



Report of the Acting Director of City Development

Scrutiny Board (City Development)

Date: 11 January 2011

Subject: Inquiry on the Future of Kirkgate Market – Session 2
Evidence for Scrutiny

Electoral Wards Affected: All

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Introduction and Background.

1.1 At Scrutiny Board on 7 December officers presented evidence on the background to Leeds markets, some of the challenges facing them, and measures undertaken to seek to address those issues. This report provides information on a number of specific issues that Scrutiny requested, namely:

- (i) the outcome of the rent review;
- (ii) the results of the condition survey;
- (iii) service charge details;
- (iv) the Council's stall lettings policy;
- (v) the alternative ownership and management models to include examples from other markets;
- (vi) details of the role of the National Association of British Market Authorities (NABMA) and the availability of papers of this body.

Further background information which members may find of interest is covered in Appendix 5 'Towards a Strategy for Kirkgate Markets: an Evidence Base'. This evidence base was also referred to in the report that was considered by December's Executive Board "Towards a Strategy for Kirkgate Market".

2.0 Rent Review

2.1 Earlier this year members of the National Market Traders Federation, in a deputation to Council, requested a reduction in rents. The Valuation Office Agency (VOA) was therefore instructed to undertake an independent rent review of Kirkgate Market. A table summarising the VOA's recommendation is attached at appendix 1.

- 2.2 The VOA has recommended that a rental increase is justified in the 1904 Hall from £52.50 to £55.00 per sq ft/annum (ie 4.76%) in Zone 1 and from £47.50 to £50 (5.26%) in Zone 2 for those tenants on ordinary leases. There are a number of tenants who opted to go onto contracted out leases a number of years ago who are outside the scope of this review as they pay an annual increase based on inflation. (Such tenants' base rents are £57.50 in zone 1 and £50-£52 in Zone 2). The VOA has also concluded that a rental increase is justified for the George Street Shops from £28.75 to £30 (4.35%) but that no change is justified for any other area of the market (1976/81 and 1875).
- 2.3 It should be noted that rental charges in the market are complex. Rental levels vary considerably between different areas of the market; discounts are given to stalls selling highly perishable goods, whilst more rent is charged for stalls with more than one frontage. The Markets service sets the base rent, however when vacant stalls are put out to tender, tenderers may offer to pay more than the base rent.
- 2.4 Despite the pressure on the Council's budget and the general desire to increase income wherever possible, Executive Board has agreed not to implement a rental increase in any part of the market at present. This will effectively cost the Council £16,500 per annum. Many tenants will be disappointed that the VOA has not recommended a reduction in rents across the market, especially as some tenants have recently benefited from a reduction in their Business Rates.

3.0 Condition surveys

- 3.1 Condition surveys have been undertaken on the 1875, 1904, 1976 and 1981 buildings. The 1976 and 1981 buildings were erected as temporary buildings and are now well beyond the 15-20 year life expectancy of buildings of this type. The total budget cost for the work is estimated at £2.4m of which £0.6m is deemed to be for imminent works (£0.26m is for the 1976/81 halls and £0.34m for the 1904/1875) and £1.2m for essential works (£0.8m for 1976/81 and £0.4m for 1904/1875) to ensure the indoor market complies with legislation. More detail is provided in Appendix 2. Whilst there is no provision in the capital programme for these works, up to £200k is available from the corporate property maintenance budget. In addition Executive Board on 15 December agreed that the remaining requirement should be considered as part of the Quarter 3 review of the Capital Programme. Clearly this will present a real challenge to the Council given the pressures on the capital programme.
- 3.2 These works will not materially improve the customer experience: they will not for example address issues such as the lack of ventilation in summer when temperatures can on occasion exceed 35 degrees centigrade or the very low temperatures in winter, or the sloping floor.
- 3.3 The condition of these buildings and the need for extensive capital investment should be kept in mind in determining the future strategy for Kirkgate Market.

4.0 Service Charges

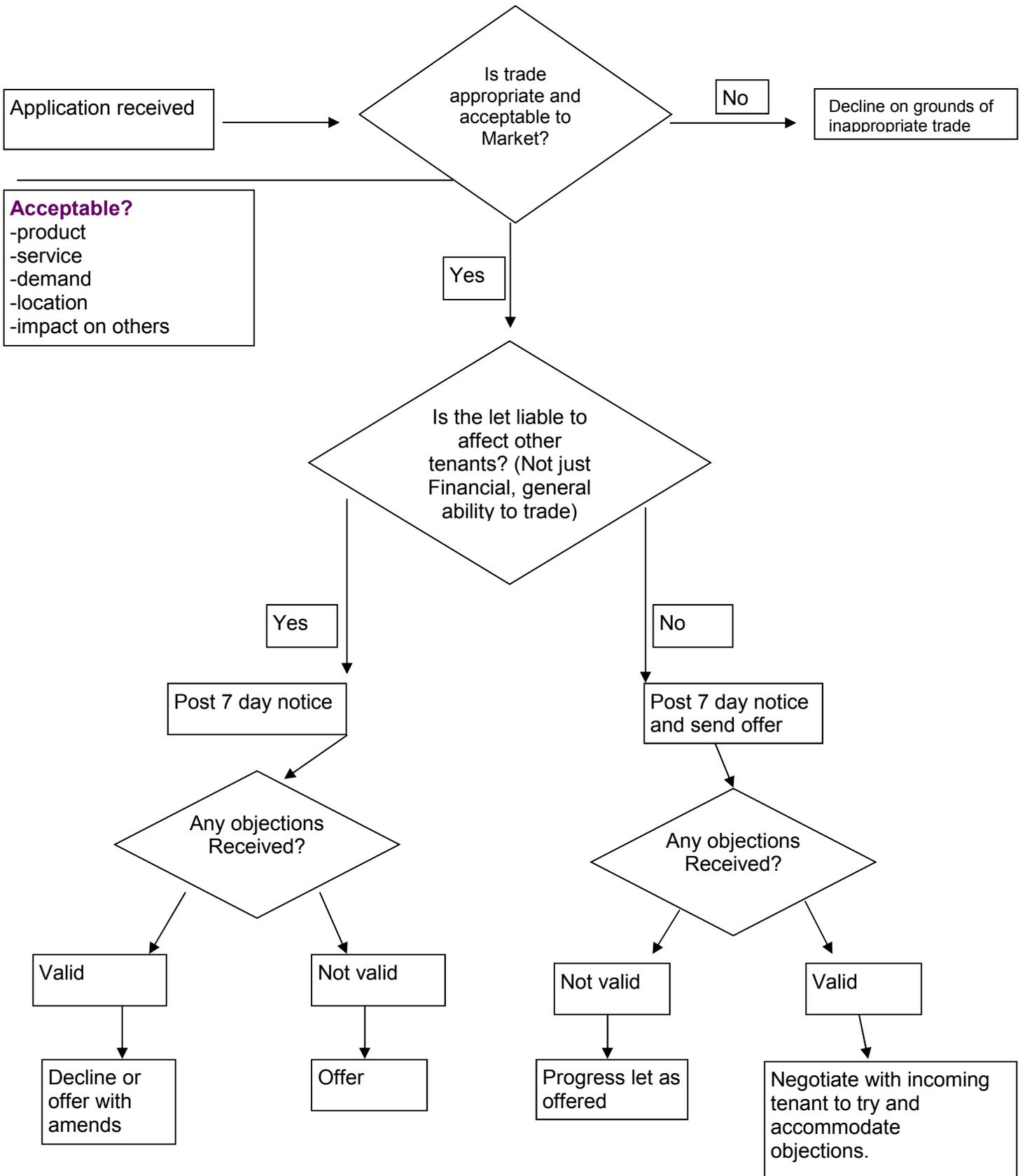
- 4.1 The charges to Leeds market indoor tenants consist of three elements - rates, rent and service charge. Service charges are only applied to traders occupying stalls in the Indoor Market, traders in the Outdoor Market are excluded from these charges. A table explaining what is and what is not service chargeable is attached at Appendix 3, and Appendix 4 gives a summary of the service charge for 2010/11.

- 4.2 As a general rule costs are only deemed service chargeable if they benefit more than one trader; direct costs relating to the operation of the Market are pro-rated between the Indoor Market (67% of total costs) and the Outdoor Market (33% of total costs).
- 4.3 Leeds Markets Service, as a whole, incurs administration costs including: insurance, rates and office equipment. It was deemed unreasonable to charge the full value of these to the traders of Kirkgate Indoor Market, so these costs are pro-rated across all of the Markets.
- 4.4 Markets staff spend their time working on service chargeable and non-service chargeable tasks or at other Markets. Therefore, staff costs are apportioned over each of these areas.
- 4.5 The total service chargeable costs are then divided over the lettable square footage of Kirkgate Indoor Market (currently set at 75,000 sq ft), this generates the cost per square foot.
- 4.6 The timescale for setting the service charge is the same each year. In July Finance undertake the review of expenditure detailed above. By the end of July, Markets and Finance usually agree a cost per square foot. The rent roll entry from Markets is input into the billing system in September and the adjustment to the tenants' service charge contribution is from October until the following September.
- 4.7 The Service Charge to tenants was not increased this year (2010/11) despite an increase in costs (mainly waste disposal charges). The increase in costs from 2009/10 to 2010/11 was £41k (4.93% increase).

5.0 Stall lettings policy

- 5.1 The Kirkgate markets' letting process is shown in the diagram overleaf. When an application is submitted, markets staff assess the application and consider whether there is anything that differentiates the product/service from existing traders.
- 5.2 If there is no differentiation - for example the applicant is just selling mobile telephones, and it is considered there are sufficient traders offering that product or service the application will be declined. If this is not the case then traders are asked for their comments and these are taken into account before a decision is made.
- 5.3 The majority of incoming tenants prefer to be sited away from businesses selling the same commodity and for non food items this is encouraged. An existing trader would not be moved away from their current location to enable a new tenant to locate in any particular location (which is why there is a couture outfitters opposite a tripe stall – the tripe stall was there first and the couture outfitters chose to locate opposite them).
- 5.4 An application for Butchery, would of course be directed Butchers Row.
- 5.5 The extent to which an incoming trader can demonstrate they are attracting new customers rather than competing for existing customers is also taken into account.

Letting Process



6.0 Management and Ownership models

- 6.1 Markets are unique in retail and wholesale trading terms in that they are still predominantly managed by the public sector; 669 (60%) of traditional markets are run by the public sector, although 321 (29%) are now run by the private sector.¹
- 6.2 There are currently three common forms of market management in the UK: local authority run markets; privately operated markets; and markets run in some form of partnership such as a joint venture, or contracted out operational management. There are also a number of models, which are not currently common, but offer scope for the future. These are: trader-operated markets; social enterprise operated markets; markets run by an arms-length company; and sharing management between a number of local authorities.² The prevalence of these models is listed below:

Public Sector	669
Private Sector	321
Privately Managed for the Public sector	91
Public Sector Partnership	2
Public Private Partnership	10
Charity	1
Community Association/other	4
Cooperation	19
Membership	3

- 6.3 **Local Authority.** The majority of markets, like Kirkgate Market, are still directly provided and managed by local authorities. This model offers the advantage of accountability, linking markets to wider policy strategic goals, and by understanding the 'public good' that markets provide.
- 6.4 The surplus generated by successful markets are generally taken by the local authority and used to support other service provision within the authority, which can be at the cost of further reinvestment in markets in general.³ Bradford City Council recently agreed to ringfence the surplus of the market for reinvestment, something which Leeds City Council has also previously done. As indicated to Scrutiny previously, the current surplus is £2.3m.
- 6.5 **Private.** Many markets are operated directly by the private sector, either licensed by the local authority under its market rights, with their own charter rights, or in some instances, completely outside the licensing framework. This model offers the advantage of faster, streamlined decision making, an increased focus on the core business, and the opportunity for directly raising investment capital.
- 6.6 For example, Town & Country Markets Limited is a 100% owned operating subsidiary of Wellington Market Company and is the leading private sector retail market operator in the United Kingdom. Currently it operates markets at 35 locations throughout England and Wales from its own freehold premises, leasehold premises and licensed locations providing around 5000 stalls each week, at markets from Aldershot to **Morley** through to Worthing. The company offers money back on faulty goods and holds regular events and competitions etc to draw in customers.

¹ 'Markets 21', 2010, The Retail Markets Alliance.

² 'Markets 21', 2010, The Retail Markets Alliance.

³ 'Markets 21', 2010, The Retail Markets Alliance.

- 6.7 **Partnerships.** These can range from the local authority retaining the strategic management of its markets but outsourcing the operational management, to a formal medium to long-term joint venture between the public and private sector. These models are useful where the local authority lacks the in-house resources to effectively manage and promote the markets, and/or where external capital investment is required.
- 6.8 Geraud Markets UK Ltd has worked in partnership with local authorities over an extended period of time to develop, expand and invest in markets. The company currently runs markets on behalf of Liverpool City Council, Allerdale Borough Council, South Derbyshire District Council, Clevedon Town Council, Ipswich City Council and New Covent Garden Sunday market.
- 6.9 Geraud Markets Liverpool Ltd is the biggest and probably the best example of Public Private Sector Partnerships. Geraud Markets Liverpool Ltd in partnership with Liverpool City Council runs over 1,200 regular market days each year. In addition to this there are over 100 Speciality Event Market days, providing residents and tourists with access to choice, value and quality.
- 6.10 **Traders.** There are a number of traditional street markets and farmers' markets that are directly managed by the traders themselves. This offers the advantage of reduced bureaucracy and costs, and an increased sense of 'ownership' by the traders. However these are only operated as street markets and therefore are not comparable to a large scale indoor market like Kirkgate. This may be a useful model for the fortnightly Farmers' Market at Kirkgate outdoor market.
- 6.11 **Trust.** Borough Market – the only fully independent market in London – is owned by a charitable trust, the Borough Market (Southwark) Trust, run by a board of volunteer trustees. According to the formal objectives laid out in its Charity Commission registration, the trust's commitments are to provide a market as a public amenity and, once a year, to pass any surplus to the London Borough of Southwark for the benefit of residents in the parish of St Saviour's. In addition to these registered objectives, the trust has extended its formal charitable commitments to include running community events, providing food related health education and contributing to local community projects and schemes. This model does not enable raising significant capital investment.
- 6.12 **Arms length.** In 2008, Glasgow City Council became the first UK local authority to establish its markets as an arms-length limited liability partnership (LLP). This model offers the advantage of more responsive, streamlined decision making; an increased focus on the core business, and the opportunity for directly raising investment capital. City Markets (Glasgow) LLP are responsible for the overall management of the market, for property maintenance, cleaning, refuse removal and security. The profits generated by the markets are ploughed directly back into the markets.

7.0 The National Association of British Market Authorities

- 7.1 NABMA is the voice of local authority markets and in the last two years it has expanded the organisation significantly, including the Association of Private Market Operators within its structure. Leeds City Council is a member and we attend its conferences and have had regular meetings with the Chief Executive and his officers, one of whom sat on the interview panel for the appointment of the new Markets Manager. NABMA runs two retail market forums each and agendas and minutes are available on the NABMA web-site. Officers from Leeds have not been able to attend recent forums but intend to do so in 2011.

7.2 As the country's leading markets organisation, NABMA has promoted the interests of its local authority members for over 80 years. Membership benefits include professional advice, a lively forum for discussion and a key role in shaping the future of markets. It also offers assistance with scrutiny reviews and a free half day's consultancy, of which Leeds Markets service has taken advantage.

7.3 NABMA's priorities for 2010 are:

- (i) To support the work of the Government's cross party Working Group which will raise the profile of markets and provide resources to markets in terms of good practice, management models and business support
- (ii) To provide our members with support to operate their markets in an effective way by the provision of health checks, "free" half day consultancy and bespoke consultancy services via NABMA Consultancy Services
- (iii) To provide a forum for members to exchange views on a range of market matters through a web based forum and the circulation of member information requests that will be translated into information notes for members available via the website.
- (iv) To provide opportunities for networking, sharing of good practice and dissemination of information through the provision of market forums, seminars, conferences and events.
- (v) To provide training by the provision of specialist market courses and the development of a recognised qualification for market officers.
- (vi) To strengthen links with other markets organisation through the Retail Markets Alliance and also support the development of the London Markets Association
- (vii) To develop the monthly newsletter as a means of providing updated information on market matters.
- (viii) To develop new partnership arrangements with organisations and potential sponsors that have a direct, or potential interest, in markets.

An important part of NABMA's membership offer is a training and development programme aimed at increasing the professional standards in the management and delivery of markets. If markets are to remain an important issue for policy makers then the voice of markets must be heard at all levels of government and NABMA is ideally equipped to deliver this important role. Further information on NABMA can be found at its website <http://www.NABMA.com>

8.0 RECOMMENDATION

Members are asked to note the report and comment on the evidence presented.

Appendix 1

Extract from Valuation Office Agency Report

Set out below is a table outlining my proposed levels of value and my valuation conclusions. Within the table is a percentage increase / decrease column which shows the level of increase, decrease or nil increase over the 2005 reviews.

	Zones	2002 rate per sq ft	2005 base rate per sq ft	Latest rates achieved per sq ft*	Proposed base rates per sq ft	% Increase or Decrease
1904 Hall including some Lettered Stalls	Zone 1	£49.88	£52.50	£52.50 - £57.50	£55.00	4.76%
Lettered stalls and all other stalls	Zone 2	£45.13	£47.50	£50.56 - £52.03	£50.00	5.26%
1875 Hall						
Fish Market/ Game Row	Zone 2	£45.13	£47.00	None	£47.00	0.00%
Remainder	Zone 2	£32.50	£34.00	£26.61 - £36.65	£34.00	0.00%
Butchers Row	Zone 3	£32.50	£34.00	£34.00 - £34.82	£34.00	0.00%
1976 / 1981 Hall						
Row A	Zone 3	£32.50	£34.00	£28.90 - £35.03	£34.00	0.00%
Row H	Zone 3	£35.00	£35.00	£29.44 - £40.36	£35.00	0.00%
Cross Mall between Entrances 4 and 10	Zone 3	£32.50	£35.00	£29.36 - £35.00	£35.00	0.00%
Rows B C D E F G	Zone 4	£30.50	£33.00	£33.00 - £34.00	£33.00	0.00%
	Zone 6	£25.00	£28.75	£26.42 - £33.50	£28.75	0.00%
	Zone 7	£25.00	£28.75	£28.90 - £30.54	£28.75	0.00%
Cross Mall	Zone 5	£25.00	£28.75	28.75 - £30.19	£28.75	0.00%
George Street		£25.00	£28.75	£29.44 - £31.14	£30.00	4.35%

* Latest rates achieved may differ from the base rates depending on factors such as rates submitted as part of any tendering exercise and multiple occupancy.

1.0 Introduction

- 1.1 Completed capital environmental improvements to the value of around £11.5m have been made to Kirkgate Market during the last 12 years. Ongoing routine, planned and reactive maintenance is undertaken each year throughout the indoor market; improvements since 2000 have cost a further £1.4m.
- 1.2 The 1976/81 structures were erected as temporary buildings following the market fire in 1975. Both buildings have now exceeded the fifteen to twenty year life expectancy for buildings of this type.
- 1.3 Kirkgate Market now has extensive maintenance requirements, so the Strategic Design Alliance (SDA) was commissioned by Leeds City Council to undertake building condition surveys of all sections of Leeds Kirkgate Indoor Market.

2.0 Background information

- 2.1 Leeds Kirkgate indoor market covers four distinct sections – the 1904, 1875, 1976 and 1981 sections. The survey was undertaken in two parts with two resulting condition reports.
- 2.2 The condition reports are a general overview of the condition of the market and its compliance where applicable to appropriate legislation and regulation. The reports also provide approximate and basic budget costs. The surveys followed the standard condition format with the scope being to examine the basic structure of the buildings specifically:
 - Wind and weathertight items
 - Disability Discrimination Act (DDA) compliance.
 - Asbestos removal works
 - Building works
 - Electrical services
 - Mechanical services.
- 2.3 **It should be noted that the surveys are visual only and that none of the structures have been opened up for inspection.**
- 2.4 The actions identified have been prioritised, following standard building condition format, as either imminent, essential, desirable or long term, the definitions of which are as follows:

Imminent	Urgent works that will prevent immediate closure ⁴ of premises and/or address an immediate high risk to the health and safety of the occupants and/or remedy a serious breach of legislation.
Essential	Work required within two years that will prevent serious deterioration of the fabric or services and/or address a medium risk to the health and safety of the occupants and/or remedy a minor breach of the legislation.
Desirable	Work required within 3 to 5 years that will prevent deterioration of the fabric or services and /or address a low risk to the health and safety of the occupants and/or a minor breach of the legislation.
Long term	There is no industry standard definition for long term works.

2.5 It should be noted that specialist surveys relating to drainage, the lightning conductor systems and electrical work, have been recommended. For each of these areas the budget estimate includes the cost for the survey and a budget provision for the possible remedial work required following the surveys.

3.0 Financial Implications/Risk Analysis

3.1 When considering the work required officers have considered the following options, which are considered in more detail below:

No.	Option
1	Do nothing.
2	Do the imminent work only
3	Do the imminent and essential work only
4	Do all the work identified

3.2 Option (1): Do nothing

3.2.1 To 'do nothing' is not a viable option on the basis that some of the work identified has been categorised as imminent or essential in that it is a legislative and/or insurance requirement to address – therefore not to do this work may, in some cases, result in breach of legislation/insurance requirements. It would also contradict the ongoing assurances given by the Council regarding its commitment to ensure the long term future of the market.

3.3 Option (2): Do the imminent work only

3.3.1 The cost of the imminent works only is approximately £600,000 of which approximately £100k is for general maintenance work and which should be funded from Markets' revenue budget.

3.3.2 Under the terms of indoor tenants' leases the cost of general maintenance work in the indoor market should be recharged to tenants via the service charge element of their rental agreements. However to increase the amount of service charge recharged to tenants to address the work identified as revenue within the condition surveys would result in significant criticism from traders along with adverse media interest, and it is considered would not be appropriate at this point in time.

⁴ Strategic Asset Management officer has advised that imminent work can be completed within 12 months unless otherwise instructed/advised by the Surveyor and no such advice/instruction has been received.

3.4 Option (3): Do the imminent and essential work only

3.4.1 As stated above work identified as being 'essential' should be undertaken within two years to prevent serious deterioration of the fabric or services and/or address a medium risk to the health and safety of the occupants and/or remedy a minor breach of the legislation. Therefore the Council could just undertake the imminent works only during 2011 and undertake the essential works in 2012.

3.4.2 The cost of undertaking the imminent and essential work is estimated to be £1.8m.

3.4.3 It should also be noted that Officers are advised that it will be more cost effective to undertake imminent and essential works together to reduce the cost of hiring scaffolding etc.

3.5 Option (4) - Do all the work identified.

3.5.1 The total cost of undertaking all the work identified is approximately £2.4m which is an additional £0.6m for the work identified as desirable and long term.

3.5.2 Consideration could be given to undertaking the desirable and long term work once the future direction of Kirkgate Market has been decided.

4.0 Conclusion

4.1 As detailed in this report four options have been considered with regard to undertaking the work identified.

4.2 The Markets service recommendation is for option 3: to undertake all the imminent and essential work whilst developing the strategy for the future of the market.

4.3 It is proposed that this is funded as follows:

- up to £200k from Corporate Property Management
- that the remainder is considered as part of the Q3 review of the capital programme

Appendix 3

Service chargeable and non service chargeable costs

Costs are classed as service chargeable if they provide benefit to more than one market trader. For example, maintenance on the overall structure of the markets building is classed as service chargeable. Money that is spent on an individual stall is not classed as service chargeable, for example the cost of electricity charges on a vacant stall. A list of service chargeable items together with the budget and actual costs of 2009/10 is to be found at appendix 4.

Description	Service Chargeable	Non Service Chargeable	Comments
Refuse collection, security and cash collection (Loomis)	67% of the total Kirkgate market costs	33% of the total Kirkgate market costs	This is based on the fact that $\frac{2}{3}$ of stalls are on the indoor market.
Advertising and Publicity	None	100%	This is not service chargeable, as it is felt it is the Landlord's responsibility to advertise and promote the market.
Costs on the Markets Administration costcentre 20501	58% in 2010/11	42% in 2010/11	Each market is allocated a proportion of the Markets Administration costs, based on each market's income and expenditure. The service chargeable percentage can therefore change each year.
Markets employee costs (LCC and agency staff)	44% in 2010/11	56% in 2010/11	This is based on the percentage of time each member of staff spends on service chargeable work. This is reviewed each year.
Finance employee costs	22% of finance staff costs attributable to markets in 2010/11	78% in 2010/11	These costs are allocated based on each market's income and expenditure. This percentage can therefore change each year.
Toilet income	100% of toilet income on costcentre 2002	None	The toilet income is used to reduce the service chargeable staff costs.
Biffa refunds	100% of the Biffa income on costcentre 20002	None	Biffa removes recyclable material. This brings income to the Council and is used to reduce the service chargeable refuse costs.

Description	Service Chargeable	Non Service Chargeable	Comments
Adjustment to previous year's service charge	£14k saving in 2010/11 due to previous year's underspend	n/a	<p>The service charge is estimated at the beginning of the year. For the following year an adjustment is made to take account of whether the previous year's expenditure was above or below the estimate.</p> <p>If tenants were undercharged the previous year, then the current service charge will be increased to recover the extra costs. If tenants were overcharged the previous year, then the current year's service charge will be reduced in order to pass on the savings.</p>
Management Fee	5% of the total service charge, once all the above adjustments have been made	n/a	This management fee reflects corporate costs incurred by the Council.

Appendix 4 Breakdown of 2010/11 Service Charge

Item of expenditure	2009/10 budget £	2009/10 actual cost £	2010/11 budget £
Maintenance etc of Plant	17,320	17,773	17,320
Maintenance, Cleaning, Inspection etc of buildings	127,640	114,273	115,140
Provision of Security Services	92,390	82,888	88,010
Insurances	19,856	12,258	9,428
Direct Employee costs	394,389	376,936	373,155
Supply and Maintenance of materials and equipment	24,652	17,426	23,613
Rates and Taxes	7,598	9,001	7,831
Supply of Water, Electricity, Gas, Oil and other fuels	106,440	106,134	106,440
Managing Agents Fees	41,163	40,705	40,356
Disposal and destruction of refuse including associated plant	48,210	77,404	80,000
Miscellaneous Expenditure	0	0	0
Total	879,659	854,797	861,295
Difference between the budget and actual cost for the previous year	-43,232		-24,861
Total service charge	836,426	854,797	836,433
Cost per square foot	11.15	11.40	11.15