



Cabinet 10 February 2010

Report of the Overview and Scrutiny Committee Call-in: Review of Markets

1. Introduction

- 1.1 At its meeting on 18 January 2010 the Overview and Scrutiny Committee considered the called-in Cabinet decision from 2 December 2009 (Report A439 refers) in respect of the Review of Markets (Agenda Item 22/Forward Plan reference Dec09/14 refers).
- 1.2 The reason for the call-in by Councillor Chappell, with the support of Councillors Beckwith, Cockle, Nettleton and Redhead, was that *'the market has been working well, with market traders (other than fruit and veg traders) reporting trade up 20%. No need to spend £6,000 when we are finding ways to cut the budget, on something that is working well'*.

2. Call-in hearing

- 2.1 The hearing began with the questioning of witnesses. 14 witnesses were heard, and a fuller report of the question and answer sessions will be given in the Committee's minutes; however, a synopsis of the responses are as follows:-
- 2.2 The officer witnesses were questioned first:-
- (a) The Council's Head of Legal and Democratic Services was questioned on a number of legal issues concerning the market. She comprehensively responded to all the pre-prepared questions, including that:-
- (i) the Council has the market franchise which, as a form of property, was granted to it under a Charter and Letters patent. The Charter gives the Council the right to hold and control the operation of the market and take the fees;
- (ii) the 'traditional' rights of the market principally lie with the Council in terms of being an exclusive right to hold and control markets in the area and to take the fees;
- (iii) the purpose of the review is not to implement any actions but to make suggestions and the Council would then consider the proposals;

- (iv) the traders have licences which state what they are licensed to sell and the Council does not have the right to instruct what products to sell or withdraw their licence, unless the trader is in breach of the licence; but traders can ask to change what they sell; and
 - (v) the Council could enter into a legal contract with a third party to operate the market on the its behalf.
- (b) The Council's Planning Policy and Specialist Services Manager was asked about the new Revised Planning Guideline PPS4 and its potential impact on the market. In summary, he responded that the Government had published PPS4 on 29 December 2009 which sets out the Government's planning policy for the economy and town centres, with particular emphasis on promoting the vitality and viability of town centres as important places for communities to help achieve sustainable economic growth. Policy EC4 of this recently published PPS provides the only reference to markets, and the pertinent points relating to markets and town centres were quoted to the Committee;
- (c) The Chief Finance Officer was asked about the cost of operating the markets and provided information regarding the allocation of these costs across the markets budget; and
- (d) The Council's Head of Property Services and Engineering, and the Car Parks and Markets Manager had been given notice of 15 questions regarding the review, consultations, and input of others into the review. Both provided comprehensive responses including:-
- (i) having heard concerns expressed from market traders regarding how recent changes in the retail offer provided in both Bury St Edmunds and Haverhill may impact on the markets, including the changes identified in market shopping trends, officers in consultation with Portfolio Holders considered a review of the markets was appropriate;
 - (ii) it was considered prudent as part of the review to also review the existing staffing structure as three Council officers were approaching retirement;
 - (iii) extensive consultation with appropriate stakeholders and interested parties will be undertaken during the review;
 - (iv) the term 'external provider' was used in the original report (Report A314 refers) to describe an organisation such as the Town Centre Management, to undertake the management of the markets. Privatisation was not considered at the time; however, it is appropriate to consider all options as part of the review;
 - (v) although extremely time-consuming, the service could be reviewed in-house, but the consultants recommended to be appointed have extensive expertise and knowledge of nationwide market trends and service delivery. Comprehensive and detailed proposals would then be provided for consideration by the Council;

- (vi) the last review was undertaken in 1990 using external consultants. A number of expected outcomes from this new review were provided to the Committee; however, Members noted that the scoping for the review has not yet been undertaken. The scope would be agreed with key stakeholders, Members and the consultants; and
- (vii) the future viability and long term survival of the markets is paramount and they play an important part in the local economy, particularly in relation to independent retailing and local employment. They provide a sense of place and draw visitors to both Bury St Edmunds and Haverhill. For these reasons, it is considered that spending approximately £6,000 on a review or 1.3% of the annual gross income is a good investment to help secure the long term financial and community aims.

2.3 The Committee then turned to questioning Councillor witnesses as follows:-

- (a) Councillor Robert Everitt, Chairman of the Bury St Edmunds Area Working Party, was asked about the evidence taken into account by the Working Party when making its recommendations, and whether Councillor Everitt had spoken to stallholders. Councillor Everitt responded that a report had been submitted by the officers, and a question and answer session had taken place at the meeting of the Working Party. In addition, following a meeting with market traders, this had completely affirmed his opinion that there was a genuine need to carry out the review.
- (b) Next the Portfolio Holders for Economy and Asset Management, and Haverhill and Housing were asked for their views on the necessity to undertake the review and any discussions they had held with stallholders. They responded that it was important to review any operations, even those working well. They considered that the review was needed to examine whether the markets met users' needs, and to establish whether more customers could be attracted as retail trends had changed considerably since the last review was undertaken in 1990. Both Members spoke regularly with market traders, and had been advised that whilst a number were trading well, some were not, and they wished to identify ways to help these traders.

2.4 The following witnesses external to the Council were then questioned and their responses are summarised below:-

- (a) Mr Alan Murdie had been called to the meeting by Councillor Chappell, and provided a brief history of the market in Bury St Edmunds to the Committee and how it came into existence. He was of the opinion that should the Council wish to make substantial changes to the market in Bury St Edmunds, an Act of Parliament would be required.
- (b) Report A439 had stated that a medieval history professor, a witness also called by Councillor Chappell, would be in attendance; however, this witness, Dr Licence, was unable to attend the meeting. In his absence, Councillor Chappell circulated a letter written by Dr Licence which provided the Committee with some background to the history of the market in Bury

St Edmunds.

- (c) Representatives of the market traders had been asked to give their views on the necessity to undertake a review, what they hoped would emanate from the review, and how they would like to be involved as the review progressed. First to speak was Mr Firman, a representative of the Haverhill market traders, who advised the Committee that he was not in favour of the review; however, should the decision be taken to progress the review, the markets in Bury St Edmunds and Haverhill should be reviewed independently.
 - (d) The next three witnesses were traders on Bury St Edmunds market, and firstly Mr Grimwood, Vice-Chairman of the Bury St Edmunds branch of the National Market Traders Federation, addressed the Committee. He believed that the £6,000 allocated towards the review could be better spent towards making the market more easily accessible by providing a park and ride service or allowing free car parking in some areas of Bury St Edmunds to encourage more customers to the market. He also conveyed his concerns about the unsuitability of the National Association of British Markets Authorities (NABMA) as the Council's appointed consultants. Next, Mr Hart expressed his concerns to the Committee regarding the potential privatisation of the market and it was his understanding that Group Geraud, a private operator of markets, had sponsorship associations with NABMA. Finally, in the absence of Mr Webber, a witness stated in Report A439 as attending the meeting, Mr Harding informed the Committee that he was completely against the review and considered the estimated £6,000 should be allocated towards improving the market and other associated issues, such as providing a shuttle bus to Ram Meadow car park and installing public toilets in the Market Cross.
- 2.5 As a signatory to instigating the call-in, Councillor Nettleton then addressed the Committee and urged that the markets should remain under the control of the Borough Council and although partnership working may be an option worth considering, the markets should not be privatised.
- 2.6 Members asked supplementary questions of all witnesses and this was followed by a thorough debate of the issue by the Committee, where a number of observations were made.
- 2.7 Following the question sessions and debate, Councillor Chappell was given the opportunity to sum up. The Corporate Director for Economy and Environment then addressed the Committee re-emphasising the need for and purpose of the review.
- 2.8 Finally, the Chairman advised the Committee of the options open to them.

3. Resolution

- 3.1 Having heard all the evidence, **the Committee resolved to refer the decision back to the Cabinet together with the following observations of the Committee:-**
- (a) **the officers' report originally considered by the Bury St Edmunds Area Working Party (Report A314 refers) was too brief and did**

not fully expand on many of the issues discussed at the Call-in hearing;

- (b) although a report was submitted to the Haverhill Area Working Party on 10 December 2009 for noting, the decision had already been taken by the Cabinet to undertake the review following the recommendations of the Bury St Edmunds Area Working Party. Report A314 should have been considered by the Haverhill Area Working Party prior to the decision being taken by the Cabinet;
- (c) the Committee did not perceive from the evidence presented that the markets were trading 20% up, as suggested in the reason for calling in the decision;
- (d) the composition and funding of the proposed consultancy organisation be ascertained to ensure its independence;
- (e) whilst the Committee considers it appropriate to undertake the review and recognises that independent expertise is required, extensive consultation with key stakeholders, market traders and Members should be undertaken to formulate the scope of the review, including identifying that the markets in Bury St Edmunds and Haverhill have separate issues that require investigation and review. This should be reflected in the findings and subsequent recommendations of the consultants to the Council;
- (f) whilst partnership working was a possibility, the review should not consider privatisation as a preferred option and therefore, the markets should remain under the Borough Council's control; and
- (g) following the completion of the review, Members need to have more input into the consideration of the final recommendations of the consultants and therefore, these should be considered by the Policy Development Committee as well as the Bury St Edmunds Area and Haverhill Area Working Parties, before consideration by the Cabinet and possibly full Council.

4. Footnote

- 4.1 Following investigations subsequent to the hearing, the officers can report that The National Association of British Market Authorities (NABMA) represents local authority operators of markets (162) and a number of private operators (14). It is funded by membership contributions. The membership of the Board, is President and Vice-President, nine local authority representatives, and one representative from the Association of Private Market Operators, with voting rights of one member, one vote.
- 4.2 The sponsorship referred to at the call-in hearing relating to Group Gerard was, so far as the officers can establish, the sponsor of NABMA's annual conference.

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