

MEETING:	COMMUNITY SERVICES SCRUTINY COMMITTEE
DATE:	28 JUNE 2010
TITLE OF REPORT:	UPDATE ON THE RELOCATION OF THE OPEN RETAIL MARKET FROM THE FORMER CATTLE MARKET SITE TO COMMERCIAL STREET, HEREFORD
REPORT BY:	REGULATORY SERVICES MANAGER

CLASSIFICATION: Open

Purpose

To receive an updated report on the relocation of the Open Retail Market from the Livestock Market Site to High Town.

Recommendation

THAT the committee notes the content of the report.

Key Points Summary

- Cabinet decision in February 2009 to relocate Hereford's Open Retail Market from the Cattle Market to Commercial Street/High Town interface for a trial period of 12 months.
- Cabinet decision was called in by the Scrutiny Committee in March 2009 and some amendments were made.
- Buttermarket Association challenged the decision at High Court but were unsuccessful.
- Market relocated on 25th July 2009 and has been held on Wednesdays and Saturdays since.
- Consultation exercise undertaken by Herefordshire Council from February to April 2010.

Alternative Options

- 1 As this is a progress report, there are no alternatives.

Reasons for Recommendations

- 2 The Committee has requested to be updated on the progress and status of the relocation of the market.

Introduction and Background

- 3 On the 19th February 2009 the Cabinet recommended that Hereford's Open Retail Market be relocated from the Cattle Market site to Commercial Street in Hereford for a trial period of 12 months.

- 4 The decision was called before the Scrutiny Committee on 11th March 2009. At this meeting recommendations were made which were later ratified by the Cabinet. These were:
- i. That the relocation of the Open Retail Market be for an initial one year trial,
 - ii. That the strategy for new stalls, including the location, be revisited and adjusted where necessary (in consultation with Hereford City Partnership)
 - iii. That an 'Experion' software package for measuring footfall be procured to assess the potential impact of the relocation of the Open Retail Market to the Buttermarket,
 - iv. A detailed review of stall allocation be carried out in conjunction with Hereford City Partnership, and
 - v. A retail impact study be conducted as soon as practicable.
- 5 Point 4 (i) above had already been proposed by Cabinet, so this recommendation ratified the earlier decision.
- 6 In accordance with point 4 (ii) above, stalls were not located behind the Old House and a minimum 3.3m distance from the stalls to the adjacent shop facades was implemented.
- 7 In accordance with point 4 (iii) above, a software package for footfall was installed at every entrance into the Buttermarket. As the package had to be tendered for and then ordered, its installation was unfortunately delayed until after the relocation had occurred.
- 8 In accordance with point 4 (iv) above Stallholders were carefully selected by an officer panel, which included a representative of the Hereford City Partnership as well as the Council's Tourism Manager. As requested by Cabinet, the protocol for the selection process was laid down in a policy document which was signed off at Cabinet Member level.
- 9 In accordance with point 4 (v) above a retail impact study has been undertaken to accompany the full consultation exercise mentioned in paragraph 16 below.
- 10 Despite the above mitigating measures, the Buttermarket's Independent Traders Association challenged the principle of relocating a market into Commercial Street as they believed the decision breached the Hereford Markets Act 2003, because the Buttermarket traders had not given their consent. Herefordshire Council contested that this was required under the Act. The case was initially considered at the High Court in July 2009 and the challenge was dismissed, the court not allowing them permission to apply for a judicial review. This High Court decision therefore allowed the market to be relocated, although it caused the launch date to be delayed by a month.
- 11 The inaugural date for the relocation was therefore 25th July 2009. The market was formally opened by the Chairman of the Council, with stallholders being asked to trade in a medieval theme on that day, to mark the occasion. The event was accompanied with various prizes, attracted significant public and media interest and was complimented with themed street entertainment throughout the day.
- 12 Since 25th July, the market has operated on every Wednesday and Saturday from 09:00 to 16:00, other than two dates in January 2010 (when there was excessive snowfall) and on the Wednesday of the Mayfair.
- 13 The stallholders operate within 25 green and white gazebo style units measuring 3m x 3m square. The minimum distance from the back of the stalls to the shop frontage is 3.3m, as was proposed / agreed (see paragraph 6 above).
- 14 An officer panel was set up to monitor the performance and impact of the market, which

included representatives from both Hereford City Council and the Hereford City Partnership. Every month since its relocation this panel has therefore reviewed any comments, complaints or compliments about the market. If any complaints are received, where at all possible the panel enacts measures to mitigate these.

- 15 The Buttermarket Independent Traders Association submitted a further challenge to the market's relocation and the High Court gave them leave to reapply for a judicial review on the same grounds. On legal advice, the market continued to trade during this period although the challenge was dismissed at the High Court in November 2009.
- 16 From February to April 2010 three detailed consultation exercises have been undertaken to review the impact of the market and ascertain the opinions of:
 - i. The public
 - ii. The retailers, including Commercial Street traders and the Buttermarket Traders
 - iii. Residents and stakeholder organisations

These consultations were undertaken by questionnaires, public engagement from a trailer in High Town, on-line via the Council's web site and by specific letters to stakeholder organisations. The processes and format of all questions were technically managed by the Council's Research Team. Copies of the completed assessments on the consultation results are attached for Members attention.

- 17 The reports are currently being considered by the Director of Sustainable Communities, prior to a report to the Cabinet Member.

Key Considerations

- 18 This report is for information purposes only, as no decision has yet been made in relation to the Market's continuance or its extension.

Community Impact

- 19 The retail community along Commercial Street and St Peter's Street have been consulted as part of the consultation exercise, as have the Buttermarket traders. The shopping public as well as the wider Herefordshire public have also been consulted, as have residents in the vicinity. Copies of the three 2010 consultation reports are attached as background papers for information purposes

Financial Implications

- 20 The 25 gazebo style stalls and their storage facility has already been purchased. Continuance would therefore involve no further investment, although this decision has not yet been made. The annual income is projected to more than cover the cost of operating the market.

Legal Implications

- 18 The decision was challenged in the High Court on two occasions for not acquiring the consent of the Buttermarket traders. The Buttermarket traders believed that the Hereford Markets Act 2003 required this. Both challenges were turned down and therefore the Council is legally entitled to relocate this market to Commercial Street.

Risk Management

19. Not applicable, as this report is for information purposes only, as no recommendation has yet been made.

Appendices

21. Appendix 1 – copy of decision made by Cabinet and Community Services Scrutiny Committee

Background Papers

22. Three consultation reports circulated to Members of the Committee, and available to members of the public on request:
 - Hereford Retail Open Market: Public Consultation, April 2010, Version 1.0
 - Hereford Retail Open Market: Organisations & Residents Consultation, April 2010 Version 1.1
 - Hereford Retail Open Market: Retailers' Survey, February 2010, Version 1.2

Recommendation from item 89 of a meeting of the Cabinet on Thursday 19 February 2009

CABINET RESOLVED THAT:

- a) subject to approval of the capital programme bid, the relocation of Hereford Open Retail Market to the St Peter's Street / High Town interface and Commercial Street as from 8 April 2009 (or as soon afterwards as operational arrangements allow) be approved;
- b) the proposed formulation of a policy governing allocation of the stalls be noted; and
- c) during the first year of operation a Retail Impact Assessment is undertaken and that a formal evaluation of the effectiveness of the new arrangement is considered by the Cabinet Member at the end of that period.

Recommendation from item 95 of a meeting of the Community Services Scrutiny Committee on Wednesday 11 March 2009

COMMITTEE RESOLVED THAT:

- a) The Committee endorses the Cabinet decision to relocate the Open Retail Market into Commercial Street, and notes and welcomes the intention to develop a quality stalls policy and the stall allocation policy, in close consultation with the Hereford City Partnership, before the market opens in its new location;
- b) The Committee invites the Cabinet Member to review the precise location of stalls in order to facilitate the free flow of customers, especially around the Old House, and to minimise any adverse impact on existing business. and;
- c) The Committee requests that an updated report should be submitted within two months of the market re-opening, and how the potential problems regarding delivery vehicles have been resolved.

Recommendation from item 107 of a meeting of the Cabinet on Thursday 2 April 2009

CABINET RESOLVED THAT:

- a) Cabinet notes the resolutions of the Community Services Scrutiny Committee;
- b) the relocation of the open retail market be for an initial one year trial;
- c) the strategy for new stalls including the location be revisited and adjusted where necessary (in consultation with the Hereford City Partnership);
- d) the Experion software package for measuring footfall be procured to assess the potential impact of the relocation of the open retail market to the Butter Market;
- e) a detailed review of stall allocation be carried out in conjunction with the Hereford City Partnership; and
- f) a retail impact study be conducted as soon as practicable.