new lease by relying only on one of the non-fault grounds (Section 30 (e) (f) and/or (g) of the Act) then the Council will have to consider whether any of the tenants are entitled to compensation under Section 37 of the Act.

Option F

Seek to close the market through agreement before the new leases are created or expire, but maintain current rents and service charges in the interim.

42. It is assumed that the Council would not insist on a redevelopment break clause if this option was chosen. As explained above the level of rent would have to be agreed in the interim or would require the court to determine the level of rent.
43. In order to end the tenants' leases in these circumstances it may be necessary to make payments to traders as referred to in the financial appraisal. This is in accordance with section 37 of the Act.
44. Whether or not payment to all the traders is necessary will depend on whether or not there are any grounds for forfeiture. If a tenant is in breach of his or her lease allowing the Council to forfeit the lease then it would be preferable to end the lease on this ground. If this is the case then there will be no need to pay compensation to the defaulting tenant.

COUNCIL 14TH SEPTEMBER 2011 AGENDA ITEM 10

LANCASTER MARKET – SUPPLEMENTARY INFORMATION

HEAD OF FINANCIAL SERVICES, HEAD OF PROPERTY SERVICES AND HEAD OF GOVERNANCE

Since the Council report was prepared, further information has been received from individual tenants, which indicates that not all of them are willing to move from the first floor to the ground floor or to relocate within the ground floor.

The effect of this information on the original Cabinet recommendation of the 26th July is as follows:

i. That all market traders be moved onto the ground floor and rents or service charges not be increased at this point.

As all market traders have not agreed the move it will not be possible to effect a move by agreement.

ii. That legal agreement be reached with traders on the move to the bottom floor and to costs that traders would pay for moving and fitting out.

It has not proved possible to reach a legal agreement with all traders.

iii. That the move in (i) above be done with some urgency to protect existing businesses on the top floor and to protect the Council's future rental income.

It would only be possible to achieve a move to the ground floor if the court action results in a break clause being included in the new leases. However, it is by no means certain that the court will incorporate a break clause into the new lease, and even if it does, there will be a considerable delay in being able to implement such a clause in order to enforce a move to the ground floor.

It will not be possible therefore to undertake any move with some urgency, if at all.

Such a delay could also bring into question the ongoing viability of the market as a whole, as some traders could leave during this period due to the continuing uncertainty as to the future of the market which in itself has an effect on the level of footfall and trade.. This would mean that the actual decision on any capital investment would need to be reconsidered at the time of the outcome of the court proceedings, taking account of the market's trading position at that time.

iv. That alternative tenants be sought for the upper floor.

This recommendation could continue with a view to seeking a tenant for the upper floor if and when it becomes vacant. However, uncertainty as to when that might be would make the process more difficult and clearly this element of the recommendation cannot be taken forward in isolation.

v. That the recommendations in terms of improved marketing and management recommended to Council in the NCS report received in December 2010 be carried out.

It would not be appropriate to carry out marketing until the future of the market was more certain.

vi. That the Council's costs of running the market be examined and it be considered whether these can be reduced.

This is an ongoing management process.

Conclusion:

The Cabinet recommendation of the 26th July, which reflected option 2 in the report to that meeting, was on the basis that the traders had suggested the move to the ground floor, and there was therefore an expectation that their full agreement to the move would be forthcoming. As this is no longer the case, as indicated above, the recommendation is no longer achievable.

Option A in the financial appraisal was in effect the same as the Cabinet recommendation. Accordingly, it could no longer be achieved by agreement, as originally envisaged.

However, as indicated above, a variation of Option A may still be available in the longer term, if (and only if) the court were to incorporate a break clause in the new lease and there was still sufficient trading within the market at that time to justify capital investment. This outcome of the court proceedings is, however, by no means certain, is some time away, and indeed is being opposed by the traders' representatives.

Accordingly, there would be substantial risk in proceeding with this option at this time. If Members were minded to go along this route, there would need to be further consideration of the position following the outcome of the court proceedings. In the event that that outcome was in the Council's favour, a further assessment of the financial implications would be necessary at that stage. In the event that the outcome were unfavourable, the Council would need to reconsider its position, resulting in further delay and uncertainty.

The same comments apply also to Option B, which although not an option recommended by officers, relied on a move to the ground floor.

13th September 2011

Addendum – 14th September 2011

The above reflected the position at the close of business on the 13th September. However, this morning (14th September), the Head of Property Services received a telephone call from the Chairman of the Market Traders' Association indicating that a meeting was held last night with those traders who had opposed the move to the ground floor, and as a result, written confirmation from all tenants affected would be

delivered to the Head of Property Services this morning. These were subsequently received whilst this addendum was being written.

In addition, members should be aware that one trader, a national company not a member of the Association, has indicated that it would be prepared to agree to the move only if the Council were to agree a reduction to the proposed rent of the new ground floor premises. Clearly, this is not an unequivocal acceptance of the move.

From this information, Members should be aware that full acceptance of the proposed move to the ground floor is by no means certain. Clearly, officers' advice would be that it will be absolutely essential to have binding legal agreements in place with all affected traders before any capital investment could be made. There is a danger that this may ultimately not be achieved, resulting in further delay and uncertainty if members were minded to adopt Option A.

COUNCIL**Leader's Report****16 October 2011****Report of the Leader of the Council****PURPOSE OF REPORT**

To present the Leader's report to Council.

This report is public.

RECOMMENDATIONS

To receive the report of the Leader of Council.

REPORT**1.0 Cabinet**

Information on Cabinet matters is provided in the minutes from the Cabinet meetings held on 6 September and 4 October 2011, later in this agenda.

2.0 Decisions required to be taken urgently

There are no decisions to report since the last Leader's Report on 14 September 2011.

3.0 Leader's Comments

At the end of September, a meeting was arranged between myself and the Leader of Preston Council. Due to traffic problems, only the Deputy Leader came. We discussed our shared Revenues and Benefits Service and the possibility of working together in the future. Since then Councillor Bryning and the Head of Finance Services came with me to our first meeting about the Service which was a report on how the Service is working and the appointment of Chair and Vice-Chair. We must be fated with traffic problems as Preston was gridlocked on our return journey.

30th September was my first Vision Board meeting at the University. I found it a most worthwhile meeting with many ideas for our area. The future use of the Castle was a major topic with a report being produced. Professor Wellings is leaving very soon and I hope that the new Vice-Chancellor will join the Board.

The Budget Consultation process has begun with many groups throughout the district. I attended three of these culminating in a meeting with the Chamber of Commerce. It has been interesting and informative to listen to the various groups.

A small group of Councillors endured a day of Media Training which took away any illusions about how capable we were in the face of quick fire questions. It was so difficult to keep calm and still while pretending to be in command of our briefs. All of us found it difficult but probably worthwhile.

Councillor Hanson and myself visited Liverpool with two officers to see for ourselves how Liverpool Direct is working. Liverpool Direct is a joint venture put in place between Liverpool City Council and BT some ten years ago. It is therefore similar to One Connect Ltd (OCL), the joint venture between Lancashire County Council and BT. We also had a private meeting with Joe Anderson, the Leader of Liverpool City Council. We asked questions and queried stories about problems in the past with the BT Service.

The Local Government Boundary Commission for England members came to Lancaster to discuss the start of an electoral review of the District. The review will decide the size of the Council, the number of Wards and their boundaries. This is a five year forecast in time for the next election. They will be coming to the November Council today to explain the process and to answer questions.

Unfortunately the District Leader's Leaders' Meeting was held this month at a difficult time for me. I would like to take this opportunity to thank everyone for their cards, letters and expressions of sympathy. They were much appreciated.

4.0 Other Matters

Cabinet minutes are attached at the end of this agenda.

BACKGROUND PAPERS

Cabinet agenda and minutes of the meetings on 6 September and 4 October 2011.

COUNCIL**Lancaster City Council – Electoral Review
16th November 2011****Report of the Head of Governance****PURPOSE OF REPORT**

To enable members to be briefed in advance of the electoral review which is due to commence in early 2012

This report is public

RECOMMENDATIONS

- (1) **That Council note the briefing to be provided by the Local Government Boundary Commission for England.**

1.0 Introduction

- 1.1 Some Members will recall that following a Motion on Notice, Council at its meeting on the 2nd March 2011, resolved as follows:

“(1) This Council notes that the electoral imbalance is currently greater than 45% in one ward of the city and therefore resolves that officers make representations to the Boundary Commission to establish whether the Commission would be willing to undertake an electoral review of the district for implementation prior to the 2015 city council elections.

(2) That officers be requested to suggest to the Boundary Commission that this could be addressed by redrawing the boundary line in Ellel ward, without the necessity to review the whole district.”

- 1.2 In the light of this resolution, officers contacted the Local Government Boundary Commission for England, and in August 2011 the Commission indicated that it would commence an electoral review of the Council in early 2012. This will be of the whole district, and not just Ellel.
- 1.3 As part of the preliminary process, the Review Manager met with officers in October, and a meeting between representatives of the Commission and Group Leaders has been arranged for the 7th November 2011.
- 1.4 The Commission also requested the opportunity to address members at this meeting of Council in order to provide a briefing about the forthcoming review and what it will involve.
- 1.5 It is understood that the Lead Commissioner for the review, Dr Peter Knight, Review Manager, Richard Buck, and Review Officer, Simon Keal, will be attending.
- 2.0 Proposal Details**
- 2.1 Members are asked to consider the Commission’s briefing as part of the presentation of this report, and there will then be the opportunity for Members

to ask questions of the representatives of the Commission.

3.0 Details of Consultation

3.1 There will be full consultation as part of the electoral review process. This report and the briefing simply give members the opportunity to understand what the review will involve.

4.0 Options and Options Analysis (including risk assessment)

4.1 The report and briefing are simply for noting at this stage. The process for the electoral review will be led by the Local Government Boundary Commission for England.

**CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None directly arising from this preliminary report.

LEGAL IMPLICATIONS

There are no legal implications at this stage.

FINANCIAL IMPLICATIONS

There are no financial implications at this stage. Officers from the Governance will liaise with the Commission throughout the review, and the cost of their time will be met from existing budgets.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as Head of Governance.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:

COUNCIL**Members' Allowances Scheme – Report of the
Independent Remuneration Panel
16th November 2011****Report of the Head of Governance****PURPOSE OF REPORT**

To enable Council to consider the recommendations of the Independent Remuneration Panel in respect of travel allowances.

This report is public

RECOMMENDATIONS

- (1) **Council is asked to consider the recommendations set out in the report of the Independent Remuneration Panel and to approve any consequential amendments to the Members' Allowances Scheme.**

1.0 Introduction

- 1.1 The Council is required by the Local Authorities (Members' Allowances) (England) Regulations 2003 to make an allowances scheme for each year. The Regulations require that before an authority makes or amends a scheme, it must have regard to the recommendations made to it by an Independent Remuneration Panel.
- 1.2 Some Members may recall that in February 2011, Council considered a report from the Independent Remuneration Panel, following which the Members' Allowances Scheme to take effect from May 2011 was approved. The recommendations of the Panel on that occasion related primarily to the amount of basic allowance and special responsibility allowances to be paid under the Scheme. The Panel had not made any recommendations in respect of the existing scheme in so far as it related to travel allowances.
- 1.3 For Members' information, Appendix B to the Members' Allowances Scheme, which deals with travel and subsistence allowances, is appended to this report.
- 1.4 The Independent Remuneration Panel met on the 2nd September 2011, and was asked to consider two issues which had recently arisen. These were the payment of travel expenses to members travelling to meetings from outside the district, and the reimbursement of car parking fees incurred by members.

2.0 Proposal Details

- 2.1 The Panel's report, including its recommendations, is appended to this report. The Chairman, Mr Colin Everett, and another member of the Panel, Ms Janice Wilson, will be attending the meeting to present the report and to answer any questions.

3.0 Details of Consultation

3.1 The attached report sets out the recommendations of the Independent Remuneration Panel, which the Council is required to have regard to in making any decisions about the Allowances Scheme.

4.0 Options and Options Analysis (including risk assessment)

4.1 The Panel's report sets out three recommendations for consideration by Council. It would be open to Council to accept any of those recommendations, to accept any of those recommendations with amendment, or to reject any of the recommendations. Council does not have to accept the recommendations of the Panel, but it must have regard to them in making its decision.

5.0 Conclusion

5.1 Council is asked to consider the Panel's recommendations.

**CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None directly arising from this report.

LEGAL IMPLICATIONS

As set out in the report, there is a legal requirement for Council to have regard to the recommendations of the Panel.

Members may wish to be aware that members' car park permits expire on 31st March. They are referred to in the current Off Street Car Parks Order, which is amended whenever substantive changes are required. However, if a permit were discontinued, it would not be necessary to amend the Order immediately, and the change could be incorporated when other changes to the order are required.

FINANCIAL IMPLICATIONS

As context, the budget for members' travel is currently £6,500 for 2011/12.

With regard to travel from outside the district, it is impossible to quantify the exact cost should members be minded not to accept the recommendations of the Panel. It is understood that there are currently two members who are students who have family homes at some distance from the district.

With regard to car parking, currently 15 members' car parking permits have been issued. The loss of permit income to the Council if the permits were withdrawn would be around £2,625 per annum. However, there would be additional income to the Council car parks budget through increased pay and display usage by Members, which, when relating to official business, would then be reimbursed from the members' allowances budgets. The amount of this is also impossible to quantify at this stage.

For other proposed changes to mileage rates, draft budgets are generally updated to take account of price inflation and therefore the application of prevailing AMAP rates fits with that approach. The use of AMAP rates typically means that allowances reflect reasonable estimates of actual costs incurred, with no 'profit' element included.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

Car park permits are administered by Property Services. The relevant implications are set out in the financial and legal implications above.

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as the officer supporting the Independent Remuneration Panel.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:



Lancaster City Council

Independent Remuneration Panel

Report to Council

November 2011

**RECOMMENDATIONS ON TRAVEL AND
RELATED EXPENSES**



Introduction

The requirement for an Independent Remuneration Panel, how it operates, and the contents of a members' allowances scheme continue to be subject to the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003.

Regulation 19(1) states that *"Before an authority...makes or amends a scheme, the authority shall have regard to the recommendations made in relation to it by an independent remuneration panel."*

An independent remuneration panel must have at least three members

Panel Members

Following two resignations, the Independent Remuneration Panel (the Panel) for Lancaster City Council now comprises four members, who are:

Colin Everett – retired Local Government finance officer (Chairman of the Panel)

Unity Lawler – Finance Manager for family business, with previous experience in Local Government and research in academic institutions.

Pat Loryman – retired Local Government IT officer, and previously a director of a private company

Janice Wilson – retired Local Government Learning and Development Officer with previous experience in the public and private sector.

Meetings

The Panel met on the 2nd September 2011 to consider issues that had arisen with regard to the payment of travel expenses and the reimbursement of car parking fees.

The Panel invited elected members who wished to make comments on the issues under discussion, to attend the meeting on the 2nd September. Five elected Members met the Panel on an individual basis, and they were Councillors Aitchison, Bryning, Dixon, Kerr and Mace. The Panel also received written comments from two group leaders on behalf of their respective groups, and individual written comments from three other members.

The Panel is grateful for these contributions.

Background Information

The Members' Allowances Scheme includes provision for the payment of travel and subsistence allowances which can be claimed when members are engaged in "approved duties". Approved duties are Council, Cabinet and Committee meetings, attendance at meetings of outside bodies where the member has been nominated to represent the Council, conferences and seminars which the member has been nominated to attend, and various other scheduled, formal meetings.

Two issues had arisen which were not specifically covered by the Scheme, and on which the views and recommendations of the Panel were sought. These were:

- whether members who are students should be entitled to claim travel expenses from outside the district when attending meetings during the vacation
- whether it was anomalous for members who purchased annual car parking permits not to receive any reimbursement for parking, whilst those who chose not to purchase a permit were able to claim full reimbursement of car parking fees.

In addition, the Panel took the opportunity to review the mileage rates payable, as these had not been considered in any detail in the earlier review of basic and special responsibility allowances for 2011/12.

These issues are considered in turn below.

Travel expenses for members attending meetings from outside the district

Background

The Panel was advised that at the Council elections in May 2011, a number of students were elected to the Council, most notably two representing the University ward. This had raised an issue as to the expenses that such members could claim when attending meetings outside term time, when resident, not at their term-time address within the district, but for example at their family home which might be many miles away.

The Council has never previously reimbursed the cost of travel from outside the district.

It had been suggested by the University ward members that the Council should recognise that the elected representatives for that ward might well be students, and that they should be able to continue their role as councillors during the vacations, and in particular from July to September, without the financial barrier of having to pay the cost of their travel back to the district. They expressed the view that the burden of such a cost might well deter students from standing for election in the future.

Inquiries had been made of a number of other local authorities which had universities within their area. None of those consulted had experienced this particular issue. Some, for example, Exeter, Lincoln and Cheltenham, indicated that they did not pay travel expenses in respect of meetings within the district. The allowances schemes in Oxford and Cambridge were probably wide enough to cover the payment of expenses from outside the district, although this had not been tested.

The Panel was advised that the Council's Constitution makes provision for the groups to arrange for substitute members (either designated named substitutes or casual substitutes) to attend Committee meetings in the absence or non-availability of a full member.

The information presented orally at the meeting indicated that student accommodation was not available during the summer vacation after July. The University ward members indicated that they continued their work as councillors from their family homes. They were not looking to the Council to pay the full amount of the cost of their travel to meetings, but rather a fraction. In response to questions from the Panel, they indicated that if they returned to the district for a group or party meeting, the party did not reimburse their travel costs.

The Panel's Recommendation

The Panel was satisfied from the oral evidence it had heard that the Council's substitute system was robust and could be relied on when a group member was unable to attend a Committee meeting.

The Panel noted that the two members for the University ward appeared to be asking for the Council to pay a fraction of their travel expenses from outside the area.

The Panel did not consider it appropriate for the Council to bear the cost of a member's travel from outside the district, and felt that the Scheme should be amended to make it clear that travel expenses should be claimed only from a member's current address within the district, or if the member did not have such an address, from the address within the district given at the time of election.

Reimbursement of car parking fees

Background Information

All members are currently eligible to purchase annual parking permits, at a cost of £210 for a seven day permit or £200 for a five day permit. This covers parking in any car park managed by the Council, and can be used at any time regardless of whether or not the member is on Council business.

A member who has purchased such a permit is not permitted to claim reimbursement for any parking authorised by the permit.

However, a member who chooses not to purchase such a permit receives reimbursement of any parking fees that may be incurred in the course of approved duties.

Whilst officer parking is outside the remit of the Panel, the Panel was advised that officers who purchase an officer car parking permit, valid for a number of long stay car parks, are able to claim a pro rata rate of 67p per day for any day on which they are required to use their vehicle for Council business.

The Panel was asked to consider the reimbursement of car park fees, as the view had been expressed by some members that it was anomalous and unfair that members, on Council business, who had purchased a permit were not permitted to claim any reimbursement, whereas those who had not purchased a permit received full reimbursement of car park fees whilst on Council business.

The Panel's Recommendation

The Panel would recommend, as a starting point, that, where there are convenient public transport links, elected members should be encouraged to use public transport in appropriate circumstances.

The Panel noted that the view had been expressed that the current arrangements with regard to car parking were unfair. The Panel felt that it would be fair to everyone if the member permit

facility was withdrawn, and that where it is necessary for a member to travel by car, a long stay car park only should be used, and the actual cost of car parking be reimbursed on presentation of a receipt from the ticket machine.

The panel recommended that the Scheme be amended accordingly.

Mileage Rates – the Panel’s Recommendations

The Panel noted that the Members’ Allowances Scheme currently provides for a rate of 40p per mile for motor cars, which at the time of approval was the rate recommended by HMRC. However, the Scheme provides that 40p per mile is payable also for motor cycles and bicycles.

The Panel recommended that the Scheme should provide for the motor car, motor cycle and bicycle rates to be those for the time being recommended by HMRC, so that the rates would be automatically adjusted as and when the HMRC rate changes. The current rates are 45p per mile for motor cars, 24p for motor cycles and 20p for bicycles.

The Panel noted also that the current Scheme draws a distinction between journeys within a 35 mile radius from Lancaster Town Hall, and journeys beyond such a radius. The Panel felt that it would be clearer to amend the Scheme to distinguish between journeys within the Council’s administrative area, for which mileage would be paid, and journeys outside the Council’s administrative area for which the lower of the mileage allowance or the relevant standard class rail fare would be paid.

Conclusion

In summary, the Panel’s recommendations are as follows:

1. That no travel expenses be paid in respect of travel from outside the Council’s administrative area, and that all travel expenses be paid on the basis that the journey commenced at the member’s current address within the district, or if the member does not have such an address, from the member’s address within the district given at the time of election.
2. That the Member car parking permit be withdrawn, that members be encouraged to use public transport where it is available and appropriate, and that where it is necessary to travel by car within the district, a long stay car park be used, and the actual cost of parking be reimbursed on presentation of a receipt.
3. That mileage be reimbursed on the basis of the HMRC recommended rates, currently 45p per mile for motor cars, 24p per mile for motor cycles and 20p per mile for bicycles, and that mileage be paid in respect of journeys within the Council’s administrative area, and that for journeys outside that area, the lower of the mileage allowance or the relevant standard class rail fare be paid.

TRAVEL AND SUBSISTENCE ALLOWANCES PAYABLE**Travelling Allowances****(A) Public Transport (except taxis and aircraft)**

- (i) The rate must not exceed the ordinary standard class fare or any available saver fare, but the Council may generally or specially determine to substitute first for standard class fare.
- (ii) Supplementary allowance may be paid for expenses actually incurred on Pullman Car or a similar supplement, reservation of seats, deposit or portage of luggage and sleeping accommodation for overnight journeys, but in this last case the maximum overnight subsistence allowance is reduced by one-third.
- (iii) All long distance rail journeys and sea-travel bookings must be made by Members Services on behalf of Councillors, to seek the most cost-effective deal within current parameters.
- (iv) For journeys by public transport the cost of any private vehicle travel to and from the point of public transport may also be reimbursed at the rate set out in B below.
- (v) For journeys within the 35-mile radius of Lancaster Town Hall valid receipts must be produced.
- (vi) For journeys beyond the 35 mile radius of Lancaster Town Hall where the journey has been undertaken by car, the equivalent of a standard class rail fare as determined by Members Services on receipt of the claim shall be payable, subject to this being less than the payable rate set out in (B) below.

(B) Private Vehicle – for journeys with a destination less than 35 miles as the crow flies from Lancaster Town Hall or where the cost would be lower than the equivalent standard class rail fare:

- (i) By motor cycle or motor car - 40p per mile. (The rate payable is that recommended by the Inland Revenue and will be increased in line with their guidance.)
- (ii) Cycling/other non-motorised transport allowance (in all cases) - 40p per mile
- (iii) Supplementary payments may be made for tolls, ferries and parking fees actually incurred (on production of a valid receipt).
- (iv) Payment of mileage allowance is limited to journeys with a destination less than 35 miles as the crow flies from Lancaster Town Hall.
- (v) Beyond the 35-mile limit, the lower of the mileage allowance and the equivalent standard class rail fare will be paid. However the cost of any private vehicle travel to and from the point of public transport may also be reimbursed at the rates set out above.

(C) Taxis and Hire Vehicles

- (i) Taxis: in cases of urgency or where there is no reasonably available public transport, the fare plus any reasonable gratuity paid. In other cases, the fare by appropriate public transport.
- (ii) Hire Vehicles: the rate appropriate if the Member had owned the vehicles, unless the Council approves additional amounts up to the actual hiring cost.

(D) Aircraft

- (i) The rate applicable to travel by appropriate alternative transport plus any amount of attendance or financial loss or subsistence allowance saved by travelling by air.
- (ii) But if the Council generally or specially resolves that the saving in time is so substantial, then –
 - (a) the ordinary or available cheap fare by regular service; or
 - (b) where no such service is available or in the case of emergency, the fare actually paid.
- (iii) The Chief Executive has discretion to authorise air travel.
- (iv) All bookings must be made by Democratic Services on behalf of Councillors.

Subsistence Allowance

- (i) In case of an absence, other than an overnight absence from home, subsistence allowance is payable as follows –

Breakfast (when more than 4 hours away from normal place of residence)

Members on approved duties who leave home before 7.00 a.m. to attend a location outside the Council's boundary, may claim breakfast expenses as follows –

Breakfast, on production of a valid receipt	Up to £5.85
Breakfast, (in London), on production of a valid receipt	Up to £8.50
Breakfast, (in or out of London), where unable to produce a receipt	£3.20

Lunch (when more than 4 hours away from normal place of residence)

Members on approved duties outside the Council's boundary from 11.45 a.m. to 1.30 p.m. may claim lunch expenses as follows –

Lunch, on production of a valid receipt	Up to £5.85
Lunch, (in London), on production of a valid receipt	Up to £8.50
Lunch, (in or out of London), where unable to produce a receipt	£3.20

Evening Meal (when more than 4 hours away from normal place of residence)

Members on approved duties who have not returned home by 7.30 p.m. may claim an evening meal as follows –

Evening meal, on production of a valid receipt	Up to £11.45
Evening meal, (in London), on production of a valid receipt	Up to £17.00
Evening meal, (in or out of London), where unable to produce a receipt	£5.85
In the case of an overnight absence –	£90.60
For an overnight absence in Central London	£103.40

- (ii) The value of free meals must be deducted from the allowance. Where main meals are taken on trains during which there is an entitlement to a day subsistence allowance, the reasonable cost of meals (including VAT) may be reimbursed in full. In such circumstances, reimbursement for the cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.
- (iii) All accommodation bookings should be made by Democratic Services.
- (iv) Where pre-booked the cost of hotel meals will be paid by the Council.

Eligible Duties

Approved duties eligible for claiming travel and subsistence allowances are set out in Annexes 1, 2 and 3.

Approved Duties - Meetings of the Authority
Council
Committees established by Council and any sub-committees established by those Committees, currently:
Personnel Committee
Audit Committee
Appraisal Panel
Appeals Committee
Licensing Regulatory Committee
Licensing Act Committee
Licensing Act Sub-Committees
Planning and Highways Regulatory Committee
Scheduled Planning Briefings
Standards Committee
Standards Sub-Committees
Council Business Committee
Cabinet
Committees established by Cabinet
Cabinet Liaison Groups established by Cabinet
Scheduled Cabinet Briefings
Overview and Scrutiny Committee
Task Groups established by Overview and Scrutiny Committee
Budget and Performance Panel

Approved Duties - Outside Bodies

Note: All the following bodies are currently operating with one or more Council-nominated representative. Representatives are usually, but not necessarily, Councillors. Where non-Councillors are currently nominated to an outside body, this is indicated in the right hand column of the table. The Council has no authority to pay expenses to such representatives.

Organisation	'Outside' Nominee(s)
Adult Social Care and Health Overview and Scrutiny Committee	
Arnsdale & Silverdale AONB Unit	
Barton Road Youth and Community Centre Community Association	
Board of Trustees of Skerton Charities	Yes
Board of Trustees of the Lancaster Charity	
British Resorts Association	
Carnforth Station and Railway Trust Company Limited	
Children's Trust Partnership Lancaster District	
Court of the University of Lancaster	
Crook O'Lune Advisory Committee	
Dukes Playhouse Board of Directors	
Folly Board of Trustees	
Forest of Bowland AONB Joint Advisory Committee	
Friendship Centre Management Committee	
George Fox School Educational Charity	
Heysham Mossgate (Community Facilities) Company Limited	
Heysham Nuclear Power Station Local Community Liaison Council	
Heysham Youth and Community Centre Management Committee	
Historic Towns Forum	
Homelessness Forum	
Lancashire Leaders Meeting	
Lancashire Rural Affairs Forum	
Lancashire Waste Partnership	
Lancaster & District Multi Agency Forum on Domestic Violence	
Lancaster and District Vision Board	
Lancaster & Morecambe Fairtrade District Steering Group	
Lancaster & Skipton Rail User Group	
Lancaster District CVS	
Lancaster International Twinning Society	
Lancaster Ripley Church of England Education Trust	
Lancaster University Council	
Leeds-Morecambe and Settle-Carlisle Railway Development Partnership	
LGA Coastal Issues Special Interest Group	
LGA Executive	
LGA Rural Commission	
LGA Urban Commission	
LSP Children and Young People Thematic Group	
LSP Economy Thematic Group	
LSP Education, Skills and Opportunities Thematic Group	
LSP Environment Thematic Group	
LSP Health and Wellbeing Thematic Group	
LDLSP Management Group	

Lancaster City Council
CONSTITUTION

Organisation	'Outside' Nominee(s)
LDLSP Partnership Board	
LSP Safety Thematic Group and Crime & Disorder Reduction Partnership	
LSP Valuing People Thematic Group	
Lune Park Children's Centre	
Lune Valley Transport Enterprise	
Marsh Community Centre Management Committee	
Morecambe Bay Partnership	
Museums Advisory Panel	
National Association of AONBs	
North & West Lancs Priority 1 Action Plan Partnership Board	
North Lancashire Citizens Advice Bureaux	
North West Home Safety Council	
North West Local Authorities Employers' Organisation	
North West Rural Affairs Forum	
Older Persons' Partnership Board	
Preston and Western Lancashire Racial Equality Council	
Rainbow Centre, Morecambe	
Regional Leaders' Forum	
Relate Lancashire, Lancaster District	
Reserve Forces and Cadets Association for NW of England and Isle of Man	
Storey Centre for Creative Industries	

Approved Duties - Other Duties
Attendance at Conferences/Seminars to which the Council or Cabinet has nominated a delegate
Media Receptions
Scheduled, Formal Meetings with Chief Executive/Chief Officers
Mayoral and other public ceremonies/launches etc approved by the Council or Committee of the Council
Scheduled, Formal Meetings with Trade Unions
Scheduled, Formal Meetings of Cabinet / Overview and Scrutiny meetings / Working Groups

Notes:

The essential criteria for these, and any other such duties that may arise, is that they must be formally structured and diarised elements of Council business. The inclusion of other duties within this definition will be at the discretion of the Head of Governance.



Review of Polling Districts and Polling Places 2011 16 November 2011

Report of the Chief Executive

PURPOSE OF REPORT

To enable Council to consider the outcome of the review of polling districts and polling places in the Parliamentary Constituencies of Morecambe and Lunesdale and Lancaster and Fleetwood and to consider whether it wishes to make any changes in the light of the review.

This report is public.

RECOMMENDATIONS OF THE CHIEF EXECUTIVE

- (1) Council is asked to consider whether it wishes to make any changes to polling districts or polling places in the light of the responses received during the review, and to give reasons for its decision.
- (2) Council is asked to authorise the publication of the prescribed statutory information about the outcome of the review.
- (3) That delegated authority be given to the Returning Officer in consultation with the relevant ward Councillors, to make any necessary changes to polling places that may arise other than as part of a review.

1.0 Introduction

- 1.1 Under the Representation of the People Act 1983, the Council has a duty to divide the District into polling districts and to designate a polling place for each district. It has to keep these arrangements under review.
- 1.2 Section 16 of the Electoral Administration Act 2006 introduced a number of changes to the 1983 Act in respect of the way reviews must be undertaken.
- 1.3 In compliance with the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, every Council in England and Wales must have undertaken and completed a review of all the polling districts and polling places in its area by 31st December 2011, completing a further review every four years.
- 1.4 The Council may undertake reviews of all or some of the polling districts or polling places at any time but must still undertake a full review of each within four years of the previous review.

1.5 For administrative convenience it is sensible to review all polling districts and polling places on a regular four yearly cycle, regardless of whether or not a particular polling district or place has been reviewed for some reason (eg because of an influx of electors in an area or non availability of a building designated as a polling place) in the intervening period. This will help to ensure a consistent approach is taken across the district.

1.6 The arrangements made for parliamentary elections are also used at other elections.

1.7 The Council has powers to change polling places and polling district boundaries, but not Ward or Parish boundaries. These are defined as follows:

- ◆ **A Polling District** is the geographical sub division of an electoral ward. The Council is responsible for dividing its areas into polling districts for UK Parliamentary elections and for keeping districts under review.

When designating polling districts, the Council must seek to ensure that all the electors in the Constituency have such reasonable facilities for voting as are practical in the circumstances.

- ◆ **A Polling Place** is the building in which a polling station is located.
- ◆ **A Polling Station** is the actual area where the process of voting takes place, and must be located in the polling place designated for the particular voting district.

1.8 The Council must

- a) seek to ensure that all the electors in the Constituency have such reasonable facilities for voting as are practical in the circumstances;
- b) seek to ensure that so far as is reasonable and practical the polling places they are responsible for are accessible to all electors, including those that are disabled and when considering designation of a polling place must have regard to the accessibility needs of disabled persons.

2.0 Proposal Details

2.1 A check of each of the existing polling stations was completed by the Presiding Officer on duty at the elections held in May 2011 and also by the booking contact for each of the premises. It should be noted that in some cases access at a polling station is not as would be desired in an ideal world. Where there are steps or other access issues, electoral and polling station staff would always do whatever is reasonable to ensure voters, including those with disabilities, are able to access the polling station and cast their vote.

2.2 Since the last review undertaken in the Lancaster City Council area in 2007 there has been a substantial increase in the number of electors choosing to vote by post. There are currently just under 15000 postal voters, approximately 13% of the electorate and this reduces the number of electors that opt to vote in person at polling stations.

2.3 The 2007 review also saw the removal of all mobile units, but in some cases this saw the location of a polling place outside the polling district to

which it applied.

- 2.4 During the course of the review existing polling places have been examined, consideration being given to public safety, the availability of buildings, accessibility, location in relation to the centres of population in the polling district, transport links and overall suitability for both staff and electors. Consideration has also been given to the consultation responses set out below. Officers are not recommending any changes as a result of the review, as the boundaries of polling districts are deemed to be satisfactory, and the existing polling places are considered the best available..

3.0 Details of Consultation

- 3.1 The Council was required to publish notice of the holding of the review. This has been done by way of press release which was published in the Morecambe Visitor and the Lancaster Guardian. Notices were also posted at Lancaster and Morecambe Town Halls and on the Council’s Website with full details of the proposals.
- 3.2 Comments were invited via email and in writing from the public, Ward Councillors, County Councillors, MP’s and Parish Councils. The Council also consulted a number of disability groups. A summary of the comments received is detailed below, full comments if required can be provided by the Elections Manager.

4.0 Results of Consultation

Ward	Comment	Response
University	Boundary issue relating to the inclusion of part of the University Campus into Ellel Ward.	Can only be resolved by a Ward boundary review and has already been flagged up to be dealt with at such time as the review is undertaken.
Heysham South Ward	Two polling stations are located within the Ward. Both stations are located south of the ward and relatively close together. The suggestion has been made to move one of the Stations to Heysham Library and retain one in the south of the ward, or find one to the east of Middleton/Heysham Road and one to the west to save electors having to navigate busy roads. However, there are no reported difficulties so not concerned if the current arrangements were to continue.	The polling district is divided from west to east, rather than following a north south divide. The suggestion of relocating one of the stations to the north of the polling district at the library could be further considered if Council wished it to be looked at further.

Skerton East	Would like attempts to be made to increase the postal vote take up – particularly in Skerton East. Would like to split the electorate of SKEC along a natural boundary on Mount Avenue allowing the electors to follow the natural hill line to vote at the polling stations at Skerton Community Centre and Halton Road Scout Hut. The current arrangement was put in place as part of the 2007 review and this request would revert to the arrangements in place prior to that time.	Every elector has the opportunity to apply for a postal vote so there are no plans to specifically target any area to increase postal vote applications.
Ellel	No difficulties at present but wanted to inform the Council that a new Village Hall is currently under construction which would make an ideal polling station for the future.	The Village Hall will be inspected when complete and a decision taken at that time as to its suitability for use as a polling station.
John O'Gaunt	A change was made in 2011 for the residents of Standen Park with the creation of a new Polling Station at Christ Church Hall. Suggested the use of a bus, van, caravan or tent to allow voters from Standen Park to vote closer to their homes.	There are no suitable buildings in the immediate area of Standen Park and the use of Christ Church Hall received no complaints from voters using that station. None of the suggestions made would provide adequate facilities for polling station staff or electors, and would not allow electors the privacy to which they are entitled to cast their vote. It is therefore proposed to continue to use Christ Church Hall until suitable premises can be found in the Standen Park area.

Castle	Electors from Castle Park cast their vote at Lancaster Boys and Girls Club. In doing this, they pass a polling station at the Friends Meeting House and want to be included to vote at that station.	The electors of CASA report to the Lancaster Boys and Girls Club to cast their vote and the premises are located within the polling district boundaries of CASA. The Friends Meeting House, which is also located within CASA, actually serves the electorate of CASB. Until 2007, the polling station for CASB was a mobile station located at Westbourne Place but the review at that time agreed to remove all mobile polling station units from the Lancaster district and an alternative had to be found. Despite extensive searches within CASB, suitable alternative premises could not be found. The Friends Meeting House is just outside the boundary of the CASB polling district but provides an accessible polling station with adequate facilities for electors and polling station staff and is a prime example of where polling stations cannot always be located within their own polling district.
Kellet	Happy with current arrangements.	No changes are proposed.
Carnforth	The Town Council has no issue with the current arrangements but had experienced some difficulties with the layout of the polling station at Crag Bank where there was confusion about the division between Bolton-le-Sands and Carnforth Wards. The Town Council were surprised that large distinctive signs had not been provided.	There are many instances where more than one polling station is located within one polling place. Further guidance will be given to the staff to be located at this station in an attempt to make the voting process much simpler for the electors.

<p>Morecambe Town Council Wards</p>	<p>General concern that polling place provisions were not acceptable and a request has been made that the Council works to ensure that polling stations are not situated between dangerous roads and are accessible to all.</p> <p>The Ramp at Lancaster Road School polling station is not acceptable and access to the station was not as it should have been.</p> <p>The Morecambe Library polling station was moved after the library closed which was not acceptable.</p> <p>No consultation took place with regard to the removal of one of the polling stations within the Westgate Ward.</p>	<p>Without specific details of polling stations deemed to be located between dangerous roads it is difficult to consider any amendments.</p> <p>The ramp at Lancaster Road School has provided difficulties for a couple of years and despite efforts to raise the ramp for the 2011 elections there was still a step into the polling station. Tentative enquiries are being made with the Sainsbury Store located close to the School with a view to using this as a polling place. If this fails, the Council will have to investigate a solution to the issue at the school which may require a specialised ramp being made specifically for use at that location.</p> <p>The Morecambe Library Polling Station was not moved, but the entrance door to the polling station was changed once the Library closed for business. No complaints were received in 2011.</p> <p>The 2007 review saw the removal of the mobile polling station at Westgate along with all other mobile stations in the district. The same polling stations have been used in that Ward in 2009, 2010 and 2011.</p>
-------------------------------------	--	---

5.0 Options

- 5.1 The options open to Council are to accept the recommendation of officers that no changes be made to polling district boundaries or the location of polling places, or to decide to make changes in the light of the consultation responses above. The Council is required by the relevant Regulations to give reasons for its decision on the review.

6.0 Conclusion

- 6.1 On completion of the Review the Council is required to publish details of the actual designations of polling districts and polling places agreed as a result

of the review and details of where the results of the review have been published. This will be done by way of press release and details of the agreed proposals will be available at the Customer Service Centres in Lancaster and Morecambe and will also be published on the Council's website.

- 6.2 The new electoral register containing any revised polling districts will be published on 1st December 2011. Any new polling districts and polling places would become effective at all elections held after this date. For the first election held after any changes are made, poll cards would include reference to the fact that some polling places have changed and that electors should check that they know where they should attend.
- 6.3 The Electoral Commission has no initial role in the review process, however under Section 18D(1) of the Representation of the People Act 1983 the Commission must consider representations or observation made to them that the Council has not conducted the Review correctly. The Commission may direct a local authority to make alterations it sees necessary following consideration of those representation observations and the Council must make the directed alteration within two months of receipt.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

LEGAL IMPLICATIONS

Under the Representation of the People Act 1983, the Council has a duty to divide the District into polling districts and to designate a polling place for each district. It has to keep these arrangements under review.

Section 16 of the Electoral Administration Act 2006 introduced a number of changes to the 1983 Act in respect of the way reviews must be undertaken.

In compliance with the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, every Council in England and Wales must have undertaken and completed a review of all the polling districts and polling places in its area by 31st December 2011, completing a further review every four years. On completion of a review the authority must give reasons for its decisions in the review, and publish such other information as is prescribed.

FINANCIAL IMPLICATIONS

Dependant on the outcome of the review there may be some costs if a specialised ramp has to be made for Lancaster Road School.

Although the exact cost cannot be determined until such time as quotes for the specific item were obtained it is expected that this would be minimal and would be met from within the Elections Budget.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None.

Information Services:

None.

Property:

None.

Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments to add.

BACKGROUND PAPERS

Representations from Councillors, Parish Councils and other interested parties.

Contact Officer: Lisa Vines

Telephone: 01524 582070

E-mail: lvines@lancaster.gov.uk

COUNCIL**Three Tier Forum
16 November 2011****Report of Head of Governance****PURPOSE OF REPORT**

To inform Council of the County Council's new "Three Tier Forum" initiative to assist locality working and of the progress made to establish a Forum for Lancaster District.

This report is public

RECOMMENDATIONS OF HEAD OF GOVERNANCE

- (1) That Council notes that the first meeting of the Lancaster District Three Tier Forum will be held on 23 November 2011 and notes the format and the membership arrangements for the Forum.

1.0 Introduction

- 1.1 The County Council has been piloting "Three Tier Forums" for several months in Wyre and Burnley districts. These are informal joint business meetings of County, District and Parish Councillors to discuss issues of mutual interest in their districts and influence the priorities and forward planning of all three tiers of local government. Councillors direct the agenda and the discussions in the meetings.

- 1.2 Three Tier Forum meetings are not public meetings, nor are they subject to Access to Information provisions.

2.0 Three Tier Forum for Lancaster District

- 2.1 The County Council is now rolling out the Forums to each District. The Forums will not be formal committees of the County, District or Parish Councils. They are not intended to be overly bureaucratic and should bring a fresh approach to three tier working. The Forums will not duplicate other existing meetings such as Children's Trusts, LSP's etc.

- 2.2 The County Council has decided that the membership of the Lancaster District Three Tier Forum will comprise of all ten local County Councillors and ten District Councillors. It has also been decided that one Parish/Town Council representative will sit on the Forum and a representative has been put forward by the Lancashire Association of Local Councils (LALC).

- 2.3 The Forum will be asked to appoint a Chair and Deputy Chair to rotate annually between the County Council and District Council. It will aim to reach

agreement by consensus, failing which the issue will be referred to the Leaders of the County Council and District Council to resolve.

2.4 The Forum will meet three times a year. Initially, the County Council has suggested the district based Commissioning Plans from their Environment Directorate as a discussion topic.

2.5 The County Council approached the City Council for ten nominations last month and the Leader, under delegated powers, has decided to appoint the following City Council Members:-

Councillors Jon Barry, Jonathan Dixon, Paul Gardner, Tracey Kennedy, Richard Newman-Thompson, Ian Pattison, Margaret Pattison, Robert Redfern, Roger Sherlock and David Whitaker.

2.6 The first meeting will be held at Lancaster Town Hall on 23 November 2011.

3.0 Conclusion

6.1 Council is asked to note the arrangements detailed in this report for the Lancaster District Three Tier Forum.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)
--

None.

LEGAL IMPLICATIONS

There are no legal implications as a direct result of this report.

FINANCIAL IMPLICATIONS

Any cost implications of hosting the forums at Lancaster and Morecambe Town Halls and for providing tea and coffee for those attending should be minimal and will be met from the existing Democratic representation budget.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None.

Information Services:

None.

Property:

None.

Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Contact Officer: Debbie Chambers
Telephone: 01524 582057
E-mail: dchambers@lancaster.gov.uk
Ref:

COUNCIL

CHARGES FOR PARISH COUNCIL BY-ELECTIONS 16th November 2011

Report of Head of Governance

PURPOSE OF REPORT

To enable Council to consider whether or not to re-charge to a parish council the cost of a parish council by-election.

This report is public

RECOMMENDATIONS

- (1) **That the cost of the current by-election and all future parish and town council by-elections which are not combined with another election, be recharged to the relevant parish or town council and that the Head of Governance implement these arrangements with immediate effect.**

1.0 Introduction

- 1.1 At its meeting on the 3rd February 2010, in considering the report of the Review of Services and Funding of Parish and Town Councils Task Group, Council resolved "that for the foreseeable future, there will be no costs recharged to Parish Councils for any elections that are held at the same time as the City Council elections, but the City Council may consider making a charge for the management of any parish by-elections."
- 1.2 There have been no parish by-elections since that resolution. Parish elections were held on the same day as the City Council elections in May 2011, and, in accordance with the resolution, the costs were born by the City Council and not recharged.
- 1.3 Following the resignation of a councillor from the Westgate ward of Morecambe Town Council, the Returning Officer has received a request from the required ten electors for a by-election to be held to fill the vacancy. In accordance with the resolution of the 3rd February 2010, Council is asked to consider whether to recharge the cost of the by-election to Morecambe Town Council.

2.0 Proposal Details

- 2.1 It is estimated that the cost of managing the by-election would be around £5,500. If the cost is not re-charged to the Town Council, it will be a cost to the City Council, for which there is currently no budgetary provision.
- 2.2 Officers have conducted a survey of twenty local authorities in the north west, and of these, fourteen charge for by-elections. Indeed, some charge also for combined elections.
- 2.3 Morecambe Town Council has been advised that in the light of the resolution of the 3rd February 2010, it may be re-charged for the by-election, and that

the decision will be made by Council at this meeting.

3.0 Details of Consultation

3.1 As indicated above, information has been sought from other councils as to whether it is their practice to recharge for by-elections.

4.0 Options and Options Analysis (including risk assessment)

4.1 The options open to the Council are to recover the full cost or part of the cost of the by-election from Morecambe Town Council, or to bear the cost itself. In making its decision in respect of this by-election, Council may wish to consider whether the same decision would apply in respect of all future by-elections that are not combined with any other election.

4.2 In deciding whether to introduce any charging, Council is advised to take into account matters such as fairness, accountability, simplicity and ease of administration.

5.0 Conclusion

5.1 Council's views are sought.

**CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None directly arising from this report.

LEGAL IMPLICATIONS

Section 36 of the Representation of the People Act 1983 provides that all expenditure properly incurred by a returning officer in relation to the holding of an election of a parish councillor shall, if the district council so require, be repaid to that council by the council of the parish for which the election is held.

FINANCIAL IMPLICATIONS

There is currently no budget provision for parish council by-elections and the recommendation is that the costs above of around £5,500 be recharged to the relevant parish and as such there would be no net financial implications arising. However if council decide not to recharge the costs for this and future parish by-elections, provision would need to be made within the current's year's revenue budget and in addition, the need to make provision in future years would also need to be considered (taking account of the probability of further by-elections occurring).

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as Head of Governance, the service responsible for managing elections on behalf of the Returning Officer.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref: ST

COUNCIL**Appointment to Outside Body – Lancaster University
Council
16th November 2011****Report of the Head of Governance****PURPOSE OF REPORT**

To enable Council to reconsider its appointment of a representative on the Lancaster University Council.

This report is public

RECOMMENDATIONS

- (1) **Council is asked to reconsider its appointment of a representative on the University Council**

1.0 Introduction

- 1.1 Members will recall that at the meeting on the 15th June 2011, a number of appointments to outside bodies were made. One of these was in respect of the Lancaster University Council, and Councillor Paul Aitchison was appointed.
- 1.2 When notified of the appointment, the Secretary of the University wrote to the Head of Governance indicating that the nomination was invalid because Councillor Aitchison is a student at the University, and the City Council's power to nominate a member of the University Council is conditional upon the appointment being "lay", that is, reserved for individuals who are not only City Councillors but are also not staff or students of the University.
- 1.3 The Head of Governance examined the statutes and ordinances of the University, but was unable to find any specific requirement for the City Council's appointment to be "lay". It was noted that in the list of council members on the University's website, the City Council's representative appeared separately, and not under the heading of "lay members" and was referred to as being appointed "solely by Lancaster City Council", which implied that the appointment was at the City Council's sole discretion. It was further noted that the acceptance of Councillor Aitchison's appointment would not mean that the lay members would be outnumbered by university staff and students. The Head of Governance therefore raised these points with the University Secretary, and sought further clarification as to why the nomination was considered to be invalid.
- 1.4 The Secretary confirmed that there was no express requirement in the University statutes for the appointment to be "lay", but noted that the City Council had in practice nominated lay members to the council for over forty years, and had agreed in the past to take into account the job specification and the required capabilities for council membership. If the City Council

nominated member was not lay, the lay majority would only be one, which, in the view of the University, was not sufficient, as inevitably there are occasions when lay members are unable to attend meetings and it would be unacceptable that there should be no lay majority. On a regular basis, there are discussions of reserved business for which student members of the council are required to withdraw, and the position of the City Council nominee, if a student, would in the University's view be compromised in this situation.

2.0 Proposal Details

2.1 The position is, therefore, that the University will not accept the Council's current appointment, and the Council needs to reconsider its position

3.0 Options and Options Appraisal

3.1 Option 1 would be to accept the University's requirements and to withdraw the nomination of Councillor Aitchison, and nominate at this meeting a member who is not a student or member of staff at the University, to represent the City Council on the University Council. This would be the most straightforward solution and would enable the Council to be represented on the University Council. However, the Council would in effect be conceding that it does not have sole discretion as to its appointment to this body.

3.2 Option 2 would be to note that the Council's nomination of Councillor Aitchison is unacceptable to the University, and to withdraw the nomination but decline to make any other nomination. This would mean that the Council would lose the opportunity to be represented on or to make any contributions to the work of the University Council, and could jeopardise the future relationship between the Council and the University.

3.3 Option 3 would be to confirm the nomination of Councillor Aitchison. However, This option could still lead to the Council not being represented on the University Council

4.0 Conclusion

4.1 The views of Council are sought.

<p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>None directly arising from this report.</p>
<p>LEGAL IMPLICATIONS</p> <p>None arising directly from this report</p>
<p>FINANCIAL IMPLICATIONS</p> <p>None arising directly from this report.</p>

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has prepared this report in her capacity as Head of Governance, and has no further comments

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:

CABINET

10.00 A.M.

6TH SEPTEMBER 2011

PRESENT:- Councillors Eileen Blamire (Chairman), Janice Hanson (Vice-Chairman), Jon Barry, Abbott Bryning, Karen Leytham, Ron Sands and David Smith

Apologies for Absence:-

Councillor Tim Hamilton-Cox

Officers in attendance:-

Mark Cullinan	Chief Executive
Heather McManus	Deputy Chief Executive
Nadine Muschamp	Head of Financial Services and Section 151 Officer
Richard Tulej	Head of Community Engagement Service
Julian Inman	Senior Planning Officer (Minute 35)
Liz Bateson	Principal Democratic Support Officer

30 MINUTES

The minutes of the meeting held on Tuesday 5 July 2011 following the revision agreed upon at the meeting on 26th July (minute 17 refers) together with the minutes for the meeting held on 26 July 2011 were approved as a correct record.

31 ITEMS OF URGENT BUSINESS AUTHORISED BY THE LEADER

The Chairman advised that there were no items of urgent business.

32 DECLARATIONS OF INTEREST

No declarations were made at this point.

33 PUBLIC SPEAKING

Members were advised that there had been no requests to speak at the meeting in accordance with Cabinet's agreed procedure.

34 PRIORITIES REVIEW**(Cabinet Member with Special Responsibility Councillor Blamire)**

Cabinet received a report from the Chief Executive which provided information on the priorities review, to enable Cabinet to decide how it wished to proceed in terms of the Corporate Plan and Budget for 2012-15.

There were no options listed in the report, which provided details on a number of areas of activity which Cabinet Members had requested be considered in more detail. Brief details on how to review each of the activities identified and the process for reporting to Members was set out in the report with the areas of activity identified as follows:

- Increased provision for social housing (including the possibility of council housing new build)
- More allotments because of the current very long waiting lists
- A programme for renewable energy on council houses – to increase energy production to reduce bills for tenants and as a potential financial investment for the council
- Protection of heritage on the Canal Corridor site
- Support for the arts in the district
- Continued funding for PCSO's
- Look at levels of street cleansing and improvement of open spaces
- Diversionary activities for young people
- Housing Regeneration
- Council housing opportunities – new regulations
- Council Tax Benefits localisation and grant reduction
- Implications of business rates changes as far as can be forecast
- Apprenticeships
- Working with the voluntary sector to reduce the amount of rough sleeping in the district.

The report highlighted areas of service for review which could, in turn, affect the council's future priorities. Cabinet were advised that the report needed to be seen in the current financial context which required savings to outweigh growth.

Councillor Hanson proposed, seconded by Councillor Leytham:-

- (1) "That Cabinet agree that the areas of activity identified in the report be fed into the Corporate Plan and budget process and recognise that these relate to all parts of the district, city, coast and countryside."
- (2) "That the areas of activity be amended as follows: 2.2 to include reference to the allotment initiative at Heysham, 2.7 to include reference to visitor as well as street signage."

Councillors then voted:-

Resolved unanimously:

- (1) That Cabinet agree that the areas of activity identified in the report be fed into the Corporate Plan and budget process and recognise that these relate to all parts of the district, city, coast and countryside.
- (2) That the areas of activity be amended as follows: 2.2 to include reference to the allotment initiative at Heysham, 2.7 to include reference to visitor as well as street signage.

Officers responsible for effecting the decision:

Chief Executive

Reasons for making the decision:

The decision to agree to the areas of activity recognises the council's commitment to

city, coast and countryside and will assist in the development of the budget process.

35 LANCASTER SQUARE ROUTES

(Cabinet Member with Special Responsibility Councillor Hanson)

Cabinet received a report from the Head of Regeneration and Policy to review the Cabinet decision of 6 December 2009 with regard to keeping all existing trees within Market Square (minute 95, 1) refers.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

Option	Advantages	Disadvantages
<p>Option 1: Further adjust the proposed design layout by siting the “platform” further into the square and reducing the area of the “carpet” at the eastern end</p>	<p>Works can go ahead</p> <p>Keeps all existing trees in the square as per the previous Cabinet decision.</p>	<p>A compromised layout that restricts space for a better market layout and constrains suitability for staging events</p>
<p>Option 2: Authorise removal of tree D and implement the design improvements planned</p>	<p>Works can go ahead to improve the central part of the square consistent with the design presented to Cabinet in December 2009.</p> <p>Therefore gives significant improvements and potentials for multiple and flexible use of the square, for seating and passive recreation and for the market and staging events.</p>	<p>Loss of tree D.</p> <p>Removal of the single tree makes the number of trees on the north and south sides of the square unbalanced and asymmetrical.</p>
<p>Option 3: Authorise removal of both tree D and tree H</p>	<p>As for option 2 but removal of tree H at the same time will also -</p> <p>optimise the effectiveness of the new lighting scheme in this corner of the square that presently attracts anti-social activity;</p> <p>open up the opportunity for street café use in this corner of the Square as</p>	<p>Loss of trees D and H</p>

	<p>per the Gillespie's design ambition</p> <p>reveal Anchor Lane better mean there are three trees at both sides of the Square</p>	
<p>Option 4: Undertake a more fundamental review</p>	<p>None</p>	<p>The project now proposed is devised after extensive consultations and review will unravel that consensus achieved to date.</p> <p>Would make abortive much of the time and cost inputs to date.</p> <p>Would involve significant time delay and new costs in design and additional consultation for which there is no financing.</p>

Option 1 had disadvantages that compromised and restricted how Market Square could be used for different uses. These could be read as risks also. Options 2 and 3 had no risks. Option 4 gave high risk that the council could not begin to improve the square at a difficult economic time when the improvement should help support and sustain the city centre.

Option 1 adhered to the previous Cabinet decision but would mean that the re- design of the square was less accommodating and beneficial for the outdoor market than it should be, was restricting for the staging of events and less advantageous for general pedestrian circulation and enjoyment than it should be. Options 2 and 3 involved tree loss but enabled the adjusted project design to be implemented largely as planned. Option 3 was the preferred officer option and had significant additional advantages including helping design out anti social behaviours and conferring increased flexibility for the use of this corner of the Square.

Councillor Hanson proposed, seconded by Councillor Bryning:-

"That Cabinet authorise officers to implement the first phase works in Market Square as per option 3 as set out in the report."

By way of amendment, Councillor Barry proposed and Councillor Smith seconded:-

"That Cabinet authorise officers to implement the first phase works in Market Square and that Tree D be removed and replanted following the completion of the works, that Tree H is not removed at this stage and that tree maintenance be continued to raise the crown of the trees."

Councillors then voted on the amendment:-

(6 Members (Councillors Barry, Blamire, Bryning, Leytham, Sands and Smith) voted in favour, and 1 Member (Councillors Hanson) abstained.)

Members then voted on the substantive motion:-

Resolved:

That Cabinet authorise officers to implement the first phase works in Market Square and that Tree D be removed and replanted following the completion of the works, that Tree H is not removed at this stage and that tree maintenance be continued to raise the crown of the trees.

Officers responsible for effecting the decision:

Head of Regeneration and Policy

Reasons for making the decision:

The 2010-2011 Corporate Plan identifies Square Routes under the Economic Regeneration Priority, and Lancaster Square Routes is listed as one of the actions under "Visitor Economy". The indicators for success in implementing the plan include if: the number of visitors to the district is increased and improved; the profile of the district as a visitor destination is improved; the retail offer and built environment in the city centre is improved; the economic impact of festivals and events is improved and an improved future for the district's museums is improved. The project contributes to all these. In addition, its importance is clearly identified in the draft new Lancaster District Cultural Heritage Strategy. The project is identified as the critical project in the strategy's action plan.

As part of the Lancaster Square Routes initiative, a first phase of improvements for Market Square was being readied for implementation this autumn. The temporary removal of tree D was necessary to provide sufficient clearance for service and other vehicles to travel on Market Street at all times and to meet highway standards in terms of access and lighting. This decision will enable works to be undertaken to enable the benefits of implementation to be achieved in time for the Christmas period. Given the general economic situation this period is especially critical this year. The decision not to remove Tree H at this stage could be revisited once the works were complete.

36 QUARTER 1 CORPORATE PERFORMANCE MONITORING

(Cabinet Member with Special Responsibility Councillor Blamire)

Cabinet received a joint report from the Leader and Cabinet Member with Special Responsibility for Finance in respect of the corporate performance report for the 1st Quarter of the Performance Review Team Cycle for 2011/12.

The report was for noting and comment.

Resolved unanimously:

- (1) That the report be noted.

Officers responsible for effecting the decision:

Head of Community Engagement

Reasons for making the decision:

The Council's Performance Management Framework requires the regular reporting of operational and financial performance to Cabinet as part of the Performance Review Team cycle of meetings. The Corporate PRT report provides a summary of key issues and associated actions that have arisen in the quarter and have been escalated to the Leader of the Council for attention.

37 CLIMATE CHANGE CABINET LIAISON GROUP**(Cabinet Member with Special Responsibility Councillor Hamilton-Cox)**

Cabinet received a report from the Head of Community Engagement which sought approval of the proposed Terms of Reference for the Climate Change Cabinet Liaison Group, as set out in the appendix to the report, in order for the Liaison Group to be formally re-established.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

	Option 1: Approve the TOR	Option 2: Amend the TOR	Option 3: reject the TOR
Advantages	The Climate Change Cabinet Liaison Group will be able to meet and begin delivering positive contributions to the area of climate change without further delay	Further input can be made by Members	None
Disadvantages	None	A delay to the meeting of the group	The group will not be able to form
Risks	None	None	A successful forum of discussion and Member leadership in relation to climate change activity will be lost

Option 1 was the officer preferred option. The re-establishment of the Climate Change Cabinet Liaison Group with revised terms of reference would contribute toward effective implementation of the long-term climate change vision and development of the Climate Change Policy and Action Plan for Lancaster City Council. Member input and consultation, anticipated to be through the group, was a positive contribution.

Councillor Barry proposed, seconded by Councillor Hanson:-

“That the recommendation, as set out in the report be approved.”

Councillors then voted:-

Resolved unanimously:

- (1) That the Terms of Reference of the Climate Change Cabinet Liaison Group be approved as follows:

The Climate Change Cabinet Liaison Group will:

1. Consider and make recommendations for the ongoing development of the Council's Climate Change Policy – Vision for 2020
2. Provide a forum for Member consultation on the development and delivery of the Climate Change Action Plan
3. Consider the delivery of outcomes and recommend any revised actions to achieve targets, which mitigate and adapt to climate change within the framework of the Corporate Plan
4. Consider and recommend effective links to external and internal policies relevant to delivery of the Corporate Plan priority on climate change and the Climate Change Policy
5. Request and consider reports from relevant Officers and Officer groups on the delivery of climate change objectives and the opportunities to secure external funding
6. Promote and raise awareness of the Council's approach to mitigating and adapting to climate change
7. To advise the Portfolio holder on budget proposals in relation to climate change projects
8. The Group will be Chaired by the Cabinet Member with responsibility for Climate Change and Property Services – Councillor Tim Hamilton-Cox
9. The Group will meet as required but in any event, no less than quarterly.

Officers responsible for effecting the decision:

Head of Community Engagement
Head of Governance

Reasons for making the decision:

The decision to approve the terms of reference and re-establish the Climate Change Cabinet Liaison Group supports the effective delivery of the corporate priority on climate change and will provide an important forum to discuss climate change and sustainability issues at a Member and senior officer level.

38 APPOINTMENTS TO OUTSIDE BODIES - LANCASHIRE TOURISM FORUM**(Cabinet Member with Special Responsibility Councillor Blamire)**

Cabinet received a report from the Head of Governance to inform Members of the establishment of the Lancashire Tourism Forum and to make an appointment on the basis that full Council would determine that the appointment be made by virtue of position on Cabinet.

Councillor Leytham proposed, seconded by Councillor Hanson:-

“That, on the basis that full Council determine the appointment to the Lancashire Tourism Forum be made by virtue of position on Cabinet, Councillor Sands as Cabinet Member with responsibility for Culture and Tourism, be appointed as the City Council's representative to this outside body.”

Councillors then voted:-

Resolved unanimously:

That, on the basis that full Council determine the appointment to the Lancashire Tourism Forum be made by virtue of position on Cabinet, Councillor Sands as Cabinet Member with responsibility for Culture and Tourism, be appointed as the City Council's representative to this outside body.

Officers responsible for effecting the decision:

Head of Governance

Reasons for making the decision:

The decision ensures that the City Council is adequately represented on this outside body. Lack of appropriate representation on outside bodies has the potential to affect the Council's ability to perform its Community Leadership role. The 2009-12 Corporate Plan identifies 'Leading our Communities as one of the City Council's core values and representation on outside bodies forms part of this Community Leadership role.

39 LANCASTER MARKET**(Cabinet Member with Special Responsibility Councillor Barry)**

The Chief Executive confirmed that following on from the decision made by Cabinet on 26th July 2011(Minute 21 refers) a report detailing all relevant options would be considered at the next full Council meeting on 14th September 2011.

Resolved unanimously:

(1) That the oral update be noted.

Officers responsible for effecting the decision:

Deputy Chief Executive
Head of Property Services

Reasons for making the decision:

The terms of reference of the Lancaster Market Cabinet Liaison Group stipulate regular reports for information to Cabinet. Oral reports are provided only where no decision is required.

Chairman

(The meeting ended at 11.40 a.m.)

**Any queries regarding these Minutes, please contact
Liz Bateson, Democratic Services - telephone (01524) 582047, or email
ebateson@lancaster.gov.uk**

MINUTES PUBLISHED ON FRIDAY 9TH SEPTEMBER, 2011.

**EFFECTIVE DATE FOR IMPLEMENTING THE DECISIONS CONTAINED IN THESE MINUTES:
MONDAY 19TH SEPTEMBER, 2011.**

CABINET

10.00 A.M.

4TH OCTOBER 2011

PRESENT:- Councillors Eileen Blamire (Chairman), Janice Hanson (Vice-Chairman), Jon Barry, Abbott Bryning, Tim Hamilton-Cox, Karen Leytham, Ron Sands and David Smith

Officers in attendance:-

Mark Cullinan	Chief Executive
Richard Tulej	Head of Community Engagement Service (Minute 45 & 47)
Mark Davies	Head of Environmental Services (Minute 46)
Suzanne Lodge	Head of Health and Housing (Minute 48)
Derek Whiteway	Internal Audit Manager/Deputy 151 Officer
Liz Bateson	Principal Democratic Support Officer

40 MINUTES

The minutes of the meeting held on Tuesday 6 September 2011 were approved as a correct record.

41 ITEMS OF URGENT BUSINESS AUTHORISED BY THE LEADER

The Chairman advised that there was one item of urgent business. This was an item regarding Climate Change Invest to Save Projects (Minute 45 refers).

42 DECLARATIONS OF INTEREST

Councillor Hanson declared a personal interest with regard to the Festivals and Events Report, in view of its reference to and her being a member of Morecambe Town Council (Minute 47 refers).

43 PUBLIC SPEAKING

Members were advised that there had been no requests to speak at the meeting in accordance with Cabinet's agreed procedure.

The Chairman advised the meeting of a revision to the order of the agenda and Item 11, West End Local Centre Parking would be considered first.

44 WEST END LOCAL CENTRE PARKING

(Cabinet Member with Special Responsibility Councillor Hanson)

Cabinet received a report from the Head of Regeneration and Policy to enable Members to consider the need for additional parking provision in the West End to serve the local centre's retail businesses and the potential re-use of the former Parliament Street play area for car parking.

The options, options analysis, including risk assessment and officer preferred option,

were set out in the report as follows:

	Advantages	Disadvantages	Risks
Option 1: Do Nothing	No additional costs. Evidence indicates that existing on street parking capacity is sufficient to meet short stay shopper's parking.	No additional car parking. Remnants of play area remain detracting from quality of open space and boundary wall continues to provide cover for nefarious activities	Missed opportunity to evaluate need for car park.
Option 2: Formal Pay & Display Car Park	This option provides 38 additional parking spaces (but this might not necessarily be an advantage, as evidence indicates sufficient capacity exists already). The creation of off-street parking areas could help the regeneration of the West End. Formal off street parking can be promoted and signed.	Significant costs of £65K capital and £10K revenue annually is greater than the funds potentially available. Survey data does not indicate a need for additional off street parking. Unless they can be incorporated this proposal would see the loss of 9 mature trees that provide amenity value.	Invest proves to be a waste of resources in absence of demand. Pay and Display charges may lead to car park being unused as vacant free short stay on street parking is utilised instead.
Option 3: Low Cost Temporary Car Parking Area	Lower capital and revenue cost that could be met by available Empty Shops Funding. Provides 14-17 additional parking spaces (As with option 2, however, the above points might not necessarily be advantages, as evidence indicates sufficient capacity exists already). Enables demand from shoppers and traders to be confirmed, albeit at a cost – subject to results this could lead to consideration of establishing a permanent car park. Retains all the street trees. Positive action to promote the retail area through the use of	14-17 parking spaces may be viewed as too few by traders. Temporary car parks often become permanent and it would, in time, require some of the features and associated costs of a more formal permanent car park. Boundary wall remains in place and will continue to provide cover for nefarious activities.	Investment proves to be a waste of resources in absence of demand. If proved to be needed, no guarantee that council could find resources to formalise car park. It would be hard to manage expectations once temporary car park has been provided. Without parking controls it may be abused. It may also discourage purchase of residents' parking permits. Residents not entitled to a permit Clarendon Road may also take advantage of these spaces.

	Empty Shops Funding.		
Option 4: Temporary Car Park	Lower capital and revenue cost than a formal car park. Provides an additional 33 parking spaces. Again though, these may not prove to be advantageous. Parliament Street entrance to car park makes for easy access to a car park from Regent Road. Positive action to promote retail area through use of Empty Shops Funding. Minimises the loss of street trees.	Temporary car parks often become permanent and it would, in time, require the features and associated costs of a more formal permanent car park and therefore presents a future cost liability. Higher capital cost means that it would not be possible to include a means of control to the parking with the available funding.	Investment a waste of resources in absence of demand. If proved to be needed no guarantee that council could find resources to formalise car park. It would be hard to manage expectations once temporary car park has been provided. Without parking controls it may be abused. It may also discourage purchase of residents' parking permits. Residents not entitled to a permit Clarendon Road may also take advantage of these spaces. Future costs to formalise car park if proven to be needed.

Utilising the Empty Shops Funding to provide a temporary car park was a positive action to promote retail businesses in the West End and met the objects of this external funding that aimed to support struggling retail businesses in the recession. Option 3 the Low Cost Temporary Parking Area was the only affordable option that would provide additional parking in the locality and include a suitable and enforceable means of control.

Although the lack of demand meant there was a risk that the investment in a car parking was a waste of resources, local consultation shows that there was strong support for additional car parking. Therefore it was recommended that:

- Option 3 the provision of a Low Cost Temporary Parking Area was approved to enable demand for a permanent car parking facility to be assessed by further parking surveys over the course of the temporary period.
- That an appropriate means of control was determined.
- That the temporary period for the car park would be for 12 months.
- That the £22K unspent Empty Shops Funding be allocated to meet the cost of providing the temporary parking facility.

Councillor Hanson proposed, seconded by Councillor Leytham:

- “(1) That Option 4 the provision of a Temporary Parking Area is approved to enable demand for a permanent car parking facility to be demonstrated.

- (2) That an appropriate form of control is determined.
- (3) That the temporary period for the car park be for 12 months.
- (4) That the £22K unspent Vacant Shops Fund be allocated to meet the cost of providing the temporary car park and the revenue budget be updated accordingly."

Councillors then voted:-

Resolved:

(6 Members (Councillors Blamire, Bryning, Hanson, Leytham, Sands and Smith) voted in favour, and 2 Members (Councillors Barry and Hamilton-Cox) abstained.)

- (1) That Option 4, the provision of a Temporary Parking Area involving unplanned /unbudgeted capital investment be referred to Council for approval.
- (2) That an appropriate form of control is determined.
- (3) That the temporary period for the car park be for 12 months.

The Chief Executive confirmed that a report to Council would be required if Cabinet were minded to support Option 4.

Officers responsible for effecting the decision:

Head of Regeneration and Policy
Head of Financial Services

Reasons for making the decision:

The proposals accord with the Parking Strategy and the West End Masterplan. Referral of this issue for Council approval was necessary as Option 4 involved unplanned/unbudgeted capital investment and would either have to be appraised as part of the budget process or be approved by Council as a variation to the capital programme. The Option required Council approval as car parking provision did not fall within the uses previously agreed by Cabinet on 19th January 2010 for the Morecambe element of the Vacant Shops Fund.

45 ITEM OF URGENT BUSINESS - CLIMATE CHANGE INVEST TO SAVE PROJECTS

(Cabinet Member with Special Responsibility Councillor Hamilton-Cox)

In accordance with Section 100B(4) of the Local Government Act 1972, the Chairman agreed to consider the report as an item of urgent business as a decision was required prior to November's Cabinet meeting.

Cabinet received a report from the Head of Community Engagement to seek approval to the proposals set out in the report with regard to Climate Change Invest to Save Projects.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

Option 1: Do not invest in solar PV installations.	Option 2; Invest a lesser amount than that suggested in the report	Option 3: Invest to the level recommended in the report
Advantages		
Allows Cabinet to consider other uses of the Invest to Save budget	Allows Cabinet to consider other uses of the Invest to Save budget	Maximises the financial benefits offered by the FIT scheme, reduces our energy costs and carbon footprint. Solar PV is a proven technology
Disadvantages		
Misses the opportunity to secure the financial benefits offered by the FIT scheme, reduce our energy costs and carbon footprint.	Reduces the opportunity to maximise the financial benefits offered by the FIT scheme, reduce our energy costs and carbon footprint.	

Risks: The Council has no expertise in solar technology. Whilst it is mainstream activity in many other authorities the Council would need to rely on independent expertise in this first phase. It may be that it would not prove possible to invest the whole amount by 31 March 2012.

Option 3 was the officer preferred option.

Councillor Hamilton-Cox proposed, seconded by Councillor Hanson:-

“That the recommendations, as set out in the report, be approved.”

Councillors then voted:-

Resolved unanimously:

- (1) That Cabinet approves the allocation of £750,000 from the General Fund's Invest to Save Reserve to install solar photo voltaic (PV) panels on the Council's municipal buildings.
- (2) That Cabinet approves the allocation of £1M of from the Housing Revenue Account's Major Repairs Reserve to install solar photo voltaic (PV) panels on council housing communal buildings.
- (3) That a further report is brought back to Cabinet on developing the Councils wider approach to the use of renewable energy.

Officers responsible for effecting the decision:

Head of Community Engagement
Head of Financial Services

Reasons for making the decision:

The decision supports the Economic priority in respect of 'Energy Coast' and Climate Change and the redefined priority around climate change: 'prioritising reducing the council's energy costs and increasing income' as the focus of the City Council's objective to 'tackle the challenges of climate change.' The new financial incentives for renewable energy generation can provide income streams over the long term and other significant opportunities. In addition to the obvious benefits (free energy, cost savings and income generation) there are potentially wider benefits from our local communities, greater energy security, CO2 emissions reductions and a potential boost to the local economy).

46 MAINTAINING THE PUBLIC REALM

(Cabinet Member with Special Responsibility Councillor Smith)

Cabinet received a report from the Head of Environmental Services which provided members with a number of proposals as to how some aspects of the District's public realm could be best maintained.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

The outline report was provided to allow Cabinet to consider at an early stage what options existed with regard to maintaining the public realm. Cabinet were requested to consider each of the proposals and if required add further. This would provide officers with the direction required to develop the relevant parts of the corporate plan, for later consideration by Members.

For the purpose of the report 'the public realm' was defined as any publicly owned streets, pathways, parks, publicly accessible open spaces. The main activities that had an impact on the public realm for the purposes of this report were-

- Street cleansing
- Grounds maintenance
- Planning
- Street nameplate management

Street Cleansing / Grounds maintenance- Following an earlier organisational restructure and comprehensive review of service provision these two functional areas were delivered through the same line management structure. This merging of the functions had resulted in improved efficiency and had led to higher standards of service delivery.

PROPOSAL 1- Cabinet were requested to consider the implications of improving grounds maintenance provision and increasing cleansing provision in Morecambe, in line with seasonal demands. As set out in the financial implications within the report, Phase 1 of grounds maintenance improvements could be delivered from within existing

budgets, with Cabinet's approval, through a virement in this financial year. Phases 2 and 3 would need to be considered within the context of the overall budget and Cabinet was requested to indicate whether any of the other potential improvements in relation to grounds maintenance and cleansing be considered as potential growth in developing the 2012/13 budget.

Currently a situation existed in Williamson Park where some cleansing and grounds maintenance functions were provided directly by Environmental Services and some by Williamson Park staff. Greater efficiencies could potentially be generated through reviewing how maintenance in the park could be best delivered.

PROPOSAL 2- That Officers review how the maintenance of Williamson Park is delivered and bring back recommendations to Cabinet

Working with other Partners- The overall appearance and perception of the public realm could clearly be improved by working closely with other partners. The County Council has a huge impact on the management and maintenance of the District's public realm and intend to use the proposed 3 Tier Forum as the main way of consulting with stakeholders and thus developing the commissioning plan. From a City Council perspective feeding into the development of this plan provides a real opportunity to put forward public realm priorities within the District.

The Council's Overview and Scrutiny Committee has been requested to consider the opportunities the commissioning approach provides and make recommendations to Cabinet in the future.

PROPOSAL 3- that following the assessment and recommendations of the Overview and Scrutiny Committee Cabinet considers how the County Council's commissioning plan approach can be best developed.

In addition the County Council were also working with City Council officers on a number of community led projects within the District. These were attached at Appendix 2 to the report.

PROPOSAL 4- that where required the City Council provides officer time to work with the County Council and community groups to help deliver these community led projects.

The Council's use of the Community Payback scheme to improve the appearance of the District has to date worked well. Currently the Council contributed £24,000 to the Probation Service to part fund the cost of a Probation Service supervisor, vehicle and tools. In turn the Probation Service undertakes a list of environmental works provided by the Council.

PROPOSAL 5- that the City Council continues to work in partnership with the Probation Service and that a list of environmental improvement works for 2012/13 is developed by officers and agreed with the relevant Cabinet portfolio holder.

The Council's Street Pride initiative has been a further success in terms of working with partners and improving the appearance of the District. A suggested refinement for 2012/13 is that calling for streets to be nominated we also call for areas of open space to be nominated.

PROPOSAL 6- that in preparing the Street Pride programme for 2012/13 officers also ask for areas of open space to be nominated

Street Name Plates- The City Council has a statutory duty to provide and maintain street name plates within the whole of the District. The annual budget provided for this service was £13,200. In order to improve the experience for both residents and visitors to our City Centre work has taken place to assess the state of the existing signage in Lancaster City centre. To ensure that the City Centre is clearly signed with name plates that are appropriate to a conservation area would require a one off amount of £16,000 to cover the cost of either repainting or replacing. In addition a further £4,000 would be required to provide directional signage to places to visit (eg VIC, Roman Baths). The financial implication section of the report showed that Phase 1 could be funded within existing budgets through a virement that could be agreed by Cabinet.

PROPOSAL 7- that Cabinet considers the benefits of improving street name plates and directional signs within Lancaster City Centre. Subject to this Cabinet approves the £20,000 virement required to fund the works.

Development led improvement- Many of the environmental issues that the Council deals with are symptoms of bigger and more expensive problems related to existing infrastructure. As an example some parts of the City Centre are very difficult to cleanse because of types of surface, street furniture etc. The Square Routes project in the City Centre and the Morecambe Action Plan present an ideal opportunity to ensure that ongoing maintenance is considered at the design stage. The proposals that develop from these are likely to have positive implications for the management and maintenance of the public realm in Lancaster and Morecambe. The plans when delivered have had the input of managers who will be responsible for maintaining them and as such there is confidence that this development will lead to sustained improvements. In the past this joined up approach has not always happened and developments have taken place without full consideration of the future maintenance or consideration of how section 106 monies could be best used.

PROPOSAL 8- that development is seen as an opportunity to improve the public realm and that full account is taken of the ongoing maintenance implications of development.

Recreational Facilities- the Council has in place a strategy for playground provision that has seen significant improvements to play provision within the District and this approach has been successful at attracting external funding. Feedback suggests that whilst play provision for younger children is catered for there could be more play facilities for teenagers. At this stage the evidence for this is largely anecdotal and furthermore planning of provision of facilities for teenagers needs to take into account what teenagers would actually want and the views of surrounding communities.

PROPOSAL 9- that Officers review current recreational provision for teenagers and bring a further report back to Cabinet. Because of the timescales involved it is expected any financial implications would need to be considered as part of the 2013/14 budget.

PCSOs- Cabinet had requested further information on the position with regards to funding of PCSOs in 2012/13 and clearly PCSOs do make a contribution towards maintenance of the public realm.

In 2011 The Home Office agreed that they would for the next two years continue to provide the 2/3 funding that they currently contribute towards PCSOs if someone else contributed the other 1/3. No further information is available as to the detail of PCSO funding beyond April 2013. For 2011/12 the LDLSP has provided the majority of the contribution to 9 PCSOs within this District. At this stage it seems unlikely that the LDLSP will have the funding to be able to make this contribution in 2012/13.

In order to maintain the level of PCSOs currently funded by the LDLSP a contribution of £99,000 would be required in 2012/13.

PROPOSAL 10- that Cabinet considers the information provided with regards to PCSOs and indicates whether it wishes to consider their funding further as part of the development of 2012/13 budget.

Councillor Smith proposed, seconded by Councillor Hanson:-

“That the recommendations, as set out in the report, be approved.”

Councillors then voted:-

Resolved unanimously:

- (1) That Cabinet notes and approves the implications of improving grounds maintenance provision and increasing cleansing provision in Morecambe, in line with seasonal demands. And that Phase 1 of the grounds maintenance programme is funded through a virement, in this financial year, from within environmental services budgets
- (2) That officers review how the maintenance of Williamson Park is delivered and bring back recommendations to Cabinet.
- (3) That following the assessment and recommendations of the Overview and Scrutiny Committee Cabinet considers how the County Council's commissioning plan approach can be best developed.
- (4) That where required the City Council provides officer time to work with the County Council and community groups to help deliver a number of community led projects within the District.
- (5) That the City Council continues to work in partnership with the Probation Service and that a list of environmental improvement works for 2012/13 is

developed by officers and agreed with the relevant Cabinet portfolio holder.

- (6) That in preparing the Street Pride programme for 2012/13 officers also ask for areas of open space to be nominated.
- (7) That officers review current recreational provision for teenagers and bring a further report back to Cabinet. Because of the timescales involved it is expected any financial implications would need to be considered as part of the 2013/14 budget.
- (8) That the scheme to improve street names plates and directional signs within Lancaster City Centre is delivered in this financial year through a virement from within environmental services budgets.
- (9) That as a principle development is seen as an opportunity to improve the public realm and that full account is taken of the ongoing maintenance implications of development.
- (10) That Cabinet notes the information with regard to PCSOs and confirms that consideration should be given to the funding aspect as part of the development of the 2012/13 budget.

Officers responsible for effecting the decision:

Head of Environmental Services

Reasons for making the decision:

The proposals for the maintenance of the public realm are in line with the Corporate Plan: and Council priorities:

- Improving the attractiveness, accessibility and enjoyment of the district's parks and open spaces for visitors.
- Working with partners to deliver services that keep the streets clean and safe
- Delivering responsive and efficient statutory services
- Delivering City and County Council 'public realm' services, making most efficient use of resources and achieving the aim of keeping the streets clean and maintained.

The decision allows Cabinet to consider at an early stage what options exist with regard to maintaining the public realm and provide officers with the direction required to develop them. In particular delivery of Phase 1 required a decision at this point of the year.

47 FESTIVAL AND EVENTS REPORT

(Cabinet Member with Special Responsibility Councillor Sands)

Cabinet received a report from the Head of Community Engagement to update members on the 2011 festivals and events programme, update on the income achieved and seek approval of plans for 2012.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

<p>Option 1: Notes the update, agrees revenue budget be updated and commits funding now to allow progress towards festivals and events for 2012 and 2013.</p>	<p>Option 2: Notes the update but does not to agree budget update and delay any decision until budget council in March 2012.</p>	<p>Option 3; Notes update but decides to reduce funding in light of the current budgetary position facing the Council.</p>
<p>Advantages</p>		
<p>Enables council to work with partners to develop a co-ordinated plan towards event delivery for 2012, take advantage of major regional, national and international events and explore sponsorship opportunities</p>	<p>Council is able to make decision as part of wider budget setting context</p>	<p>Makes a contribution towards the savings targets required by Council following on from the recent Comprehensive Spending Review</p>
<p>Supports the council's priorities and a significant element of the council's Visitor Marketing Plan</p>		
<p>Opportunity to develop a joined up marketing plan for visitors and local people (reducing the plethora of separate marketing approaches and ensuring no event clashes)</p>		
<p>Disadvantages</p>		
<p>Decision taken ahead of wider budget setting context</p>	<p>Prevents the council working with partners to develop a co-ordinated plan towards event delivery for 2012 and risks an uncoordinated and less effective series of events.</p>	<p>Uncertainty amongst businesses and the media, leading to potential damaging publicity not just locally but further afield</p>
	<p>Less likely to achieve sponsorship and therefore income towards 2012 events</p>	
	<p>Uncertainty amongst businesses and the</p>	

	media, leading to potential damaging publicity not just locally but further afield	
--	--	--

There was no Officer preferred option.

Councillor Sands proposed, seconded by Councillor Leytham:-

“That the recommendations, as set out in the report, be approved.”

Resolved unanimously:

- (1) That Cabinet notes the update on the 2011 events programme.
- (2) That Cabinet agrees the revenue budget be updated to reflect the additional income and expenditure for the 2011 festivals and events programme.
- (3) Cabinet approves the planned approach for 2012 and 2013, unless the Council’s financial position and changing priorities warrants a review for the 2013/14 budget, and further agrees that the revenue budget be updated to reflect any additional income received to support the festivals and events in those years, to supplement the Council’s investment in the programme, rather than taking any savings.

Officers responsible for effecting the decision:

Head of Community Engagement
Head of Financial Services

Reasons for making the decision:

The decision supports the Corporate Plan priorities relating to Economic Regeneration – Visitor Economy and Partnership Working and Community Leadership. Festivals and events have a direct impact, attracting more visitors to a destination, raising the profile of a place, creating a sense of wellbeing, providing a platform to raise awareness and communicate positive messages, and can help attract residents and investment. Cabinet needs to take a decision with regard to the Council’s future commitments to festivals and events for 2012. Operationally, it makes sense to make early decisions regarding any festivals and events and as the proposals are within the existing budget and policy framework, it is within Cabinet’s remit to authorise progress.

48 HOUSING REGENERATION PRIORITIES

(Cabinet Members with Special Responsibility Councillors Hanson and Leytham)

Cabinet received a joint report from the Head of Regeneration and Policy and the Head of Health and Housing which sought approval for the preferred direction for strategic

housing and regeneration priorities in light of the current financial climate, existing housing regeneration commitments and the introduction of self financing for council housing.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

The council potentially had two main options to consider in the current circumstances, although should new funding become available in the future it could revise its options.

Option 1: To do nothing and rely on the private sector to engage in housing supply. As a result to dispose of the properties already bought (within Chatsworth Gardens and Bold Street/Marlborough Road) and undertake no regeneration.

This option would mean that the council would seek to minimise its risk by avoiding engaging in further regeneration work. It has acquired 56 properties using external funding and would seek to dispose of them on the open market to remove liabilities amounting to just over £100,000 per annum which arise from securing and maintaining the properties. It would be highly unlikely that any element of profits from sales would be achieved, and more likely that sales would result in a notional financial loss. The only level of affordable housing provision the council would then influence would be through restrictions on planning decisions requiring private sector provision.

Advantages: Removal of liabilities from continuing to own the properties, and avoiding the need to spend further monies to undertake refurbishment as part of a regeneration programme.

Disadvantages: The council would not be engaging in housing regeneration. It would be placing a further burden on the local housing stock by adding a significant number of unfit properties onto the market and it would fail to add value to the money already spent by public funding to make greater use of the existing housing stock to provide good quality new homes.

Option 2: To work up a means of engaging in housing provision targeted towards affordable housing using a variety of methods.

This will consist of a variety of means including: a) allocating land in the Local Development Framework and securing contributions from Section 106 agreements and eventually through Community Infrastructure levy, b) opportunities arising from the self financed Housing Revenue Account coming into effect from April 2012, c) examining options for the completion of outstanding housing regeneration projects at Chatsworth Gardens and Marlborough Road/ Bold Street and d) the provision of the Lend a Hand mortgage support scheme. If as indicative figures show, the HRA business plan can viably support and contribute to the regeneration and provision of additional council homes, it may also be worth considering it as an alternative solution to finance the refurbishment of the empty properties in current regeneration schemes, bringing other empty properties back into use, and to construct new homes on council land.

Advantages: Such a move would introduce greater certainty into the outcome of housing regeneration projects as there is likely to be a more assured rental income from rents. It would also provide the council as a landlord with a much wider variety of properties to offer for rent to address the changing demands from society for affordable

housing.

Disadvantages: There may be resistance within communities to the provision of council housing in this manner as it could be perceived that the council will be concentrating social rented properties in areas which already experience high levels of deprivation.

The officer preferred recommendation was to pursue option 2. It afforded the council the opportunity in these very difficult economic times to engage proactively in housing regeneration whilst balancing its exposure to financial risk from investing high levels of capital in housing which may not be capable of achieving adequate returns for that investment through sales on the open market. It also allowed the council to rise to the new challenge by the government for councils to demonstrate that they are worthy providers of social and affordable housing, in a market where the private sector was currently stifled.

The council clearly wants to engage in housing regeneration even in what are unarguably the toughest economic conditions for decades. To do so maintains its credibility as a forward looking authority but it had to try and do this in an affordable manner. There could be no safer method available at the present time than to do this with a guaranteed end user available. If Members chose Option 2 Officers would prepare further reports for Cabinet on the opportunities to create affordable homes through the LDF and planning decisions, options arising from the revised rules governing the HRA, and a comprehensive options appraisal for the Chatsworth Gardens scheme, to give Members the choice of how to match their aspirations to the budget which could be available to them.

Councillor Leytham proposed, seconded by Councillor Hanson:-

“(1) That Members reaffirm that the strategic housing regeneration priorities for the foreseeable future are:

- a) To increase the supply and delivery of affordable housing schemes.
- b) To complete existing unfinished schemes in the West End.
- c) To bring empty properties back into use.

(2) If Members reaffirm the above priorities further reports be prepared for Cabinet to consider examining the potential of affordable housing provision for each of the above categories through:

- a) Options for the completion of outstanding housing regeneration projects at Chatsworth Gardens and Marlborough Road/Bold Street along with the report to include financial options in relation to the Council borrowing to complete the schemes if there is no other external funding available- also that negotiations are entered into with the HCA to agree a change of direction/contractual agreement based upon the possibility that the Council are able to fund completion of the scheme.
- b) The self financed Housing Revenue Account coming into effect from April 2012.
- c) Allocating land in the Local Development Framework and securing contributions from Section 106 agreement and eventually through Community Infrastructure Levy.

- d) The provision of a Lend a Hand mortgage support scheme “

Councillors then voted:-

Resolved unanimously:

- (1) That Members reaffirm that the strategic housing regeneration priorities for the foreseeable future are:
- a) To increase the supply and delivery of affordable housing schemes.
 - b) To complete existing unfinished schemes in the West End.
 - c) To bring empty properties back into use.
- (2) That having reaffirmed the strategic housing regeneration priorities further reports be prepared for Cabinet to consider examining the potential of affordable housing provision for each of those categories through (a) to (d) below which are set out in order of priority:
- a) Options for the completion of outstanding housing regeneration projects at Chatsworth Gardens and Marlborough Road/Bold Street along with the report to include financial options in relation to the Council borrowing to complete the schemes if there is no other external funding available- also that negotiations are entered into with the HCA to agree a change of direction/contractual agreement based upon the possibility that the Council are able to fund completion of the scheme.
 - b) The self financed Housing Revenue Account coming into effect from April 2012.
 - c) Allocating land in the Local Development Framework and securing contributions from Section 106 agreement and eventually through Community Infrastructure Levy.
 - d) The provision of a Lend a Hand mortgage support scheme.

Officers responsible for effecting the decision:

Head of Regeneration and Policy
Head of Health and Housing

Reasons for making the decision:

In January 2011 council resolved that housing regeneration be included in its corporate priorities noting that these projects required significant funding. The decision enables Officers to prepare further reports for Cabinet on the opportunities to create affordable homes through the LDF and planning decisions, options arising from the revised rules governing the HRA, and a comprehensive options appraisal for the Chatsworth Gardens scheme, to give Members the choice of how to match their aspirations to the budget which could be available to them.

49 MORECAMBE AREA ACTION PLAN - IMPROVING MORECAMBE'S MAIN STREETS

(Cabinet Member with Special Responsibility Councillor Hanson)

Cabinet received a report from the Head of Regeneration and Policy which proposed a

further initiative to improve main streets and spaces in and around Morecambe's established centre as part of work to support delivery of the emerging Morecambe Area Action Plan.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

Option 1 – To rely on the private sector for any investment to improve New Town Square and Euston Road in line with the emerging Morecambe Area Action Plan.

This option would mean that the council would not take a lead in effecting improvements in with and to support delivery of the emerging Morecambe Area Action Plan. It would mean not undertaking outline design work and preparing budget estimates and not seeking to bring forward considered proposals via appropriate community engagement. It would not necessarily mean that nothing happens but the council would be entirely reliant on the private sector to achieve improvements. Recent history evidences relatively low levels of private sector investment in Morecambe centre but the recent Travellodge development shows that it can be instrumental in effecting improvements to public realm. In addition the option would still permit the council to directly bring forward improvements to public realm as possible as part of "A View for Eric", the second Morecambe Townscape Heritage Initiative (THI) 2. These must be within the area of the THI and will likely be focused on Victoria Street and Market Street.

The **advantages** are that the option will lead to no additional demands on the General Capital Fund and reliance on the private sector to fund extra investment and improvements is in principle appropriate in circumstances where the public sector cannot afford to commit resources.

The **disadvantages** are that given national and local economic circumstances and that Morecambe evidences generally limited levels of private sector investment no assurance can be given that New Town Square and Euston Road can be improved within any timescale.

The **risks** are that without a delivery lead from the council the private sector will not fill the gap and improvements cannot be achieved within at least the short to medium term meaning the town centre is not positioned well and competitively for the future. In this event this option would not support the trajectory of the emerging Morecambe Area Action Plan.

Option 2 – The Head of Regeneration and Policy work up outline proposals and cost estimates to improve New Town Square and Euston Road and, as part of preparing its budget recommendations, Cabinet uses these as a basis to consider whether appropriate budget provision be included in its draft General Fund Capital Programme for 2012/13.

This option would mean the council takes a lead to vision what improvements may be possible. At minimum it would make for preparation of outline proposals that should fit to the emerging Morecambe Area Action Plan and might set a template for the council and others to work to into the future. Further, the option provides that as part of the budget

process and preparing its recommendations to council Cabinet might consider whether the council might also take a funding lead and direct and programme implementation.

This option would by no means preclude the council from working to secure private sector funding contributions to the improvements and contributions that if secured might mean the council can reduce its outturn expenditure.

The **advantages** include that improvement of New Town Square and Euston Road will likely be integral to any options brought forward through the emerging Morecambe Area Action Plan and Option 2 is therefore likely to be highly supportive of plan delivery.

Works to New Town Square and Euston Road would make for an environment fitting to its functions, a place more active, pleasant and safe to spend time in. This should add significantly to the attraction of the established centre to the benefit of business trading and its general competitiveness in difficult economic conditions. Taken together with works to public realm anticipated via TH12, this should be quite transformative for the main streets and spaces in and around Morecambe's established commercial centre.

Option 2 provides for partnership working and for securing funding contributions from the private sector. Even if a funding lead by the council proves unaffordable for the council to vision what might be achieved should encourage the private sector to step forward. Further, should the council prove able to provide funding, lead private contributions as can be secured should make for reductions in net outturn expenditure by the council.

The main **disadvantage** of option 2 as compared to option 1 is that this option requires more commitment of officer time in bringing forward outline proposals and in due course and, subject to the budget process might have cost implications via an additional demand on the General Fund Capital Programme.

Turning to **risks**, one is that option 2 will unduly raise stakeholder and community expectations only for these not to be met if it proves unaffordable for the council for it to take a funding lead. A further risk identified is that the desired regeneration will not happen because the net affect of wider adverse factors e.g. the decline of established small centres in the face of changing consumer trends and competition proves stronger.

Option 2 was the officer preferred option as it would inform Cabinet, in preparing its recommendations to council as part of the budget process, in considering an important aspect of how the council might provide support to the performance of Morecambe's established centre, very likely to be an early priority for the emerging Morecambe Area Action Plan. Taken together with works to other public realm via TH12 improvement of New Town Square and Euston Road it should make for a coherent programme of phased works to streets and spaces over three years.

Councillor Hanson proposed, seconded by Councillor Bryning:-

"That the recommendation, as set out in the report, be approved."

Councillors then voted:-

Resolved unanimously:

- (1) That the Head of Regeneration and Policy work up outline proposals and cost estimates to improve New Town Square and Euston Road and, as part of preparing its budget recommendations, Cabinet uses these as a basis to consider whether appropriate budget provision be included in its General Fund Capital Programme for 2012/13.

Officers responsible for effecting the decision:

Head of Regeneration and Policy

Reasons for making the decision:

The 2010-2014 Corporate Plan sets Economic Regeneration Priority as one of four priorities for the council and the second Morecambe THI is identified as one of the actions under "Visitor Economy". In spatial terms the Lancaster District Core Strategy, 2003-2021 (adopted 2008) made central Morecambe the regeneration priority for the council and the community (Policy ER2). Work on the Morecambe Area Action Plan reflects these priorities and is central to achieving on them. The September 2011 Cabinet meeting considered a report on a Priorities Review that detailed on a number of areas of activity that cabinet members had requested be considered in more detail. This was to be fed into the corporate plan and budget process (Minute 34). As an established spatial planning and regeneration priority this proposal might reasonably be considered as part of the corporate plan and budget considerations.

50 LANCASTER SQUARE ROUTES**(Cabinet Member with Special Responsibility Councillor Hanson)**

Cabinet received a report from the Head of Regeneration and Policy to update on this initiative and to propose how the Council might continue to support implementation including making available additional resources via a capital growth proposal in the forthcoming budget.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

In the context of previous decisions by Cabinet authorising the Lancaster Square Routes initiative the report set out options for continuing delivery of the programme of work required.

Option 1 - As per the established project priority for Lancaster Square Routes to reserve the balance of funding likely remaining in the investment fund after Market Square phase 1 towards a second phase of work in Market Square and in addition, in preparing its General Capital Fund budget proposals for 2012/13, Cabinet to consider recommending an additional £220k contribution to the Fund.

This option has the **advantages** of positioning the council to undertake a second phase of works to Market Square if it wishes to achieve the Square Routes design vision and

also does not preclude the council securing further private contributions to Lancaster Square Routes and actually might assist this by adding further credibility as to delivery.

The main **disadvantages** are that the balance of funding likely to be remaining in the investment fund after completing a first phase of works to Market Square is of itself insufficient to fund a worthwhile second phase and insufficient to complete works to the Square. Also that this option does not position the council to be able to enhance the specification of highway works to Penny Street and Horseshoe Corner in a way consistent with the Square Routes design visions.

The option presents no real **risks**.

Option 2- After completing the first phase of works to Market Square, reserving the balance of council funding likely remaining in the Investment Fund for Lancaster Square Routes fund to enhance the specification of any highway works to Penny Street and Horseshoe Corner and, in preparing its General Capital Fund budget proposals for 2012/13, Cabinet considers including an additional contribution estimated at £300k to the fund in order to facilitate a second phase of works to Market Square.

This option has the **advantages** of both positioning the council to undertake a second phase of works to Market Square to achieve the Square Routes and permitting the council to take an opportunity to secure improvements to Penny Street and Horseshoe Corner consistent with the design visions for Lancaster Square Routes. Further, it both does not preclude the council securing further private contributions to Lancaster Square Routes and actually might assist this by adding further credibility as to delivery.

The only **disadvantage** is that reserving the balance of approved funding for Penny Street / Horseshoe Corner means that should Cabinet wish to recommend to council as part of the budget process that it should allocate additional funding to undertake a second phase of works to Market Square the call on additional council resources will be higher than it would were this funding not so reserved.

The option presents no real **risks**.

Option 3 – As per the established project priority for Lancaster Square Routes to reserve the balance of funding likely remaining in the investment fund after Market Square phase 1 towards a second phase of work in Market Square and await sufficient private contributions before proceeding with a second phase of works to the Square

This option has the **advantages** of retaining the ability for the council to draw in further private contributions and of making no additional demand on the council's capital funding resources.

However it has the **disadvantages** of meaning the council will not have any ability to influence the timing by which it can bring forward a second phase of works to complete improvements to Market Square.

Consequently it **risks** that the council cannot bring forward a second phase in a timely

manner if at all, albeit that officers are hopeful that over time contributions will be secured and these may in time aggregate to the level of sum required.

Option 2 was the officer preferred option.

Options 1 and 2 both provide that as part of the budget process Cabinet can consider recommending that the council make an additional contribution to the investment fund for Lancaster Square Routes towards a second phase of works to Market Square. Option 3 does not provide for this and places reliance on the council securing private contributions to a level sufficient to fund the works. This means there can be no certainty to delivery with this option.

By a second phase of works to Market Square the council can look to complete a transformation for the public benefit, providing:

- An environment fitting to the Square's role as the civic centre of the city
- A place more active, pleasant and safe to spend time in
- An improved layout for the outdoor market
- An environment fitting and complementary to the Old Town Hall and the council's ambitions for use of this building
- An improved setting and staging for events and performance

This should add to the attraction of the city to the benefit of business trading, much needed in difficult economic conditions

Option 2 in addition gives the council the flexibility to enhance any highways works to Penny St / Horseshoe Corner consistent with the Lancaster Square Routes design visions. This should optimise the efficiency and benefits of public investment whether via the city or county councils. Neither options 1 or 3 provide for this. On balance therefore taking the relative merits of each option into account option 2 is preferred if this can be afforded.

Councillor Hanson proposed, seconded by Councillor Sands:-

"That the recommendations, as set out in the report, be approved."

Councillors then voted:-

Resolved:

(7 Members (Councillors Barry, Blamire, Bryning, Hanson, Leytham, Sands and Smith) voted in favour, and 1 Member (Councillors Hamilton-Cox) abstained.)

- (1) That Cabinet notes the progress in delivering the first phases of improvements as part of Lancaster Square Routes including in Market Square.
- (2) That Cabinet notes that officers will in due course report to the appropriate

portfolio holders on the future layout of the outdoor market, potentials for a street café(s) in Market Square and how the existing Traffic Regulation Order for the city centre pedestrian zone might best be revised and subsequently enforced.

- (3) That Cabinet notes that officers will report to the portfolio holder on any need or potential to support the county council in works to remedy the surface condition of Penny Street and Horseshoe Corner in a way that is consistent with the Lancaster square routes design visions and that the anticipated balance of funds in the city centre investment after the first phase of works in Market Square fund for Lancaster Square Routes be reserved for this purpose pending further reporting.
- (4) That in preparing its proposals for the 2012/13 General Fund Capital Programme as part of the budget process, Cabinet considers including an additional £300K contribution to the city centre investment fund for Lancaster Square Routes in order to provide for a second phase of works in Market Square.

Officers responsible for effecting the decision:

Head of Regeneration and Policy
Head of Financial Services

Reasons for making the decision:

The 2010-2014 Corporate Plan identifies Square Routes under the Economic Regeneration Priority and Lancaster Square Routes is identified as one of the actions under "Visitor Economy". The Indicators for success in implementing the plan include if: the number of visitors to the district is increased and improved; the profile of the district as a visitor destination is improved; the retail offer and built environment in the city centre is improved; the economic impact of festivals and events is improved and an improved future for the district's museums is improved. The project contributes to all these. In addition, its importance is clearly identified in the new Lancaster District Cultural Heritage Strategy.

The September 2011 Cabinet meeting considered a report on a Priorities Review that detailed on a number of areas of activity that cabinet members had requested be considered in more detail. This was to be fed into the corporate plan and budget process (Minute 34). As an existing priority Lancaster Square Routes should be considered as part of the corporate plan and budget considerations.

51 SHARED SERVICES - MEMORANDUM OF UNDERSTANDING

(Cabinet Member with Special Responsibility Councillor Blamire)

Cabinet received a report from the Chief Executive to report on the signing of a Memorandum of Understanding between the City Council and Lancashire County Council setting out the intention to work together in partnership with OneConnect Limited, the strategic partnership established between Lancashire County Council and BT.

Cabinet were requested to note the progress being made in respect of service areas identified in the Memorandum of Understanding and to receive reports back as appropriate to meet any decision-making deadlines and to ensure that any service improvements and efficiencies were considered as part of the budget exercise.

Councillor Leytham proposed, seconded by Councillor Hanson:-

“That the recommendation, as set out in the report, be approved.”

Resolved unanimously:

- (1) That Cabinet notes the signing of the Memorandum of Understanding between the City Council and Lancashire County Council as a commitment between the two Authorities to work towards a partnership to deliver the shared services as identified in the Memorandum of Understanding.

Officers responsible for effecting the decision:

Chief Executive

Reasons for making the decision:

The efficiencies delivered from developing a shared service programme will greatly assist in achieving the outcomes of the council’s savings and efficiency programme and targets included in the Medium Term Financial Strategy. The decision also supports the council’s Corporate Plan priorities for working closely with other partner organisations to deliver improved benefits for the Lancaster district community.

52 SHARED SERVICES CABINET LIAISON GROUP

(Cabinet Member with Special Responsibility Councillor Blamire)

Cabinet received a report from the Chief Executive to establish a Shared Services Cabinet Liaison Group with appropriate terms of reference as requested by Cabinet at its meeting on 26 July 2011.

Councillor Blamire proposed, seconded by Councillor Leytham:-

“That rather than establishing a Cabinet Liaison Group, arrangements be made for a Council Briefing Meeting on Shared Services and that all members be invited to this evening briefing.”

Councillors then voted:-

Resolved unanimously:

- (1) Not to establish a Shared Services Cabinet Liaison Group.
- (2) That arrangements be made for a Council Briefing Meeting on Shared Services and that all members be invited to this evening briefing.

Officers responsible for effecting the decision:

Chief Executive
Head of Governance

Reasons for making the decision:

The decision will enable all members to get more involved in the details in respect of delivering the Council's Shared Services Programme. The efficiencies delivered from developing a shared service programme will greatly assist in achieving the outcomes of the council's savings and efficiency programme and targets included in the Medium Term Financial Strategy.

Chairman

(The meeting ended at 12.35 p.m.)

**Any queries regarding these Minutes, please contact
Liz Bateson, Democratic Services - telephone (01524) 582047, or email
ebateson@lancaster.gov.uk**

MINUTES PUBLISHED ON MONDAY 10 OCTOBER, 2011.

**EFFECTIVE DATE FOR IMPLEMENTING THE DECISIONS CONTAINED IN THESE MINUTES:
TUESDAY 18 OCTOBER, 2011.**