

PAPER NO. 6

REPORT TO THE EXECUTIVE MEETING OF 12th JUNE 2017

Meeting: Executive

Date: 12 June 2017

Subject: The Square, Market Harborough; Strategy for Outdoor Events and Markets

Report of: Mark Perris

Portfolio Holder: Councillor Phillip King

Status: For Decision and Recommendation

Relevant Ward(s): Market Harborough - Logan

1 Purpose of the Report

- 1.1 To consider the adoption of a strategy for The Square, Market Harborough with a view to enhancing use and improving footfall to the town centre.
- 1.2 To consider whether to seek transfer of The Square to the District Council to provide control over the area which will support the Strategy.

2 Recommendations:

- 2.1 To adopt the Strategy for The Square appended as Appendix B.
- 2.2 To recommend to Council that transfer of the land outlined in Appendix A be pursued through the Leicestershire Act 1985; and that the Corporate Director (BJ) is authorised to take all steps that are necessary to implement this decision, in consultation with the Head of Legal and Democratic Services and the Portfolio Holder Finance and Assets; and
- 2.3 Subject to Council approving 2.2 above to delegate authority to the Corporate Director (BJ) to submit a planning application for change of use of the land outlined in Appendix A from Public Highway to Public Open Space

3 Summary of Reasons for the Recommendations

- 3.1 To improve the use of The Square for events/markets to enhance footfall and income.

3.2 To allow the Council to have full control of the land and avoid the need for Temporary Traffic Regulation Orders for each event.

4 Key Facts

4.1 The land outlined in red on the plan attached as Appendix A, is currently public highway, and the responsibility of Leicestershire County Council. The land is unregistered and the ownership of the freehold land is unknown.

4.2 The District Council has, historically, maintained the war memorial, and provides and maintains the park benches on the land edged red.

4.3 To enable The Square to be used for the events envisaged by the Strategy referred to in Appendix B, the Council has to obtain a Temporary Traffic Regulation Order (TTRO) the effect of which is to prevent the areas being used as public highway for the duration of the event. Over recent years, Leicestershire County Council (LCC), as Highways Authority, have implemented revised and improved arrangements for applying for TTRO's to enable use of The Square.

4.4 These arrangements require full details of any proposed event being submitted to LCC, and, also, require the advertising in the local newspaper for each proposed TTRO. As such, the costs associated (typically £1,000) and time taken to arrange the TTRO have proved prohibitive to providing events on The Square on a more regular basis.

4.5 The requirement for a TTRO has not extended to the holding of markets on The Square. Markets held include Farmers Market (monthly), Plant Fairs (monthly during summer months), Craft Fairs (monthly during summer months) and French Market (annually).

4.6 Events on The Square, generally, increase footfall to the town centre, providing a different offer for visitors and more potential customers for the retail businesses in the town.

4.7 The Council should, therefore, take a strategic approach to the use of The Square to improve the economic performance of the town, increase visitor numbers to the town on a regular basis and prevent shopper leakage to other towns in the area. The suggested approach is set out in detail in the proposed Strategy attached as Appendix B.

4.8 In order to implement the Strategy to maximise the effectiveness, it would be desirable to identify options for removing the requirement for a TTRO for each event.

4.9 Discussions with the Highways Authority have identified an option to transfer the land in Appendix A to the District Council, and the details are outlined in section 5 – Legal.

5 Legal Issues

- 5.1 In order to assume responsibility for The Square, the District Council would need to follow the process outlined below.
- 5.2 Harborough District Council, as proposed landowner would need to apply to the Council, acting as Planning Authority, for a Change of Use of the land from Public Highway to Public Open Space. Applications of this type are normally determined within twelve weeks of receipt..
- 5.3 If the application were to be successful, the Council would also need to apply to the Department of Transport to 'stop up' the existing Highway Rights using Section 247 of the Town and Country Planning Act 1990. Section 247 of the Act allows the stopping up of the highway for development purposes with the proposed Change of Use being sufficient to be classed as development. The application process includes a public consultation process with the opportunity to submit objections . A Stopping Up Order will only be made when:
- planning permission has been granted; and
 - any objections made are withdrawn or an inquiry has been held and the inspectors report and recommendations have been considered.

The Department of Transport will accept applications prior to the actual granting of planning permission and the two processes are able to run concurrently. There is, currently, no fee for the application for the stopping up application. It is important to note that any such application may not be successful.

- 5.4 Subject to planning permission being granted and a stopping up order being granted, the District Council would need to apply to Leicestershire County Council for the land to be vested to the District Council using s. 11 of the Leicestershire Act 1985. This process involves the County Council making an application to the courts to 'vest' the land to the District Council. This requires an application to the County Court for the vesting together with a public consultation process and an opportunity to submit objections.
- 5.5 The whole process could take approximately 12 months to complete, however, this timescale is very much subject to any objections being received at any stage of the process and, in addition, the availability of court time to deal with the vesting order. The applications costs currently stand at approximately £3,000 in total. However, Leicestershire County Council are currently revising their vesting fee (£1,500) and therefore the fee, may increase in the near future.

If the vesting order is made, the Council would become the Freehold Owners of The Square and title would be registered at the Land Registry. It must be noted that the vesting process is being suggested as the owner of the freehold of the land is unknown. If an "owner" of the land comes forward within 12 years of the vesting of the land, the Council would be liable to pay a compensation claim.

- 5.6 Highways rights would no longer exist on the land and therefore, TTROs would not be required for events held on the land.
- 5.7 The District Council would become responsible for all costs involved in the upkeep of the land and, in addition, would be required to put in place the necessary insurance cover, specifically public liability insurance, as the Council would take on the liabilities and responsibilities as landowner. A summary of the anticipated costs and income is included in the Resources section below.
- 5.8 The Council has undertaken searches relating to utility apparatus on the Land. Three utility companies (Severn Trent, Anglian Water and Western Power) have apparatus under The Square. However, all three companies have indicated that they have no objection to the proposals. Existing Wayleave and other legal agreements will need to be revised to include the ownership of the District Council once the vesting process is completed.
- 5.9 If the policy is adopted, the street trading area will need to be revised and any necessary changes implemented.

6 Resource Issues

- 6.1 The table below summarises the fixed expenditure costs for operating The Square;

Item	Annual Revenue (£)	Periodic Costs (£)	Period	Annual Charge (£)	Total (£)
Paving	1,640	60,000	20 years	3,000	4,640
Bollards	820	2,850	10 years	285	1,105
Benches	1,640	10,000	7 years	1,429	3,069
Litter Bins	500	3,000	7 years	429	929
Hanging Basket Stand	50	400	10 years	40	90
Electricity Point	900	900	10 years	90	990
Trees	500	1,000	5 years	200	700
Memorial		3,000	20 years	150	150
Sub-Total					6,535
Sub-Total					5,138
TOTAL					11,673
	Currently HDC responsibility				
	New HDC responsibility				

This demonstrates that the Council would assume responsibility for approximately an extra £5,138 of liabilities per annum.

- 6.1 The table below summarises the income and variable expenditure from operating The Square;

Item	£ per annum
External Seating Licences	£2,000
Markets & Events inc	£25,000
Costs of Events	(£15,000)
Sub-Total	£12,000
Fixed Costs from above	(£11,673)
Surplus based from above	£327

The above table indicates that the new strategy should break-even. There may be the opportunity to increase the income from Markets and Events once the strategy is implemented,

7 Equality Analysis Implications/Outcomes

- 7.1 There are no equality issues as a result of the report.

8. Risk Management Implications

- 8.1 As outlined in 5.5 above, there are risks regarding ownership and title.
- 8.2 There are risks in not assuming responsibility for The Square and no increase/decrease in events on The Square, which over time, could have a negative impact on visitor numbers on town centre footfall.

9 Consultation

- 9.1 Consultation has been undertaken with internal departments, partner and community organisations.

10. Options

- 10.1 The Options are outlined in Appendix C.

11 Background Papers

- 11.1 None

Previous report(s): None

Information Issued Under Sensitive Issue Procedure: No

Ward Members Notified: Y

Appendices:

A. Plan of The Square

B. Draft Outdoor Event Strategy for The Square, Market Harborough

C. Options