

HEREFORD LIVESTOCK MARKET RELOCATION

PORTFOLIO RESPONSIBILITY: RURAL REGENERATION AND STRATEGY

CABINET

21ST DECEMBER, 2006

NOT FOR PUBLICATION – Appendix 3 only.

Wards Affected

Burghill, Holmer and Lyde
Central
Credenhill
Three Elms

Purpose

To inform Members of the results of a selection and consultation process undertaken over the last six months to identify a preferred site for the proposed relocation of the Livestock Market.

Key Decision

This is a Key Decision because it is likely to be significant in terms of its effect on communities living or working in Herefordshire in an area comprising one or more Wards. It was included in the Forward Plan.

Recommendations

- THAT:**
- (a) Cabinet approval be given for officers to proceed and negotiate the purchase of Site 5 for the purpose of relocating the Livestock Market;**
 - (b) Cabinet approval be given for officers to negotiate with Hereford Market Auctioneers (HMA) on the amount of their capital contribution towards the scheme, the heads of terms for the lease and the basis of a fee toll for animals passing through the Market;**
 - (c) Cabinet agree to the principle that the first call on the capital receipts from the sale of the existing livestock market, as part of the Edgar Street Grid Regeneration Project, be used to fund the replacement facility.**

Reasons

To secure a site for the relocation of the Livestock Market and negotiate both a capital contribution and lease terms with the party that will be operating the Market.

Considerations

Why we need to provide a Market.

1. The need to relocate the Market has been identified as essential for the development of the Edgar Street Grid. The Market occupies a prime site within the Grid so the proposal is to relocate the cattle market outside the City conurbation, which is a trend set by a number of other towns and cities with Livestock Markets.
2. The present Market is on a very confined site (7.9 acres) with separate parking for vehicles on the Merton Meadow car park. The lorry wash facilities are very basic and the buildings are generally in a dilapidated state. Bio-security is difficult to achieve because of the public access points and adjacent public car parking.
3. An Obligation to Provide a Market? The Royal Charter of 1597 provides for a number of things, but for the purpose of this report, it provides a right to the Mayor, Aldermen and citizens of the City to hold markets. A right to hold a market involves various rights and duties on the part of the owner. These include a duty to provide a place for holding of a market of a size sufficient for the convenient accommodation of all who are ready to buy and sell in it (re Islington market Bill [1835]).
4. The Cabinet has received a number of reports in the past on the matter of the Livestock Market relocation. In 2003 details of the Market Bill were reported and in September 2005 a report recommending a preferred site was considered.
5. There have been five open public meetings and a presentation to Members on this matter. A considerable amount of correspondence has been received by the Council on this subject. Details of the Minutes of the public meeting and correspondence are available from Sally Cole in the Members Support Section but a summary of the principal concerns is appended at Appendix 3.

What the Unitary Development Plan (UDP) states, why in the North West Sector and what the traffic impact will be.

6. **UDP** -The Council's planning policy for the relocation of the Market has been developed through the UDP process. The context is the need to allow the further development of Hereford city centre as a sub-regional shopping and service destination. The Regional Spatial Strategy confirms Hereford as a sub-regional foci - one of five within the region. The Strategy also sets out the role of the city centre as a focus for major retail, leisure, office, cultural, tourist, social and community development uses. The proposals developed through the Edgar Street Grid master plan work take this forward and have been incorporated into the UDP. A key aspect of the proposals is the development of the existing Market site for retail purposes within an extended city centre.
7. Relocation of the Market itself is a necessary precursor. This is provided for by a separate UDP policy that sets out the planning requirements that any new site should meet. This embraces such aspects as land use, traffic and access, infrastructure, design and landscaping. The supporting text to the policy elaborates on the requirements, setting out the overall area of land required (8 hectares) and indicating that a location to the north west of the City offers the best accessibility for both buyers and sellers of livestock.
8. The UDP proposals attracted a number of objections and were considered at Inquiry in 2005.

The Inspector's salient conclusions are:

- Support for the Edgar Street Grid strategy and the regeneration proposals
 - Confirmation that relocation onto a new site is the way forward, rather than retaining the Market on its existing site
 - Little change required to the Market relocation policy, with recommendations that groundwater be referred to as one of the planning considerations and confirmation of requirements for a transport assessment and the likely need for an environmental impact assessment.
 - That the Quarry site at Stretton Sugwas, put forward by the Duchy of Cornwall as a potential site, should not be included in the UDP at this time due to outstanding issues including effects on aquifer, access, amenity and animal welfare.
9. The choice of the north west of Hereford as the area of search for a new Market site has been developed through the UDP process and was not challenged at the Inquiry. Further work has been undertaken as part of the current consultations using the Agricultural Census 2004, information supplied by the Auctioneers and commissioned traffic surveys. This confirms the conclusion that overall a location to the north west of Hereford is preferred. Such a location would best reflect the Market's catchment with the emphasis of trade from the west and take advantage of the recent Roman Road improvement which allows ready access to and from the area via radial routes from the north and east.
10. **Location** - In addition to the UDP recommendation of locating the market in the north west section, the 1997 Donaldson Report also recommended this location. The DTZ Pidea Consulting October 2003 Hereford Livestock Market Development Study also make reference to the north west section as a suitable location.
11. **Traffic Survey Methodology** - In order to determine the capacities and impact of the relocation of the Livestock Market at each site, a number of traffic surveys were undertaken to establish the existing conditions. These ranged from the use of Automated Traffic Counters to assess the existing design speed on the approaches to each site and classified manual turning counts at every major junction within the design cordon.
12. Vehicle counts were also carried out on the entrances to the existing market to establish peak traffic flows and a simple questionnaire undertaken to determine the origins of each market user and their respective route that they use.
13. The results from the questionnaire supported earlier work that the preferred location for the Livestock Market is to the northwest of Hereford with 32%, 16%, 21% and 31% of livestock flow originating to the west, north, east and south of Hereford respectively.
14. PICADY (Priority Intersection Capacity and Delay) and ARCADY (Assessment of Roundabout Capacity and Delay), computer programmes to determine capacities and delays on priority junctions and roundabouts respectively, were used to assess the peak flows on the existing and proposed accesses for each site. The results indicated that all existing and proposed junctions are currently operating within capacity with the existing Roman Road/Tillington junction having the least capacity and which, therefore, may be susceptible to future developments and traffic growth.

15. Summary of the Surveys/Assessment methods are as follows:
- Automated traffic counts to establish design speeds on approaches
 - Classified manual traffic counts on each junction on the surrounding network
 - Entrance/exit traffic counts at the existing market to determine peak flow movements
 - Market questionnaire on 15th February 2006 to establish origins of each vendor/purchaser and resulting flow on the network
 - Assessment of previous 5 year personal injury collisions to determine any trends/contributory factors
 - Assessment of capacities using PICADY for each proposed site access and surrounding junctions with the combined development flows

A detailed traffic impact report resulted from this survey.

What does the Market Act say?

16. **The Queen Elizabeth I Charter** - On 19th August 1597, Her Majesty Queen Elizabeth I granted Hereford its Charter of Incorporation. This document is of both historical and legal importance. The Charter is written in that which is known as “Court Latin” a stylised version of Classical Latin. For the purposes of this advice, the material part (translated into English) provides –
- “further we will and grant for ourselves, our heirs and successors to the Mayor, Aldermen and citizens of the said City forever that they have, hold and keep and can and may have, hold and keep in the said City annual forever three markets each viz on Wednesday, Friday and Saturday”.*
17. **Historical Evolution** - The Municipal Corporations Act 1835 brought about major reforms to local government in England, giving Boroughs substantial local governmental functions. The Act identified Hereford as a Parliamentary Borough and treated other Boroughs (including Dorchester to which I will refer shortly) in the same way.
18. The Municipal Corporations Act 1882 repealed and replaced the earlier 1835 Act. Section 250 (i) of the new Act provided –
- “Nothing in this Act shall prejudicially affect any charter granted before the commencement of this Act, or take away, abridge or prejudicially affect any of the rights, powers, privileges, estates, property, duties, liabilities or obligations vested in or imposed on any municipal corporation existing at the commencement of this Act . . . every such charter shall continue to operate, and every such corporation shall continue to have perpetual succession ...”*
19. **The Extent of “Hereford”** - In the case of a Borough, whose boundaries have changed, it is necessary to consider whether the grant within a Charter is limited to the historic boundaries or whether those have been enlarged as the Borough or City grew over the years. In *Dorchester Corporation v. Ensor* (1869), the Court of Exchequer considered the position of

Dorchester, a borough specified in Section 1 of Schedule (A) of the Municipal Corporations Act 1835. The Court held that an ancient borough market could be lawful held within the new borough at the date of the original Charter. This decision applies to all boroughs listed in Section 1 of the Act, which includes Hereford. It follows, that unless some subsequent Act of Parliament was passed, or a new Charter given by the Crown, that the livestock market could only be relocated within the city boundaries, as they stood at the time of the Municipal Corporations Act 1835.

- 20 **The Hereford Markets Act 2003** - By an Act of Parliament dated 30th October 2003 (The Hereford Markets Act) an enactment was made permitting the Council to relocate “the Markets” to “*any place or places within the district and in connection with the relocation terminate the use of any land for the purposes of the Markets*”.

The Act went to stipulate at Section 4 (iii) that:

“The Council shall not relocate a market under sub-section (1) without first consulting with the market traders and other interests that appear to the Council to be likely to be affected by the proposed relocation”.

The Act therefore enables the Livestock Market to be relocated outside of the boundaries of the City as they were in 1835 to any location within the County.

How has the Site Analysis been undertaken?

21. During the past 10 years consideration has been given to a large number of sites around Hereford. The following reports are a selection that have given consideration as to the future of the Market and where a Market would best be located together with potential sites –
- i Donaldson’s Hereford Livestock Market Study – August 1997
 - ii DTZ Pieda Consulting – Hereford Livestock Market Development Study October 2003 (made reference to west only)
 - iii Owen Williams – Hereford Livestock Market Environmental Feasibility Study – March 2006
 - iv Owen Williams Livestock Market Traffic Study – 2006
22. In total 46 sites were identified under the UDP process. In 2005 a short-list of sites was produced and a preferred site for the Market was identified.
23. In October 2005 six sites were identified for consideration where the owners of five sites were prepared to sell or lease and one site was owned by the Council (see Appendix 1 – Location Plan)
24. A site area of 8 hectares or 20 to 25 acres has been identified as the requirement for this facility.
25. Each of the six sites has been considered in detail. Specialist Consultants were engaged to look at the ecology and hydrology of each site. The traffic consultant considered access to each site and professional staff within the Council considered the suitability of the sites for construction, planning issues, costs and legal issues.

26. In addition consultation took place with external agencies such as the Environment Agency. As a result of these consultations the following matrices have been compiled considering the following issues:
- i Planning UDP Policy TCR 19 Planning Criteria
 - ii Construction and Access Criteria
 - iii Environmental constraints
 - iv Consultation process
- Each consideration was given a rating of 0 to 3 and a total produced for each site (see Appendix 2 for details)
27. Each of the five land-owners has been approached and asked for a disposal value of the site. The owner of Site 3 is only prepared to consider a leasehold interest and the owners of part of Site 1, Site 2 and Site 4 would prefer a lease and partnership arrangements. However, they would consider disposal as a last resort. Site 6 belongs to the Council so while there would be no acquisition costs one has to consider the lost opportunities for future developments.
28. A Summary of the costs of each Site is detailed in Appendix 3.
29. In conclusion of the analysis Site 5 has been identified as the most suitable for the new Market provision. The ownership of the site is complicated by the fact that a Restricted Covenant exists prohibiting the construction of buildings on the site and stipulating that the site should only be used for agriculture.
30. Discussions have taken place with both parties having the benefit of an interest in this site and in principle the release of the covenant to enable a Livestock Market to be built and sale of the freehold have been agreed. Contracts have been exchanged on options to secure the Council's position insofar as is possible in advance of consideration of this report, although those options do not commit the Council to proceed.
31. The total area of Site 5 is 48 acres. While only 25 acres is required for the Livestock Market the owners have offered all 48 acres for sale.

What are the benefits of relocation?

32. The Edgar Street Grid – the release of this prime area of the Edgar Street Grid will enable work to commence on the regeneration programme.
33. Financial – The capital value of this prime area of land will release funding for further development and acquisition within the Grid.
34. Operational – the completed project will provide a state of the art Market with two sales rings, sheep and cattle pens, offices and accommodation for agricultural-type businesses. This may include an office for a Veterinary Practice, tractor spaces and agricultural feed-type businesses. Adequate car and lorry parking will be provided together with full washing facilities.
35. Environmental aspects – the new Market will incorporate design features based

upon Good Environmental Practice. This will include the following features:

- i) Rainwater harvesting involving the collection of all roof and surface rainwater drainage
 - ii) Membranes to protect the aquifer from contamination
 - iii) Extensive use of re-cycled water provision for washing down and general cleaning
 - iv) Biomass heating plant providing a carbon neutral footprint
36. Maintenance and Running Costs - using high quality materials and good design, the annual maintenance costs of the new Market will be less than the existing Market. The engineering services will be designed to optimum efficiency and the new European levels of insulation.
37. The potential for an increase in the rental income for the Council and the introduction of the animal toll, referred to previously, will create extra income.

What are the Present and Future Tenancy Arrangements?

38. The present Livestock Market is leased to a company known as Hereford Market Auctioneers (HMA). They hold a lease from the Council on the Market site. The lease is protected under the Landlord and Tenancy Act. Previous agreements have been reached to offer the new Market to the same company (HMA). The Heads of Terms for the new lease will be negotiated once a site has been identified and a new market design agreed.
39. The proposal is to negotiate both an initial capital contribution to the scheme by HMA, an annual rent and an annual tariff for livestock passing through the Market. The level of specification and details of the financial contribution are to be agreed with the Council.
40. Preliminary drawings and specifications have been obtained from a market of a similar size, built in Stirling in Scotland. Site visits have taken place to Shrewsbury and Cirencester Markets. An indicative cost in the region of £3 to £5 million is anticipated for the new Market construction. The Council's ability to absorb costs in excess of those that can be funded by sale proceeds as part of the Edgar Street Grid Regeneration Project is very limited, as set out in its Medium-Term Financial Management Strategy. Negotiations will take place with HMA and ESG Ltd. to establish how the Market can be built in the most efficient and cost-effective way.

Risk Management

- Failure to relocate the Market will result in a delay in the Edgar Street Grid regeneration programme.
- The Council could face legal challenges from traders and the auctioneers to comply with the legal requirement to hold a Charter Market and an ancillary risk of forfeiture to the right to hold a market to the Crown.

Alternative Options

- Market to remain in its present location
- To close the Market and risk litigation

Consultees

Director of Environment	Hereford Market Auctioneers
Director of Resources	Environment Agency
Director of Adult and Community Services	Defra
Head of Highways and Transportation	National Farmers Union
Property Services Manager	Country Landowners' Association
Legal Practice Manager	Statutory Consultation
Chief Forward Planning Officer	5 Public Meetings
Chief Planning Officer	Herefordshire Council Web site
Chief Executive of Edgar Street Grid Ltd	Literature including 'Frequently Asked Questions'
Local Members	

Appendices

Appendix 1 - Location Plan
Appendix 2 - Ratings for Proposed Locations
Appendix 3 - Summary of Costs for Each Site (Confidential)

Background Papers

Owen Williams – Ecology Survey
Owen Williams – Traffic Impact Survey
UDP extracts about the Market Sites
Presentation to Public Meetings (Power Point)