

CABINET

Lancaster Market 22nd January 2008

Report of Corporate Director (Finance & Performance)

PURPOSE OF REPORT				
To advise members on the current situation at Lancaster Market and provide options for the Council to consider in terms of the future of the Market.				
Key Decision	X	Non-Key Decision		Referral from Cabinet Member
Date Included in Forward Plan	11 th December 2007			
This report is public.				

RECOMMENDATIONS OF COUNCILLOR ARCHER

- (1) Cabinet is asked to consider the options set out in the report and indicate their preferred option.

1.0 Introduction

- 1.1 Lancaster market is occupied on the basis of a 99-year lease from June 1995 with 5 year rent reviews. The current rent is £296,000 subject to a review that can be backdated to June 2005 at the landlord's discretion.
- 1.2 Traders occupy their stalls either on 4 year leases that expire on 31st March 2009, or some newer traders are on licences as they require flexibility – they are concerned whether it would work for them in the market & look for flexibility.
- 1.3 Trader rents vary according to location. At full occupation the total income would be £307,000 per annum. (This follows a review of traders' rents in 2005).
- 1.4 Traders pay a service charge that should cover the council's costs. There are two elements involved. Initially there are the Council's own costs e.g. staff costs, repairs, electric, gas, water, rates etc. Secondly there are costs associated with being a part of the Marketgate Shopping Centre. The total service charge costs amount to approximately £11.50 per sq. ft., of which the landlord's service charge amounts to approximately £7.20 per sq. ft. When added to the individual rents paid by traders, the total cost of occupation was prohibitive to many.

- 1.5 The draft 2007/08 revised budget for the Council shows a potential deficit of £420,500. A summary of the budgets for 2006/07 outturn, draft 2007/08 revised and the draft estimate for 2008/09 are attached at appendix A.
- 1.6 Trading conditions in the market are not easy, and additional traders have left their stalls during the year. There have been some replacements but not in every case. A recent meeting with 3 of the traders indicated that the number of customers in the market was not sufficient to maintain the viability of some business. In particular, the traders take the view that the Council should not support the Street (Charter) Market or the Assembly Rooms Market and ensure that the traders on those markets all trade from within the main market.
- 1.7 In view of the substantial deficit, cabinet are asked to consider a number of options for the future of the market.

2.0 Proposal Details

- 2.1 Option 1 – No Change. The Council would continue to operate the market and this would result in a continued deficit being incurred at the market in excess of £400,000. However, a recent announcement has been made which has indicated that the freehold of the market is to be sold which may result in some changes to the form of the landlord's management. At the time of writing, this is most likely to be a sale of the whole Marketgate Shopping Centre rather than just the Market Hall building. It may be that from the sale, there could be some reductions in the level of service charge payable by the Council. Alternatively, charges could increase, though this would have to be agreed with the City Council. Until the new landlord is in place, no estimate can be given, but a substantial deficit will remain for the Council.
- 2.2 Option 2 – The Council to acquire the freehold of the market. This option has arisen as a result of the recent inclusion of the freehold of the market building in a public auction. Had the auction proceeded, this option would have been a possibility in that the Council could consider the cost of borrowing against the cost of renting the building. However, the freehold of the market was withdrawn from the auction and at the time of writing this report, this option is not available to the Council as the existing landlord is understood to be including it in a sale of the whole Marketgate Shopping Centre. Should such a sale fail, or if a new landlord wished to rationalise the property holding, this option may become possible at sometime in the future.
- 2.3 Option 3 – Increase Income. This has been the policy of the Council for the last 2.5 years. It is clear that the demand for stalls in the market is limited and whilst new traders arrive, existing traders leave. This gives limited opportunity for increased income. Rental levels are at a point where there is little scope for an increase without the real potential for traders leaving the market resulting in a worse position for the Council. Option 3 is directly linked to options 4 and 5 below.
- 2.4 Option 4 – Reduced expenditure. A complete look at the expenditure has been undertaken which has shown that there is limited scope for further reductions. A high proportion of expenditure is taken up by the rent and service charges payable to the Council's landlord which amount to approximately £506,200 per annum with a rent review outstanding which could lead to an increase in this amount. As an alternative, the Council has considered a proposal by the Landlord for an additional retail unit to be created in the market building which would result in reduced rental and service

charge payments, but this has not been progressed by the current landlord. Time will tell whether a new landlord would wish to proceed along similar lines.

2.5 Option 5 – Consider increasing the occupation by including the Assembly Rooms Market and Charter Market (street market) in the main market building.

(a) Due to the success of the Charter Market, which created a surplus of over £37,000 in 2006/07, it would not be possible for all of the existing traders to physically fit into the market building. There could be a risk in this instance that by splitting the Charter Market to achieve a fuller market building but smaller Charter Market, the Council could end up with having two unsuccessful market operations. It should also be noted that the Charter Market only trades on each Wednesday and Saturday and therefore unless the traders decide to stay in the indoor market permanently, the effect of improving trade would be limited. From knowledge of the Charter Market traders, many stand on different markets during the week, and it is therefore unlikely that they would change to stay in Lancaster, an option that has already been offered to individual traders with no take-up.

(b) A complete review of the Assembly Rooms Market took place in January 2006 when the Lancaster & Morecambe Markets Committee resolved that the Market should stay in its current format as it was becoming a more attractive proposition to retain for the Council from the point of view of income generation and service provision. Since that time the Assembly Rooms Market has not changed and it remains fully occupied, producing a surplus in excess of £9,000 in 2006/07. Subject to some detailed survey of stall sizes being completed, it may be possible to fit most of the Assembly Rooms market into the indoor market. However, the Assembly Rooms market only operates from Tuesday to Saturday from 10.00 to 16.00 and not every trader can attend each day so that a “buddy” system operates where adjoining traders look after each others stalls. This would not fit with the opening hours of the indoor markets and it is therefore likely that some Assembly Rooms traders would be cease trading. If such an option was to proceed, the existing Assembly Rooms Market premises would need to be re-let.

If this option were to proceed, in either format, there would be risks associated with affecting the success of two markets whilst not significantly reducing the problems associated with the main market.

2.6 Option 6 – Consider whether the market should be handed over to the Market Traders who, according to press reports wish to manage the Market. Alternatively consideration could be given to transferring the operation to a third party market operator, should one be available. Under this option it would clearly be preferable for a new operator to completely cover the Council’s rent and service charge to the landlord, but a market operator may indicate that they can only operate at a certain level of expenditure/income. The terms of a transfer, should one be possible, would determine the level of remaining deficit, if any.

2.7 Option 7 – Consider whether the market should close. Many traders occupy on the basis of leases that are due to expire in March 2009 – the market could not close before that date without incurring costs as part of an agreement with traders. If the market closes with no alternative user identified the Council would have to continue paying rent and landlord service charges. This would mean that there was very little difference to the existing deficit. If an alternative retail user could be found, the opportunity would exist to assign the Council’s lease to that retailer and thereby eliminate any deficit. Should such an option be preferred, there are legal timescales

involved which would need to commence in 2008/09, with any financial benefit commencing in 2009/10.

To assist in determining this option, further information has been requested from retail specialists who will advise on the feasibility. Should this information be available prior to the cabinet meeting members will be advised accordingly.

3.0 Details of Consultation

3.1 There has been a brief discussion with a small group of market traders. It is not clear whether that group represents the traders as a whole – it is suspected that they do not. However, it was useful to have the discussions with them to be able to inform the background to this report.

3.2 There have been no discussions on the specific options referred to.

4.0 Options and Options Analysis (including risk assessment)

4.1 The options are contained within the proposals section of the report.

5.0 Officer Preferred Option (and comments)

5.1 There are no preferred Officer options.

RELATIONSHIP TO POLICY FRAMEWORK

There is no direct relationship to the policy framework in respect of Lancaster market although as a result of the deficit, there is a link to priority outcome 1 – to keep the annual council tax increase to as minimum whilst achieving the other policy objectives and priority outcomes.

CONCLUSION OF IMPACT ASSESSMENT

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

No specific impacts have been identified at this stage.

FINANCIAL IMPLICATIONS

The revised 2007/08 budget estimate indicates that the market will operate to a deficit of £420,500, with little scope for reducing that deficit currently identified in the revised budget process. Appendix A sets out more detailed budget and outturn information for the Lancaster Market operation.

It has not been possible for Financial Services to make a full assessment of the options identified within the main body of the report, however information can be fed into the 2008/09 and future years' budget processes once Members have indicated their preferred option(s) and more information is available.

SECTION 151 OFFICER'S COMMENTS

As highlighted above, the financial appraisal of the options has not yet been completed and therefore it is not robust enough to support a final decision regarding the future of Lancaster Market, but the report should allow Cabinet to give an indication of their preferred option. Once this is known, further work can be undertaken and reported back as appropriate.

Overall, in considering options, the s151 Officer would advise Members to consider whether and to what extent the market facility achieves value for money (VFM) for local taxpayers as a whole.

LEGAL IMPLICATIONS

In the event of option 6 being chosen Legal Services would produce the documentation to transfer its management responsibilities to the Market Traders (or a third party market operator) and in the event of option 7 being the preferred option and an alternative retailer found, Legal Services would be required to ensure that all contractual and statutory requirements were met to achieve the transfer of its interest within the given time scale.

In addition, there will be a need to comply with the Landlord and Tenant Act if the existing leases were to be terminated from 2009.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments at this stage. The legal implications of any "in principle" decision would clearly need to be considered in detail to ensure that the Council complies with its contractual and statutory obligations and that its interests are properly protected.

BACKGROUND PAPERS

None.

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