

**To: City Executive Board**

**Date: 26<sup>th</sup> November 2008**

**Item No:**

**Report of: Interim Head of Property and Facilities Management**

**Title of Report: Covered Market – Future Strategy**

### **Summary and Recommendations**

**Purpose of report:** To advise the Board of the settlements awarded by the Arbitrator in respect of the March 2007 rent reviews, the effect on the budget, and proposed next steps to begin the process of improving one of the Councils most significant property assets.

**Key Decision? Yes**

**Executive lead member: Councillor Mary Clarkson**

**Report approved by: Executive Director, City Regeneration:  
Melbourne Barrett**

**Property: Steve Sprason**

**Finance: Sarah Fogden/Penny Gardner**

**Legal: Jeremy Thomas/Lindsay Cane**

**Policy Framework:**

**Recommendation(s):**

1. Note the rent review settlements awarded by the Arbitrators which has the effect of increasing the rent roll from £695,000 p.a. to £948,000 p.a.
2. Agree the principle of utilising some of the rent increase generated by the awards in excess of the allocated budget up to a maximum of £30K to seek professional advice as to a long-term strategy to improve the vitality and viability of both the Covered Market and the Gloucester Green markets.
3. Agree the principle of allocating the sum of £50K for a repairs and maintenance programme.
4. To confirm that the expenditure as set out in recommendations 3 and 4 above be deferred pending confirmation of the council's overall budget position, and that a further report in this respect will be presented to CEB as soon as possible.
5. That CEB refer the consideration of the external consultation brief and scope of the project to the review group set up by Value and Performance Scrutiny Committee.

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| <p>6. Approve in principle the allocation of additional funding in future years, representing extra market income over current budget, subject to consideration of the detail of the outcome of the strategic review in due course.</p> |
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## **INTRODUCTION**

1. The Covered Market comprises 55 separate units held on broadly identical leases (amalgamated from about 150 former market stalls). With the exception of 1 unit, the rent reviews of the whole scheme have been reviewed with effect from 25<sup>th</sup> March 2007 (the first review of a 20 year lease renewal granted in 2002). The one unit not following that pattern is in fact the last property to have been let in the open market in 1993.
2. Having regard to the high profile and sensitive nature of this property the Council appointed after a competitive tender Johnson Fellows (JF) to manage the rent reviews. Following an initial meeting with the JF professional team to discuss and agree strategy and timetable etc, they inspected the units and served Notice of Intention (to review the rent) on each tenant in January 2007.
3. Following negotiations with the tenant's agents, an impasse was reached with neither side feeling able to compromise. It was at this point the tenants decided to seek a third party solution to the issue and an Arbitrator was appointed on 4 units which the tenants suggested were a representative sample. After seeking advice, this approach was not agreed as a principle and so the Council sought and agreed the appointment of a separate Arbitrator for all units. In both Arbitrations a specialist was appointed to act on the Council's behalf. The tenants also appointed their own expert to act in the Arbitrations.
4. The award for the 4 initial cases was published in March 2008 resulting in rent increases between 33% and 50%. The second arbitration has recently been completed with between nil and 87% increases awarded dependant upon location, size, user clause etc.
5. When the rent increases have been implemented and assuming all tenants pay their arrears an extra £56k per annum over and above the current budget for the Covered Market will be generated. For the period 24<sup>th</sup> March 2007 - 24<sup>th</sup> June 2008 an excess over budget in the current year in the sum of £106K will result.

## **ARBITRATORS COSTS**

6. The rent settlements awarded by the Arbitrators have been very difficult to achieve, as they required the appointment by the Council and the tenants of separate specialist surveyors (experts in Arbitrations) to represent them. Both parties have also been somewhat hampered by the lack of evidence arising from the 15 year period since the last unit was let in the open market. Our experts therefore needed to extrapolate "evidence" from rents achieved in nearby streets, which was only partly accepted by the Arbitrator, whereas direct rental evidence from within the Covered Market would be irrefutable.
7. The Board should note that in order to avoid a repeat of the process at the next review in 2012 it would be prudent to acquire a few units by negotiation with the tenants or as and when they become available, to re-let them to provide a clear

understanding of the “open market rental value” of these shops. A report to provide the Board with a business case justification will be provided at the time such a purchase is to be considered.

8. As noted above there were significant costs of each side employing their own expert in submitting reports to the Arbitrators, the Council’s cost for its expert was £25,000. In addition to its own costs, the Council has also paid for the two Arbitrators costs totalling £23,313. It is proposed that the Council seeks reimbursement from the tenants of their share of the Arbitration costs, in accordance with the Arbitrator’s award as to costs when received.

## **INTEREST**

9. The Council as part of the Arbitration process made application for interest to be paid on the accrued arrears. The Arbitrator found in favour of the Council, and in this respect awarded the payment of interest at 4% over Base Rate. The amount of interest due to the Council on the basis of all rents being paid by 1 August 2008 would be in the sum of £19,100. This is for illustrative purposes only, and individual calculations for individual tenants will be required based on their respective profiles of payment.

## **STRATEGIC REVIEWS**

10. As part of an intended review of the Market assets it is proposed that up to £30k of the income over Budget should be allocated to a fundamental review of the Covered Market. It is proposed that this should also include the Gloucester Green open market where existing arrangements have not been renewed for many years.
11. It is proposed that this fundamental review be undertaken by external agents suitably experienced in advising on this very specialist area. The review will encompass an assessment of the market’s history, the operation and management of the assets, investment strategy etc, providing the basis for a sustainable business plan covering the next 5-10 years.

Specific areas of study could include

- A business plan and futures study.
- Establishment of a high level Investment Strategy.
- An active liaison programme with the Covered Market Traders Association.
- Re-evaluation of the Covered Market Leasing Strategy.
- Revisit the idea of Sunday opening.
- Survey of users/footfall.
- Relationship with other retail offerings.
- Creation of a joint promotions and events calendar.
- Maximise income from any currently under-utilised space.
- Examine the possibility of creating a service charge.

The consultancy brief will be developed in consultation with key stakeholders, including the Market Traders Association.

12. It is proposed to refer consideration of the terms of reference of the consultants brief and scope of the project to the review group recently set up by the Value and Performance Scrutiny Committee.

### **SHORT TERM IMPROVEMENTS**

13. In the short term whilst the review is undertaken immediate implementation of an improvement programme to the infrastructure and ambience of the market are proposed.

14. These might include

- A deep clean of the entire building.
- Internal decoration.
- Roof and gutter works.
- Replacement/repair of the traders welfare facilities.
- Improvement of the external signage.

Again this will be developed in consultation with key stakeholders.

15. Whilst there is already a budget of £42,189 allocated against the Covered Market and managed by City Works for general maintenance, it is proposed that a one-off allocation of £50k from the income over budget is utilised for this short term programme.

### **LONG TERM IMPROVEMENTS**

16. In addition to the short-term improvements it is suggested that an additional revenue allocation is made to provide monies from which more significant investments can be funded. This will be subject to consideration of the outcome of the strategic review referred to above, which will effectively be required to make a business case to support further investment.
17. Such monies could be allocated to an enhanced annual maintenance programme or alternatively a one-off more substantial refurbishment utilising the additional monies to prudentially borrow. The investment strategy will be informed by the outcome of the strategic review referred to above, also by the undertaking of a full condition survey of the Covered Market.
18. The basis of these proposals is to endeavour to ensure a sustainable and vibrant market operation that will generate capital and revenue returns to the council, and contribute to the economic prosperity of Oxford City Centre. For the Traders, a more certain future and with the confidence to invest in their businesses.
19. It must be appreciated that the market budgets are not 'ring fenced', and have to be viewed in the context of the whole budget for the councils Investment Portfolio, where projected rental income is currently anticipated to come in slightly under budget. The current economic climate has the prospect of adding additional pressures in this respect.

### **FINANCIAL IMPLICATIONS**

20. The effect of the rent review is to increase the rent roll for the Covered Market from £695K to £948K p.a. Any additional monies allocated to repairs in 08/09 will come from this increase. Additional funding in future years would also come from this source.
21. Given the Council's current financial status it would be imprudent to commit further, as yet uncommitted and non essential expenditure, and it is therefore proposed that the expenditure referred to in paragraphs 10 and 15 above be deferred pending confirmation of the overall budgetary position.

## **RECOMMENDATIONS**

20. That the Board approves:
  1. Note the rent review settlements awarded by the Arbitrators which has the effect of increasing the rent roll from £695,000 p.a. to £948,000 p.a.
  2. Agree the principle of utilising some of the rent increase generated by the awards in excess of the allocated budget up to a maximum of £30K to seek professional advice as to a long-term strategy to improve the vitality and viability of both the Covered Market and the Gloucester Green markets..
  3. Agree the principle of allocating the sum of £50K for a repairs and maintenance programme.
  4. To confirm that the expenditure as set out in recommendations 3 and 4 above be deferred pending confirmation of the council's overall budget position, and that a further report in this respect will be presented to CEB as soon as possible.
  5. That CEB refer the consideration of the external consultation brief and scope of the project to the review group set up by Value and Performance Scrutiny Committee.
  6. Approve in principle the allocation of additional funding in future years, representing extra market income over current budget, subject to consideration of the detail of the outcome of the strategic review in due course.

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**List of background papers: None**

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