



Doncaster Council

Date: 19th June 2018

To the Mayor and Members of the
Cabinet

MARKETS OPTIONS APPRAISAL REPORT

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Mayor Ros Jones Cllr Joe Blackham Cllr Bill Mordue	All	No

EXECUTIVE SUMMARY

1. The Council is preparing to make Doncaster markets one of the best in the north of England. Two beautiful and rejuvenated grade two listed buildings; the Corn Exchange and Wool Market, are to be unveiled as the jewels in the town's property portfolio. The future of one of the UK's most historical markets has been secured with capital investment of £7.3 million. Securing the best market management and retail leadership will place the retail quarter in the top attractions in the area. Ambitious, enthusiastic expertise and investment will ensure the markets are vibrant for generations to come. The citizens of Doncaster want to see the markets remain as a key focal point of the town and working towards implementing this is a priority.
2. The Town Centre Masterplan vision is '**Doncaster Centre – the enterprising heart of a networked city**'. Within this specific objectives relating to the market include **creating a nationally recognised market, raising the aspirations and functions of the markets as enterprise generators and locations for start-up and business opportunities.**
3. This report sets out the opportunities available to Doncaster's Markets and suggests a way forward for their future management and provision. The Doncaster Masterplan will have as part of its fantastic offer a first class Wool Market opening in Spring 2019.
4. The Markets across Doncaster are ready to flourish and a fundamentally new approach to ensure they have the best advantage in a highly competitive retail environment is required to fully embrace changing customer shopping trends, as the traditional demographic moves on and potential new customers are presented.

5. The following markets are therefore within scope, all of which are currently delivered in-house by the Council:
 - Wool Market
 - Corn Exchange
 - International Food Hall
 - Fish Market
 - Goose Hill (Non-Food)
 - Lock Up Shops
 - Outdoor Market
 - Market hall and outer stalls at Mexborough
 - Open air market in Rossington (exploring transfer to Parish Council)
6. Doncaster tells a compelling story of its long history as a market town. By going back to basics and building on the dynamics of the town's existence as a meeting point for traders, we can tell an authentic narrative to celebrate the identity and culture of Doncaster which in turn will guide the future direction of the markets.
7. We expect the new operator to focus on local abundance and provenance, welcoming visitors warmly and offering a unique experience to the consumer, recreating the bustle of the cattle/farmers market and introducing elements to simplify and futureproof such as; modern payment methods, shop and drop services to support shoppers, click and collect, baskets to encourage browsing and innovative storage and delivery solutions.
8. This focus will attract new customer's especially younger people who are increasingly concerned with welfare, provenance and sustainability. There are already award winning food outlets in the international food hall including Med in the Market, Food and Farming Awards winner 2015 and the 7th best rated attraction in Doncaster on Trip Advisor and the new fish bar, which employs local people and uses market produce, has attracted positive attention on social media and encourages people to take time out at the market.
9. The markets will be strengthened in their position as being part of Doncaster's visitor attraction offer. They feature alongside some of our existing and newer attractions and events which aim to encourage people to come to the borough and experience what Doncaster has to offer as an appealing destination and for our residents to be proud of the attractions on their doorsteps.

EXEMPT REPORT

10. No

RECOMMENDATIONS

11. Consider the results of the options appraisal and recommended option, ahead of the procurement process for the operation of the markets via a contract with a long-term lease element for the market estate.

12. Note that the Director of Regeneration & Environment and Director of Corporate Resources will complete the contractual documentation via a procurement process, in consultation with the Portfolio Holder for Highways, Street Scene and Trading Services
13. A further report will be submitted to Cabinet prior to any decision to award, following the completion of a procurement process in order to agree what the final proposed model should be pursued for the markets.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

14. Doncaster has opportunities to offer unique boutique traders who will have an offer that appeal to today's discerning internet savvy shopper. When more than 1000 High Street shops have closed in Yorkshire in the last 3 years (according to independent research by Price Waterhouse Cooper), representing the biggest fall in retail premises outside London, the Doncaster markets offer will prevail with the bespoke and experiential approach being sought from the retail provider.

BACKGROUND

The Vision for Doncaster Market

15. The vision will link in to the wider changes articulated across the town centre area masterplan and be used as a guide for how the market should operate whilst allowing scope for future adaptation in response to the constantly changing retail climate. Part of the vision includes making new enterprise space and improving the public realm across the area. The new enterprise spaces will help to recreate the sense of vibrancy that the markets have held in the past but also promote the offer to ensure a wider appeal to younger generations, particularly the Millennials and Generation Z. These are the ones who will majorly contribute to activities during the day and into the evening economy providing a more consistent contribution to the urban centre offer.
16. As part of the vision, in conjunction with the Masterplan, we would expect;
 - An increased and more diverse offer leading to increased visitor numbers (measured by overall footfall), these numbers will contain a more diverse visitor demographic
 - The market to be a place where entrepreneurs can innovate, experiment and get their ideas off the ground (measured by new/pop-up traders)
 - To maintain, and aim, to increase the number of local farmers / food producers using the market on a regular basis. The local producer index will need some development (measured by seasonal events)
 - To improve the perception of visitors to the market with people feeling a vibrant buzz when they are in the area (measured by regular survey activity)
 - A greater number of events and animations: chef displays, product demonstrations, bands, choirs, dancing displays, health campaigns, sports, volunteer initiatives in the areas (measured by number of successful events)

- Cater for the shopper of the future, shoppers panel and close liaison with NMTF (National Market Traders Federation) and NABMA (National Association of British Market Associations)
 - The market to be well run whilst actively seeking new investment (measured by high occupancy levels of lettable space)
17. The new vision for the market will create and enhance **wider social value and environmental benefits** such as;
- Social Inclusion – the ease of becoming a trader can support a wide range of people to earn a living and can be attractive to new business ventures to the area.
 - Encouraging entrepreneurship and a retail paradise environment.
 - Face to Face contact and its wellbeing benefits.
 - Supporting deprived urban communities – providing value, quality produce to those living close to or in the Town Centre that do not have access to their own transport.
 - Environmental sustainability – the way a market can promote and sell locally produced food and the benefits that brings to the wider environment and promoting links between rural and urban communities.
 - The Mexborough market is a hub of social activity and central to the towns retail offer.
18. Alongside our Town Centre Masterplan our strategic plan for the borough, **Doncaster Growing Together (DGT)** sets out our vision over the next four years. The DGT plan sets out how town centres are the beating heart of Doncaster and our markets are a key part of how we can harness the collective energy of people and businesses to support spaces that are vibrant and full of opportunity. The opportunity exists for Doncaster markets to drive Doncaster becoming a destination that not only survives the current high street trends but thrives in spite of these trends.
19. The market place will focus on quality – of produce, of experience, of sights, sounds and smells, through the best of local food traders, independent artists, and local producers. This will win back customers who currently travel out of Doncaster to York / Sheffield but who have disposable income and are closer to Doncaster town centre. This will also attract new visitors from across Yorkshire.

What are we looking to achieve

20. We are looking to adapt the traditional outlook of the markets in the face of changing demographics and the constantly modifying retail/consumer relationship. Doncaster Markets will enhance its customer base, increase footfall and occupancy levels. The current occupancy rate is 74% across the town centre portfolio.
21. In Doncaster, redevelopment plans for the Wool Market have reignited the passion of promoting the area and increased the want to reverse the current declining trend. The passion linked to the vision and masterplan will boost the diversity and vibrancy of the Markets once again. The car parking close to the wool market will give the area a high end hypermarket look and feel.

22. Re-evaluating the markets estate will allow the stalls floorplan to be designed not only in a way to encourage footfall in all areas but will ensure it works aesthetically to enhance the magnificent architecture.
23. A rejuvenated market offer will aim to attract wider sections of Doncaster's demographic, including those on their way home from work, younger people and look to tap in to the evening economy. This will be achieved by boosting the quality of produce sold, implement longer trading hours, open on more days of the week and inject new enterprises in to the mix.
24. Whilst there are some fundamental shifting sands in retail, there are some places that are succeeding even in this difficult climate. There are some key factors that this can be attributed to:
 - A focus on the whole place offer rather than just the retail offer increasing dwell times for people who are working perhaps in cafes, playing with children in green space, making, learning etc. This focus on things to do/be rather than simply a place to buy will continue and over time town centres will need to have a different mix of uses shifting from retail focus towards housing, business accommodation, leisure and production.
 - A focus on differentiation especially from larger retail shopping 'mall style' centre developments towards independent traders offering different products and quality customer experience.
 - A variety of audiences using safe and clean spaces at a variety of times of the day
 - Well managed spaces, e.g. active/pop-up use for vacant premises
25. The Council will continue to maintain a programme of events, working closely with the operator to ensure we achieve the council's ambitious programme, which will include annual food festival, harvest festival and Christmas event combined with regular themed events e.g. Bread week, Food and Think festival (modelling on York's Pint of Science), Easter egg hunt etc. will drive long standing and new customers to the market and secure the national profile that the markets deserve.
26. Identifying the market as a brand will go a long way to solidifying its future. This branding will allow the development of a shared online resource for local businesses and stakeholders to utilise. The brand can also incorporate the history of the market estate along with the vision for future generations.
27. We are looking to build on the start of young traders becoming established within our market. We currently have two traders entered in to the Yorkshire Final of the Yorkshire Youth Market to be held in Leeds on 1st August 2018, competitors will be competing to be put forward for the National Youth Market Final on 31st August 2018.

Achieving Our Ambitions

28. A survey completed in 2015, which covered a large range of market topics provided a good indicator that a large number of people do still find shopping within the market an enjoyable experience, however a lot were aware of the

shortcomings of the market in its current state. The main four responses to “what are the things you would most like to improve in Doncaster market?” were:

- The layout of the market needs improving to be more inviting, easier to navigate
 - Improved choice and quality of stalls
 - More events to be held in the area, particularly in the corn exchange
 - Better places to eat such as cafes
29. To reassess these findings it is necessary to perform a number of engagement conversations with traders and local businesses to gain their perspective. Taking a customer-led approach is going to be an important approach to understanding all the differing needs of the local community.
30. We shall focus on becoming the place to set up, trial and scale a food business in the North of England supported by an enterprise programme and mentors. We shall aim for a waiting list for our accelerator programme and activity work with the College to shape this, securing opportunities for our up and coming chefs and foodies.

Improvements Underway

31. In recent years the market has had substantial investment of £7.3 million which includes a new roof on the Corn Exchange, refurbishment and repurposing of the Wool market and removal of the Irish middle market. The next steps are to alter the positioning of the outside units around the market square to enhance the renovated Wool Market working closely with the Traders and ensure modern trading, storage and business to business requirements are fulfilled.
32. The Wool Market will offer a combination of a central food court, retail units, and modern shopping facilities with an evening offering for the people of Doncaster. The opening hours 10am to 9pm Tuesday to Sunday will encourage dwell time and social space. Click and collect and shopping storage will be encouraged with a secure goods collection point.
33. The council has already reshaped its work to focus more clearly on providing a safer and welcoming town centre environment, including addressing anti-social behaviour. Doncaster is easy to access and the rail station improvements with planned improvements could with planned investment in wayfinding infrastructure will make the town centre more navigable both physically and digitally.
34. No. 1 Marketplace is a proposed development of a new two storey building bringing further retail, leisure and business / educational floor space through a new mixed use building framing the northern side of the market square and creating a new city street. A feasibility exercise is underway (design, cost, potential end users etc.) that will provide us with information to help shape the Full Business Case for approval. The proposed scheme value is circa £6 million to be funded through grant and contributions from developers and end users.
35. The first Delicious Doncaster food festival was held in 2017. The three day event was successful with good opportunities to build on. For 2018, the event

was increased to four days and a much more ambitious programming saw not only one but two high profile celebrity chefs as well as providing more of a focus to showcase local talent including the college and local chefs. The aim also for 2018 was to increase the dwell time in the market and encourage repeat business throughout the year.

36. Feedback from traders, retailers, customers and senior Council leaders has been tremendously positive to the event and it has helped to forge ongoing relationships with the market traders for the future, getting them more engaged and supportive of the events programming going forward. The 2018 event has been viewed as being responsible for bringing the market alive over the weekend of the event and has left a very positive platform on which to build further events and the food festival for 2019.
37. Footfall figures peaked on Saturday and have been reported to be 70,691 for 2018 which is significantly higher than the 11,072 recorded at the same day/time for 2017's event.

OPTIONS CONSIDERED

38. In 2017 a soft market test was undertaken with help from the Association for Public Services Excellence (APSE) Solutions. The results were positive and there is a clear appetite for working with the council on the solution. There was a firm view that Doncaster had a good offer with a large fish monger, meat and fresh produce offer that could be built upon with investment and sector specific expertise.
39. Three companies attended the market engagement day where they presented their aspirations for the markets and how they would improve them and we are confident that there is appetite from providers to invest in the opportunity offered.
40. APSE identified a total of 11 different options, all of which have a number of advantages and disadvantages. APSE's assessment of the 11 options is attached at Appendix A. After consultation with the relevant Cabinet Members the options have been reduced to the ones below for more serious consideration.
 - Option 2 – The grant of a long lease of market estate
 - Option 4 – Freehold disposal i.e. sale
 - Option 7 – Retention of in-house operations
 - Option 9 – Letting a concession contract
41. A combination of the results of the Soft Market Testing and feedback from the Mayor, relevant Portfolio Holders and Directors was given on the long list of options and it is proposed that a long term arrangement of up to 25 years will stand as the recommended option to pursue, i.e. Option 2/9 in the Appendix A – the intention is a combination of a contract with transfer of staff and a full and repairing lease on the asset, however the final route to achieve this is still to be confirmed.
42. The freehold disposal method was not an option for the town as it is final and will not enable the outcomes required in the Masterplan.

COMMUNICATION AND ENGAGEMENT

43. A full communications and engagement strategy will be developed to explain the future direction of the markets including its management model going forward. This will be contextualised alongside current messaging regarding the markets and its development as part of the Masterplan to date and its aspirations.
44. The narrative will be developed to cover all communications platforms both on and offline and include traditional and social media. All communications and engagement will be appropriate to their audiences and enable ongoing development of the strategy and evaluation of its success in sharing the critical development of the project.

REASONS FOR RECOMMENDED OPTION

45. **Option 2/9 long lease with a procurement process** – These are tried and tested models which allow reduced costs and bureaucracy as an advantage, increases the focus on the core business along with increasing the opportunity for raising capital investment. Capital investment is an aspect that has already been identified to be required. We believe that this model is the best way to achieve the vision and ambition linked to the Town Centre Masterplan.
46. The Council may receive an income through rent from the company who occupy the land that is subject of the lease/contract. Ideally, the company taking the lease/contract will undertake full responsibility for maintenance and development of the asset during the term of the lease.
47. The next steps are described within the draft project plan but are broadly;
 - Cabinet Approval to confirm recommended option proposed in this report (Jun 18)
 - PIN (Prior Information Notice) to be published to advise potential tenderers that the service will be out to tender (Jun 18)
 - OJEU Contract notice issued (Aug 18)
 - Responses and negotiation period with prospective bidders (Aug - Dec 18)
 - Award contract (Dec 18)
 - Mobilisation of successful applicant (Jan 19)
 - Implementation of new arrangements (Mar 19)
 - New Wool Market Opens (Mar 19)

IMPACT ON THE COUNCIL'S KEY OUTCOMES

48.

	Outcomes	Implications
	Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;	Ability to boost self-employment opportunities from pop-up enterprises Local produces will be a focus to ensure the local economy is

	<ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>given an opportunity to showcase their wares.</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>The vibrant street food and entertainment, combined with a heritage and new outlook will ensure opportunities to shop, eat, socialise and feast the eyes on an eclectic mix of culture and real life living with all the sights, smells and tastes of a vibrant and thriving economic offer.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	<p>Children and young people will visit the safe and thriving retail environment with parents and primary carers.</p>
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>Markets are a traditional place of value for older and vulnerable people, where they can shop with confidence and engage with friendly and knowledgeable traders.</p>
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money 	

	<ul style="list-style-type: none"> • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	
--	--	--

RISKS AND ASSUMPTIONS

49. One of the major risks and assumptions is that if the markets estate remains managed in house as it is, a further decline will occur potentially to a point where the future viability would be a serious consideration. In a town with a grand history which the market has played a key role in, this would be a huge loss of opportunity to the town and borough as a whole.
50. There is a risk that the rate of voids will increase to such an extent that the remaining viable aspects of the market (predominantly the food offers) become negatively impacted by reduced footfall. It is assumed that the forthcoming redevelopment will see the existing traders “consolidated” into a more tightly configured trading area that will offset the decline to some extent. The arrangement needs to ensure survival of the market, that the vision is complimentary to the overall Town Centre Masterplan and works as an enterprise that both traders and customers want.
51. Another assumption is that the market needs to embrace change for it to survive. There has been a huge generational shift in shopping habits, particularly by Generation X, and with the rise of the internet the next generation with spending power, the Millennials, are starting to carve their own shopping habits. They have been shown to be open to new experiences, are savvy shoppers who look for the best deals, are exceptionally loyal customers, value relationships and recommendations, are very environmentally aware and are starting to move away from using the mass market supermarkets and look towards more independent outlets.

LEGAL IMPLICATIONS [SF 24.05.18]

52. The Council has legal powers enabling it to operate markets within its Borough through market charters. Any agreement to lease the Markets will need to include a license to operate the market to the successful bidder.
53. Section 1 of the Localism Act 2011 provided councils with the so called “general power of competence”, which allows the Council to do anything which individuals generally may do
54. A simple disposal of property by way of lease is a property transaction and would not be caught by EU Procurement Regulations and would simply need compliance with the Councils S123 Local Government Act 1972 Act obligations to obtain best consideration. However, it is likely that the Council will require a series of conditions and agreements from an operator about how the market is to be operated and investment expectations in the market.

The impact of such obligations is to move this project from a straightforward asset disposal into a procurement process. It is therefore advised that a “voluntary” EU procurement exercise is carried out to identify an operator/ this process will demonstrate best value and also meet any obligations which the Council has in relation to S123 and State Aid. In accordance with the Council’s Financial Procedure Rules Cabinet approval is required to dispose of an asset which exceeds £1m.

55. Under s.123 of the Local Government Act 1972 the Council has statutory power to dispose (including the grant of a lease) of non-housing/non-HRA land without the Secretary of State’s consent for the best consideration reasonably obtainable. If the recommended procurement process is carried out it is considered that the requirement to obtain the best consideration reasonably available will be met.
56. If the Council wishes to maintain controls over the market which would not normally be covered within a lease for example a requirement to invest a minimum amount into the regeneration of the market it is recommended that a contract as well as a lease is entered into with the successful bidder.
57. Option 2 and 9 means that the Markets Estate is taken over by a third party. Council staff currently delivering the services will transfer from the employment of the Council to any new provider. This transferring of staff is likely to be regarded as a relevant Transfer within the meaning of the Transfer of Undertakings Protection of Employment Regulations 2006 (as Amended). The relevance of this is that the legislation imposes obligations on both the old and new employer which includes consulting with staff. Employees are entitled to transfer on their current terms and conditions. There are also additional provisions in relation to Pensions which need specific consideration not least in relation to the potential additional cost. Liability in respect of the employment of the transferring staff transfers to the new employer and advice should be taken when considering any indemnities in respect of these liabilities.
58. Further specific legal advice will be required as this project progresses.

PROCUREMENT IMPLICATIONS [29.05.18]

59. The disposal of property is not caught by the EU Procurement Regulations; however there will be certain obligations and commitments which the successful bidder will be expected to sign up to which will convert disposal into a procurement exercise.
60. The Council will carry out a voluntary EU procurement process which will involve the Council discussing its requirements with perspective bidders at various stages of the process which will allow the Council to understand the perspective bidders position and vice versa.
61. At the conclusion of the discussions, the perspective bidders are free to submit their tender which the Council must evaluate against the predetermined evaluation criteria.
62. Once tenders have been submitted, no further discussion can take place.

FINANCIAL IMPLICATIONS [C ANDERSON 25.05.18]

63. The financial implications will depend on the proposal after the procurement process and will be set out in detail in a further report to Cabinet.
64. Financially, the Markets are a better proposition going forwards due to the £7.3m programme of capital investment (2016-17 to 2019-20) on the Markets estate (funded through a combination of external funding, capital receipts and borrowing) and other improvements underway as described in the report, including the £6m proposed Market Place 1 scheme which is in close proximity, all of which is set to increase footfall and income.
65. In 2017/18 the Markets Service was budgeted to make a surplus of £0.17m but made a deficit of £0.17m amounting to a £0.34m shortfall, excluding corporate recharges. Income levels have reduced from £1.6m in 2013/14 to £1.16m in 2017/18.
66. The budgeted corporate recharges in 2018/19 amount to £0.26m. These charges cover the costs of support services, such as Human Resources, Finance and Legal Services, as well as senior management within Regeneration & Environment. These will need to be reviewed, any savings will depend on the extent to which support service and senior management costs can be reduced, which will depend on the specifics of the new delivery contract. The same applies for other services that are currently provided in-house.
67. The cost of procurement and development of the specification and contract is likely to require specialist external legal and procurement advice, which could be in the region of £0.1m and funding, will need to be made from the service transformation fund.

HUMAN RESOURCES IMPLICATIONS [AC 16.05.18]

68. The recommended option involves the transfer of the Council's current Market staff to the successful company.
69. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended in 2014) (TUPE) protects the rights of employees in a transfer situation enabling them to be protected on the same contractual terms and conditions and their continuity of service is also preserved.
70. Where employees transfer the "transferee" will take over the rights and obligations arising from those contracts of employment, except criminal liabilities. Any liabilities relating to employees who were dismissed before the transfer (for a reason connected with it) also transfer to the transferee.
71. The Council has a responsibility to conduct a full and meaningful consultation with employees at the earliest practicable time. The Council is also obliged to give the "transferee" written information about the employees who are to transfer. The "transferee" will need to inform the transferring employees of any "measures" that it intends to take following the transfer.
72. HR engagement in the process will be required at the appropriate time to ensure there is sufficient focus on HR issues particularly in respect of the agreement to transfer staff under TUPE regulations.

TECHNOLOGY IMPLICATIONS [PW 16.05.18]

73. Changes to the delivery of model for the management and provision of Doncaster and Mexborough Markets will have technology implications, including the existing data connectivity provision to these sites, the existing Market Management System (contract runs to 17/10/19 + 36 months' extension options) and customer facing online services (e.g. market stall application and market general enquiry). Further consultation is needed with Digital & ICT in relation to the specific details and options, as part of the planning for the procurement and implementation of the revised arrangements. ICT will also need to feed into the feasibility exercise for the potential No. 1 Marketplace development to advise in relation to the required infrastructure to support the proposal such as public access Wi-Fi, CCTV and provision or changes required to the Councils private fibre optic network (DPON).

HEALTH IMPLICATIONS [CEH 16.05.18]

74. It is important that the management of the markets do not undermine and potentially harm the public's health.
75. The food environment plays an important role in promoting a healthy diet, but this is a complex system influenced and determined by a series of factors, including a person's proximity to food retail outlets and the type of food available.
76. Doncaster's markets have an important role to play in providing access to healthy, affordable food for the general population which is associated with improved attitudes towards healthy eating and healthier food purchasing behaviour.
77. It is recommended that the Council will ensure that interested parties demonstrate how they will ensure that the markets offer does not exacerbate the health and wellbeing challenges for Doncaster residents. In particular by not increasing the access to unhealthier food retail outlets owing to the association with increased weight status in the general population, and increased obesity and unhealthy eating behaviours among children residing in low income areas.
78. The design of public realm such as the markets can enhance the wider aspects of health and wellbeing by maximising opportunities for social engagement and active travel. It is recommended that any future development of the market estate consider design principles including pavements, seating, shade and shelter and provide a safe environment.
79. It is important that the management and future developments consider and understand the needs of Doncaster residents through continuous consultation.
80. The proposed recommendation provides opportunities to ensure that the markets are managed sustainably with consideration to the environmental impact which can be incorporated into the tendering process.

EQUALITY IMPLICATIONS [AW 16.05.18]

81. The Council is statutorily required to have due regard to the protected characteristics of those affected by the proposals under the Equality Act 2010. These proposals describe a way in which we would have a new relationship and model to work with the Markets in the town centre and Mexborough. The anticipated improvements achieved by these proposals will benefit all citizens in Doncaster irrespective of protected characteristics.

CONSULTATION

82. There has been consultation with Directors, Mayor and Cabinet members on the options available.

BACKGROUND PAPERS

83. Appendix A, APSE Options Appraisal
Appendix B, Examples of Markets Photographs
Executive Board report: October 2017

REPORT AUTHOR & CONTRIBUTORS

Drew Oxley
Head of Trading Services
01302 862236
drew.oxley@doncaster.gov.uk

Catherine Anderson
Financial Assurance Manager
01302 736611
catherine.anderson@doncaster.gov.uk

Helen Flint
Trainee Strategy & Performance Officer
01302 736297
Helen.flint@doncaster.gov.uk

Steve Mawson
Chief Financial Officer and
Assistant Director of Finance

Soft Market Identified Options

Delivery Option	Main Characteristics	Procurement Issues	Control and other issues	Feedback
<p>Option 1 – Fixed term management contract</p>	<p>Council pays a fee to a company to manage the markets under contract.</p> <p>Profits/losses associated with the market and repair responsibilities remain with the Council.</p> <p>Capital investment likely to remain with the Council.</p> <p>Term to be decided by the Council but typically 5-7 years with potential to extend</p>	<p>Full OJEO procedure would be required</p> <p>Would require a full clear specification of what is required under the contract, but there might be scope for competitive dialogue provided input required to finalise the scope.</p>	<p>Control would be contractual with limited potential for post contractual variation.</p> <p>Financial risk and reward substantially retained by the Council although management fee could link to performance.</p>	<p>Too short a timescale – reduced scope for investment/commitment</p>
<p>Long lease agreement Option 2</p>	<p>Under a lease the council receives rent from a company to which it grants a right to occupy the land that is the subject of the lease.</p> <p>A long lease is one for a period of more than 21 years but could be for as long as 99 years. It may have a periodic break and rent review clauses. The length will reflect the level of investment required.</p>	<p>Land agreements are outside the scope of Public Contracts Regulations. This means that a lease can be entered into without a process of competition. However, a lease in these circumstances is likely to include a requirement for capital works which might, subject to value, make it a works contract and bring it into scope or it may incorporate elements of a service contract which would have the same effect.</p>	<p>The council would effectively lose control for the period of the lease other than at a very strategic level.</p> <p>Operating and financial risks are transferred to the company, although could revert if the company ceases to trade or otherwise pulls out of the arrangement.</p>	<p>21-25 year timeframe, with a robust agreement</p>

Delivery Option	Main Characteristics	Procurement Issues	Control and other issues	Feedback
	<p>The lease company is likely to resume full responsibility for maintenance and development during lease term.</p> <p>Profit and losses go to the company.</p> <p>The council's income from rent is guaranteed providing the company carries on trading.</p>	<p>In the case of Darlington, where Market Asset Management (Darlington) Ltd has recently taken a long lease of the market, the choice of operator was determined through competitive procurement.</p>	<p>Some element of gain share could be incorporated but profit and loss will effectively sit with the company. Options for rent review can off-set this.</p> <p>The likely rationale for using this model is that it is a mechanism for private sector investment in a public asset i.e. Public Private Partnership model. The existence of a lease creates an asset again which borrowing is secured.</p>	
Short term lease agreement Option 3	<p>As above but for a shorter period of time. Also likely to require capital investment and elements of a concession.</p>	<p>As above.</p>	<p>As above but for a shorter period of time. If long enough to allow a return on a required level of investment this is likely to be more attractive than a longer lease term.</p>	<p>Too short, wouldn't get investment/commitment</p>
Freehold disposal i.e. sale Option 4	<p>Council sells freehold to the company. One off capital receipt with no ongoing interest in the land</p>	<p>Outside the procurement rules but would require a process of competitive bidding.</p>	<p>May not be possible if there are restrictive covenants in place.</p> <p>No ability to control future use but covenants might be attached to the sale to restrict use i.e. to ensure the continued existence of a market.</p>	<p>Not an option – unacceptable loss of control over key asset in heart of town centre</p>

Delivery Option	Main Characteristics	Procurement Issues	Control and other issues	Feedback
<p>Creation of a Joint Venture Company with a private company Option 5</p>	<p>A company jointly owned with a private company take on the management of the market under contract or enters into a lease. Likely to be linked to a contract for operation with the partner company.</p> <p>Responsibility for repairs and development to pass to JV and term considerations as a lease i.e. dependent on need for investment.</p> <p>To avoid being counted as public sector council shareholding likely to be kept below 80%.</p>	<p>Must be procured through a compliant process. Likely to involve competitive dialogue with bidders to finalise terms of the deal.</p>	<p>Risk transferred</p> <p>JV allows for a degree of strategic council influence although likely to be a minority shareholder. Also council nominated directors require by company law to act in interest of the company not the council.</p> <p>Other points as above dependent on arrangement between council and JV company – i.e. lease, contract for management or even sale of freehold.</p>	<p>High risk - no successful models out there already and timely to set up in rapidly declining market</p>
<p>Consultancy/interim support to in-house management Option 6</p>	<p>Specialist expertise brought in under contract either as consultancy or interim management.</p> <p>All risks and rewards retained by the Council as service remains in house.</p> <p>Alternative to direct employment where a specialist skill is wither required on a temporary basis only or not available through</p>	<p>Support may need to be procured through market competition if its value is above threshold (currently £181,000).</p>	<p>Council retains full control but fills gaps in skill base or acquired temporary support, for example a rationalisation or review process.</p> <p>Flexible way of filling skills and knowledge gaps without making a long term commitment. Able to respond quickly to changing economic and social circumstances.</p>	<p>Haven't got the capacity to manage advice and implement - also still Council making the changes</p>

Delivery Option	Main Characteristics	Procurement Issues	Control and other issues	Feedback
	normal recruitment process.			
Retention of in house operation Option 7	N/A	N/A	N/A	Possibility that will decline further
Transfer to arm's length company Option 8	<p>Markets would be run by a company owned by the council. This is likely to be through a lease agreement but could be a management contract.</p> <p>Company would take on repairing responsibility but council likely to retain capital investment or act a lender to the company.</p> <p>Profits can be distributed to council as shareholder but company decides on this and may wish to invest. Losses likely to come straight to council to maintain solvency.</p> <p>Risks remain with the council.</p>	<p>Provided the company met the, so called, Teckal criteria it would be possible to award contract without competition.</p>	<p>Company takes control but council controls the company. Council would be sole shareholder and able to exercise strategic control.</p> <p>Benefits around commercial focus of company and ability to act outside council decision making processes.</p> <p>Economic benefits of market retained within the local economy.</p> <p>Disbenefits around loss of control, fragmentation of economic/town development and loss of scale at management level.</p>	<p>Doesn't address issues - still have lack of expertise - no clear benefits</p>
Concession contract Option 9	<p>Council grants the right to exploit the economic asset to a concessionaire for a defined period.</p> <p>The contract stipulates what the company is allowed to do with the asset.</p>	<p>Subject to the requirements of the Concession Contracts Regulations of 2016. This means that, subject to value, the contract would have to be procured in compliance with the comparatively light touch requirements of the Regulations.</p>	<p>Day to day control passes to contractor but council retains ability to determine strategic direction.</p> <p>Less attractive to operators than a lease and may be a poor vehicle to leverage</p>	<p>Too short (if capped at 5 years) but similar to Option 2 if can be extended</p>

Delivery Option	Main Characteristics	Procurement Issues	Control and other issues	Feedback
	<p>A concession creates a license with no ongoing right to occupy the land.</p>	<p>The length of the contract would be determined by the amount of time required for the concessionaire to reasonably recoup investment.</p>	<p>investment without one. Creates a potential share mechanism when linked.</p> <p>Operating risks must pass to operator for a concession contract with no guarantees from the council.</p>	
<p>Transfer to Charitable Body Option 10</p>	<p>As other external options but company would be non-profit distributing and locking in to charitable economic or social objectives.</p> <p>Could have representation on the board but charitable rules prevent it being under its control or decisive influence.</p>	<p>Not possible to award contract caught by the procurement rules without competition. Therefore only feasible if based on a lease without requirements for works or elements of concession.</p>	<p>As other external options. Control passes to the company. With no contract for services or works the council would be reliant on clauses within the lease for influence.</p> <p>Capital investment likely to come through the council which could be in the form of a grant within appropriate clauses to create a higher degree of control/direction.</p>	<p>No one coming forward – would work for an associated service e.g. delivery service</p>
<p>Partnership with one or more local authorities Option 11</p>	<p>Several different ways of doing this. All external solutions for lease through to concession could be delivered through another authority under contract. A JV company could also be used.</p> <p>Also possible to create a shared service through administrative mechanisms under joint control</p>	<p>Contractual options subject to procurement rules unless they meet either the Teckal criteria or establish public/public cooperation. Detailed advice required if this is to be considered further.</p> <p>Shared service arrangements are non-contractual and concluded outside competition</p>	<p>Offers potential gaps in expertise without loss of control with joint service or collaborative options.</p> <p>Retains economic benefit with local economy. Risk could be transferred under contract or retained under shared service model.</p>	<p>No LA outstanding enough to be partnering with - would increase risk/appetite</p>

Delivery Option	Main Characteristics	Procurement Issues	Control and other issues	Feedback
	<p>of two or more authorities. Informal collaboration an option.</p> <p>Profits/losses according to the terms of the agreement. No corporation tax on profit if not delivered through a company model.</p>	rules.		

Appendix B – Examples of Markets Photos

The Baltic – Liverpool



Altrincham Market



St Georges Market – Belfast



Doncaster Wool Market Visuals

www.doncaster.gov.uk



