

Report of the Director of City Development

Report to Executive Board

Date: 16th May 2012

Subject: Response to Scrutiny Report and Recommendation to May 2012 Executive Board

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

Scrutiny Board (Regeneration) as part of their ongoing Inquiry into Kirkgate Market have submitted a report to be considered at this meeting of Executive Board, which recommends that Council reduces the rents in Kirkgate Indoor Market for a period to assist existing tenants during the current economic recession. This report responds to that recommendation.

Recommendations

Officers recommend that Members:

- (i) note the actions being taken to increase footfall to the market, to reduce vacancy rates and to secure the long term future of the market:
- (ii) decline the proposal from Scrutiny Board to reduce the rents for tenants of Kirkgate Indoor Market but instruct officers to investigate implementing further measures to increase footfall, in consultation with traders, using £100k from the £1.75m budget for economic initiatives included in the 2012/13 strategic budget.

1 Purpose of this report

- 1.1 To provide additional information to Executive Board members to on a number of issues raised by Scrutiny Board (Regeneration) and particularly the implications of the request of Scrutiny Board (Regeneration) that the rents in Kirkgate Indoor market be reduced for a period of time and to propose an alternative solution.

2 Background information

- 2.1 Scrutiny Board members visited Kirkgate markets on the 7th February 2012, at which time they spoke with a number of traders on the Indoor Market, some of whom expressed the view that a reduction in rent was the only way they would be able to continue trading. In that context, the background text below provides a summary to recent changes in rents and rent reviews.
- 2.2 Members may recall that the issue of rent reduction was considered by Executive Board on 22nd June 2010 when it decided not to approve a rent reduction at that time.
- 2.3 With respect to the 2012/13 budget, income streams are expected to achieve an uplift of 3%. This would mean that in order to be in line with the rest of the Council's income generating operations, the market rents would also rise by 3%. However, it is not intended to actually apply a rent increase to the indoor market in 2012/13, in acknowledgement of the difficult current economic conditions.
- 2.4 The Council conducts a rent review every three years. It is an upwards only rent review as set out in the terms and conditions of the lease. The detail of rent review outcomes is as follows:
- 2.4.1 In 2002 there was a rent review. Prior to that there had not been one since the early 1990s. . As part of the 2002 review, rents went up in some areas as much as 90%. However, to offset this, tenants in the most expensive area, the 1904 hall, were offered a reduced rent with an annual increase linked to inflation, in return for surrendering their rights to compensation under the Landlord and Tenant Act 1954. This is called a contracted out lease and is now the only type of permanent lease on offer to new tenants in the market. LCC collected this inflation linked increase on those stalls from 2002 up to 2010 when it then froze them in recognition of tough trading times.
- 2.4.2 There was also a rent review in 2005 where rents not subject to the contracted out arrangement above were increased between 4.14% and 15%; the 15% increase was in the areas of the market with the lowest rents.
- 2.4.3 In 2008 however, which was just as the recession was really hitting home, there was also the anticipated development of Eastgate and Harewood and the potential redevelopment of Kirkgate Market site. In recognition of this LCC did not increase the rents on the indoor market except those on the contracted out lease described above who continued to pay the annual inflation linked increase.

- 2.4.4 In December 2009 in response to calls from rent reductions and in recognition of the difficult trading conditions faced by all the Council's small business tenants, a Business Support Scheme was implemented which facilitated providing business advice and distributing grants primarily of around £3,000 to small independent business Council tenants, with the majority of the money being allocated to indoor tenants at Kirkgate Market. The scheme has now ended. To date the Council has distributed £161,238 to some 54 traders through this grant support scheme.
- 2.4.5 In 2010 the Council responded to traders' calls for an independent rent review and this was carried out by the Valuation Office. Their report recommended that rents in some areas actually were too low and should be increased. The Council chose not to accept this recommendation and thereby waived a potential £16,000 pa increase in income.
- 2.4.6 In 2011 traders were due an annual rent review on the 3 year cycle. LCC again chose not to raise the rents in recognition of difficult trading times.

3 Main issues

- 3.1 Response to matters raised in Scrutiny Board (Regeneration) report to Executive Board (May 2012)

- 3.1.1 Report Item 2.1

The Scrutiny Board on 28th February 2012 received a report from the Director of City Development informing Members that at the time of writing the Director's report there were 78 vacant units with an under achievement of annual rent and service charges to the Council of £709,800.

Response: This should correctly be described as an under-achievement of actual rent and service charge for the indoor market based on a target occupancy of 100%.

- 3.1.2 Report Item 2.2

The Markets Manager provided an update and the latest figures in relation to notices to quit; leases agreed and on footfall numbers prior to and after the Christmas period. In the period since the last Scrutiny report in January 2012, 7 notices to quit had been received, however a further 7 lets had been agreed. Footfall over Christmas and New Year had been significantly up on the previous year, and in Christmas week was 218,000 in the indoor market. Overall, the consolidated figure for footfall is up by 2.5% against the previous year.

Response: No further comments.

- 3.1.3 Report Item 2.3

Members of the Scrutiny Board visited Kirkgate Market on 7th February 2012 and met a number of traders on the shop floor and listened to their comments and concerns which included:-

- The view that rents are too high and should be substantially reduced for a period of two years in the current economic climate. Some rents quoted for the larger stalls were £2,200 per month plus business rates.
- Their view that footfall had declined over the last few years.
- The concern that long established traders of 25 years and more are leaving the market because they can no longer make their businesses pay. One trader the Board met selling jigsaws was leaving at the end of the month after 27 years.
- The opinion that vacant stalls are currently running at 30%.
- The perceived reluctance of some traders to invest in their stalls because of the current review of the market.
- The concern at the time it takes to get a stall. It can take 8 weeks for the necessary financial and legal work to be completed by which time they asserted that the applicant has often walked away.
- The view that empty stalls are not being promoted at all. Traders were of the view there should be notices put on every stall advertising their availability, cost and where to apply. In addition the market office should display in the window all the vacancies. They felt that was a lack of signage generally.

Response:

- The level of rent quoted (up to £2,200 per month plus business rates) is only correct in respect of some of the largest stalls in the most desirable locations in the 1904 hall. By comparison a 100 sq ft stall in the 1976 hall is around £270, plus service charge and business rates. A stall with this low rateable value is exempt from business rates and the service charge on this stall would be around £111 making a total monthly outlay of £381. To make a viable business at this level of rent, the tenant would need to make sales of about £1000 - £1200 per month. It is very important to note that this area of the market experiences by far the highest vacancies and so it is not true to say that high rents are a disincentive to businesses choosing to locate in the market. We get many more applications for the 1904 hall than for the 1976 hall.
- Although footfall has declined since the recession hit in 2006, in fact footfall has been steady at around 4% up across the last 12 months, comparing each week with the same week in 2010/11. There were some significant improvements over Christmas and New Year this year, which were in part due to the severe weather at Christmas 2010, but even so showed increases of between 9.9% and 57.4% on the same week last year. The week ending 25 December we had 218,000 visitors to the indoor market. We do not measure footfall on the outdoor market as yet. The overall consolidated figure for 2011 compared to 2010 is 2.5% up.

- The figure of 30% for vacant stalls is incorrect. At the time of the Scrutiny board visit to the Market on 7th February the figure was 19.3%
- Whilst it is accurate that traditional, non-transient traders have not invested in their stalls for some time, despite LCC offering grants of up to £3000 per business under the recent Business Development Scheme, it is not true to say that all stallholders are not investing in their stalls. For example, several stallholders who have chosen to relocate or expand their business are investing tens of thousands of pounds in the fit out of their units, and several more refit and upgrade their units regularly. Even new businesses which have come in recently in butchers row, the 1981 and 1976 halls have invested several thousand pounds in equipment and signage.
- Whilst it is accurate to say that it can take several weeks to conclude a new let (and this is clear on the application form and in any interviews), this is dictated by, for example, our statutory and legal obligations, our due diligence checks such as credit checks and legal right to work in the UK. However, often longer delays are created by the applicant from whom we require certain information, plans, deposits or their need to register with, for example, Environmental Health and complete the checks required. It is also worth pointing out that it is not the speed of the process which obtains a good, viable business occupancy but a robust business proposition and the commitment of the incoming tenant to make a success of their business. If an applicant has a pressing need to begin trading very quickly or at low risk, we can work with them to assist with this, for example we can offer a stall on the open market which carries no more than a daily commitment.
- Vacant stalls are currently advertised with To Let Boards, as well as on the official markets website and in the Markets information centre. , The Market's Management do accept that they could make improvements in this area and are actively pursuing this, taking on board suggestions from the traders as well. The Market's Management always do their best to take on board suggestions for improvement within the resources we have available; for example the major improvement to wayfinding in the market came as a result of feedback from customers. The award winning Shop & Drop facility was created to address customer complaints that they had to carry heavy shopping back to work or around the town; and we took up the recommendation from Scrutiny Board to hold a bond for signage which is refunded when the tenant erects appropriate quality signage on their new unit, to improve the appearance of the market.

3.1.4 Report Item 2.4

At the Scrutiny Board meeting on 28th February 2012 Members sought clarification from the officers as to whether consideration had been given to reducing rents in Kirkgate Market at least for a time limited period in order to try and retain existing traders and attract new ones and consequently increase footfall. The Markets Manager advised the Board that the Directorate was considering a range of options to maintain a vibrant and prosperous market with fewer vacant stalls, but a detailed financial analysis was required in order to

consider this as it would have an impact on the markets income. The Markets Manager also stated that management would like to reduce the number of differing rent levels across the market. This would form part of the current review and management of the market. Members took the view that the Council should act quickly to offer some temporary assistance to traders in Kirkgate Market (indoor) to try and address the increasing vacancy factor.

Response: The feasibility and design study the refurbishment and redevelopment options for the market has now commenced and findings and recommendations on the way forward are expected to be reported to Executive Board in December 2012. This report will outline a series of options for making significant capital investment into the market to improve the quality of the retail environment for the public and traders, to help ensure that the facility continues to be an important and distinctive part of Leeds' overall retail offer

3.2 Retail business

There is no doubt that retail businesses across the country have suffered greatly as a result of the recession and continue to do so. However, trends would seem to indicate that small independent retailers are weathering the storm rather better than the high street chains, and this is certainly the case when we look at the level of vacancies and the footfall in Kirkgate indoor market. For the former, Kirkgate market void levels are no higher than the level in Leeds city centre, and footfall is actually 2.5% up overall on the previous 12 months, with the average being around 4.6% for a week by week comparison.

3.3 Cost of rent reduction

It would cost the Council £22,000 per annum for every 1% discounted off rents in the indoor market. If a rent reduction was, for example, in the region of 10%, this would equate to a £220,000 per annum reduction to the Market' on top of the £500,000 already hypothecated to support the Market. . An example of the impact of a 10% reduction in rent for traders would be £220 per month on a large unit in the most expensive and sought after part of the market, the Grade 1 listed 1904 hall, and £27 per month on a 100 sq ft unit in the least popular but cheapest area of the market, the 1976 hall, where there are the most vacant units.

3.4 Demand for units

The Markets service gets many more enquiries for stalls in the more expensive and prestigious parts of the market, where lettings are still ongoing, than in the cheapest areas. In fact stalls are currently letting well in the 1904, 1875 and even the 1981 (temporary shed) halls despite very trying economic conditions. One would therefore question whether a rent reduction is an appropriate intervention in all areas of the market; and whether a 10% reduction would make the units in the most challenged areas easier to let, or would convince tenants considering leaving or relocating elsewhere in the market to stay where they are.

3.5 Factors influencing footfall

The reasons why some areas experience less footfall, or a different type of shopper, are complex. Certainly footfall at the top of the market, leading directly off Vicar Lane, is higher than in other areas but through branding, events and promotions the service has been working hard to drive those visitors further into the market. The now well established Asian Bazaar on Wednesdays has been successful in increasing footfall into the areas adjacent to the outdoor market to support extended Wednesday trading, and in general, the Open Market is important in bringing thousands of customers to the site on a daily basis. However, the 1976 hall is laid out in a tight 'grid' configuration not seen elsewhere in the market halls, and therefore, when stalls become vacant, it is difficult to see past these to those still trading. Add to this that the natural flow of footfall into the 1976 hall from the open market is impaired to some extent by the NCP car park and it can be seen that despite offering some of the cheapest retail space in the city centre, this area is not thriving.

3.6 Feasibility and Design work

These and other complex considerations are currently being investigated through the feasibility and design work on the future development of Kirkgate market, being undertaken for the Council by Norfolk Property Services (NPS). NPS are evaluating a range of configurations, costs and sequencing implications and officers expect to be able to report these findings to Executive Board later in the year, for a decision on the appropriate option to pursue along with agreement on the future management and ownership model for the Market service. It would be more usual to consider a temporary rent reduction during the period of any resulting redevelopment.

3.7 Additional interim support for traders

Whilst it is not recommended that a universal rent reduction be granted for the reasons outlined above, given the uncertainty facing traders over the possible outcome of the feasibility work and the impact of the chosen option on their individual business, Members of Executive Board may wish to consider using a proportion of the £1.75m budget for economic initiatives included in the 2012/13 strategic budget, partly earmarked to fund the feasibility and design work and other essential associated costs, to also fund specific projects to improve visibility and drive footfall within the indoor market which could be implemented fairly quickly, in consultation and collaboration with traders. Examples would be increasing marketing and promotion; creating an events space in the beleaguered 1976 Hall, and bringing an 'M&S birthplace' display to the 1904 Hall which would become a visitor attraction in its own right. It is proposed that a series of proactive initiatives which help to increase footfall and business through the Market are a more sustainable proposition than considering rent reductions. It is recommended that each such project be developed in conjunction with traders and £100,000 be allocated for such initiatives.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The feasibility and design study includes extensive and comprehensive consultation with a wide range of stakeholders, and in particular traders will have the opportunity for face to face workshops to input their ideas and aspirations into the process from the beginning.

4.1.2 Any project to be funded from the economic initiatives budget to be worked up in consultation with traders from all areas of the indoor market.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Assessments of the impact of each of the options examined under the feasibility and design study will be subject to an Equality Impact Assessment. Any project identified under 3.7 above will be evaluated to ensure that equality, diversity, cohesion and integration have been considered in its design and delivery.

4.3 Council policies and City Priorities

4.3.1 The markets contribute towards the Council's city priority plans for

- Health and Wellbeing
- Sustainable economy and culture

4.4 Resources and value for money

4.4.1 The offset of an increase in the income budget on rents will return £66,000 less to the Council's corporate budgets in 2012/13.

4.4.2 Were Executive Board to recommend, for example, a rent reduction of 10% for all tenants of the indoor market, this would cost £220,000.

4.4.3 Legal Implications, Access to Information and Call In

4.4.1 This decision would be subject to call-in.

4.5 Risk Management

4.5.1 As described at 4.4.2, to fund a rent reduction from monies allocated to the feasibility and design work would increase the risk of the redevelopment of the markets not proceeding in a timely fashion or with sufficient consideration of the implications of options chosen.

5 Conclusions

5.1 Consideration has been given to Scrutiny Board's recommendation for Kirkgate Market.

- 5.2 Whilst it is not recommended that a universal rent reduction be granted for the reasons outlined above, given the uncertainty facing traders over the possible outcome of the feasibility work and the impact of the chosen option on their individual business, it may be appropriate to consider using £100,000 of the £1.75m budget for economic initiatives included in the 2012/13 strategic budget, partly earmarked to fund the feasibility and design work and other essential associated costs, to fund specific projects to improve visibility and drive footfall within the indoor market which could be implemented fairly quickly.
- 5.3 These works will assist the day-to-day operation of the market prior to the Council determining its long-term investment plans for the Market later this year as part of a series of measures to ensure that the facility remains a distinctive and important part of the Leeds' retail offer.

6 Recommendations

6.1 Officers recommend that Members:

- (i) note the actions being taken to increase footfall to the market, to reduce vacancy rates and to secure the long term future of the market
- (ii) decline the proposal from Scrutiny Board to reduce the rents for tenants of Kirkgate Indoor Market but instruct officers to investigate implementing further measures to increase footfall, in consultation with traders, using £100k from the £1.75m budget for economic initiatives included in the 2012/13 strategic budget.

7 Background documents¹

- 7.1 Executive Board report 'Business Support Scheme' December 2009
- 7.2 NMTF Deputation to Council 21 April 2010
- 7.3 Executive Board Report, Response to Deputation by the National Market Traders Federation 22 June 2010
- 7.4 Executive Board report, A Request from Scrutiny Board (Regeneration) to Executive Board to Reduce Kirkgate Market Rents for a Time Limited Period 16th May 2012.
- 7.5 Equality Impact Assessment Screening Form

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.