



City of Westminster

Cabinet Report

Decision Maker:	Cabinet
Date:	12 December 2016
Classification:	General Release
Title:	Berwick Street Market – Response to Petition
Wards Affected:	West End Ward
Key Decision:	No
Financial Summary:	No financial implication
Report of:	Executive Director for Growth Planning and Housing and the Executive Director for City Management and Communities

1. Executive Summary

- 1.1 The Council has decided to contract the Berwick Street Market to a professional operator. This is because an established and reputable market operator will be best placed to deliver a vibrant market that provides a strong focal point for Soho, its residents, workers and visitors.
- 1.2 On the 30th September 2016 the Council received a petition from the Berwick Street Market Traders which had been signed by 35,000 people. However, as between 500 and 10,000 of these were based in Westminster a requirement for a report to the Cabinet has been triggered. The petition asks the Council to bring an end to the on-going procurement process for a professional operator to run the market. This report responds to the issues raised in the petition and advises on the action taken as a result (appendix C).
- 1.3 The council is resolved to continue the procurement process for the selection of a market operator for Berwick Street Market. The selected operator will manage the market, while the strategic direction will be overseen by a board comprised of the council, trader representatives, the new operator, and local stakeholders.
- 1.4 This is a pilot which will run for 12 months from spring 2017. If successful, there is the option of extending the contract for another four years.

- 1.5 Potential operators will need to demonstrate the necessary experience and skills to ensure the market reaches its full potential. Bidders will also be required to submit a strategy for supporting start-up businesses and providing future opportunities for Westminster residents.
- 1.6 The council will actively encourage the shortlisted operators to engage with the existing market traders and to meet with key stakeholders to better understand the local community's vision for the market.

2. Recommendations

- 2.1. That the Cabinet
 - a. **Note** the receipt of a petition relating to the Council's plans for Berwick Street Market.
 - b. **Confirm** that the decision is made in accordance with the terms of reference of the Cabinet Member for Housing and Regeneration. The Executive Director for Growth, Planning and Housing holds the delegated authority for this decision as the contract value falls below £1.5m. The Cabinet Member will be consulted before a final decision is made.
 - c. **Endorse** the response to the petition as set out in this report.

3. Reasons for Decision

- 3.1 The report seeks confirmation that the Cabinet is confident in the decision making process that is in place in relation to appointing an operator for the Berwick Street Market. The contents of the petition will be considered when making this decision. The next stage is the awarding of the contract.

4. Background, including Policy Context

- 4.1 Berwick Street Market is not performing at its full potential, either in terms of occupancy or offer. The market has a significant opportunity to support the investment being made in the area and create a strong focal point for Soho.
- 4.2 The Council believes that a market operator would be best placed to deliver this ambition. The rationale is as follows:
 - The management of the market requires retail and business skills not present within the authority. These skills go beyond enforcement and the street management functions the council currently provides.
 - There has been rapid growth of markets across London. This has created a deep pool of trader talent which an experienced operator would be able to tap into so as to enrich the offer of the Berwick Street Market.

- A professional operator will introduce a new commercial understanding of the demand for products and services by residents and the local workforce and will enhance the relationship with existing retailers. These are all areas outside the council's area of expertise.

4.3 The Council launched the Pre-Qualification Stage on the 23rd July and received seven expressions of interest. To ensure selection of the best possible operator, all seven of the bidders have since been invited to tender.

4.4 The timetable is set out below:

	Completed by
Invite Tenders	25 th November 2016
Bidder Briefings	W/C 28 th November 2016
Closing date for submission of Tenderers' questions	5 th January 2017
Answers to Tenderers' questions circulated to all Tenderers	9 th January 2017
Closing date for receipt of Tenders, noon on:	16 th January 2017
[Post-tender clarification meetings – if required]	W/C 23 rd January 2017
Notification of proposed award of Contract	W/C 20 th February 2017
Voluntary Standstill period commences on or around	W/C 20 th February 2017
Contract Award	March 2017

5. Response to the petition

5.1 In May 2016, the council received the appended letter from the Berwick Street Traders (Appendix B). The Council has responded to the questions posed in the traders' letter (Appendix C). The letter was then re-presented to the council in September as a petition containing 35 000 signatures.

5.2 As recommended above, Cabinet is asked to note the petition and the response made on behalf of the Cabinet Member for Housing and Regeneration through the delegated authority held by Ed Watson, Executive Director for Growth, Planning and Housing. The Cabinet is asked to endorse the response to the petition as set out in this report.

5.3 The next stage of the Berwick Street Market procurement is the Invitation to Tender. The Council will then evaluate the tenders it receives and determine who to award a contract to for the management of Berwick Street Market.

5.4 This petition along with other stakeholder feedback will be taken into account when making the final decision on the award of the contract for the management of the Berwick Street Market.

6. Financial Implications

6.1 This report has no financial implications.

7. Legal Implications

7.1 This report has no legal implications

8. Outstanding issues

8.1 None

If you have any queries about this Report please contact:

Greg Ward, Director of Economy

at gward@westminster.gov.uk

Appendix A

Other Implications

1. **Resources Implications** – the tender is managed through internal council resources.
2. **Business Plan Implications** – no implication
3. **Risk Management Implications** – no implication
4. **Health and Wellbeing Impact Assessment including Health and Safety Implications** – no implication
5. **Crime and Disorder Implications** – no implication
6. **Impact on the Environment** – no implication
7. **Equalities Implications** – no implication
8. **Staffing Implications** – the tender is managed through internal council resources.
9. **Human Rights Implications** – no implication
10. **Energy Measure Implications** – no implication
11. **Communications Implications** – no implication

Appendix B

Berwick Street Market Petition Letter

KEEP BERWICK STREET MARKET INDEPENDENT

After a formal meeting of Berwick Street Traders on the 14th April 2016, and in the absence of any further update from Westminster City Council (WCC), it was agreed unanimously that I write to you to express our deep concern and anxiety regarding the privatisation of Berwick Street Market and, in particular, the stated privatisation date June 30th 2016 - The date on which all short term licences will be terminated, despite the fact that some have been running for as long as 8 years, some carry very heavy set-up and investment costs (up to £ 25,000) and all support jobs, livelihoods, families and serve the community.

While there has been some talk of delay, there has been nothing in writing. Neither has there been any official consultation with market traders as to the council proposals. It appears we are being presented an official decision without prior notice or consultation. The effect is to damage confidence in the market as a whole and jeopardise any chance of a satisfactory and sustainable outcome. The timing of your actions could not be worse as the market is trying to operate in the most adverse conditions at the moment in any event. The situation is measurably worse because of our Major Change in Circumstances (MCC), with the demolitions running on two sides of Berwick Street – PMB Holdings and Soho Estates, both of which come hard on the heels of the road resurfacing that took a whole year and the subsequent closure of the Co-operative Supermarket and other shops, cafes, restaurant and stores that drove footfall and business into Berwick Street Market.

Together the works will run for 4 years with the added issue of Broadwick Street being taken up twice and the absence of parking and storage facilities that are the consequence, further damaging both environmental and economic trading conditions. You will appreciate the net result of these changes is to damage the operation of the market which has not been protected and drive out traders and customers alike.

Since the road works and over the period to date, many established traders have lost two thirds of their turnover, as access to the street becomes increasingly problematic and sometimes impossible. The current demolition works run at the market's busiest times; morning footfall, lunchtime footfall and hometime footfall are all seriously effected with a consequent impact on trade. By comparison, and in the experience of Berwick Street Traders, it is possible to make £1000 per day on Brick Lane and Camden markets but it is not possible to turnover anything like that in a week on Berwick Street, in part due to the lack of infrastructure and services, in part due to the nature of Berwick Street (shut-off, working neighbourhood and wind tunnel) and in large part due to the ongoing works and developments. Yet this is where our businesses and investment are and

where they do business and have clients. For the majority it is not possible to uproot and go somewhere else, so we need to find a solution.

Meanwhile, it seems that there is privatisation consultation going on behind the scenes despite the privatisation not being formally advertised, giving advantage to those engaged in this closed process. Commercial organisations have, we understand, expressed interest and others have walked away having visited the site because of the ongoing demolition and redevelopment works that make Berwick Street Market an extremely difficult proposition for the next two years. The idea that organisations unknown but widely rumoured to be Shaftesbury PLC, Joe Lewis and Candy further undermines the confidence of locals that they will be served by privatisation. The people who understand Berwick St Market best are the traders who work it, but we have not been consulted and therefore any conclusions drawn will be spurious assumptions based on irrelevant knowledge.

Berwick Street Traders have been loyal to the market, local businesses and residents through thick and thin over the decades and particularly in recent years - serving this community through major changes including road closures, resurfacing, redevelopments and the demolitions on two sides that have been continuous and very disruptive. Our reward is the termination of the majority of traders on the market, some of which you have actively encouraged to invest in the market only to be told that we are no longer welcome. It strikes us as unfair and unreasonable to say the least. While the immediate impact is on temporary license holders, some of which have been trading here for more than 8 years, your decision to privatise affects us all.

We ask that any decision on the privatisation or even start of the process of privatisation be halted until such time as an alternative sustainable plan is put forward, that takes into account the livelihoods and amenities that will be lost, is presented and rejected by you. Although the letter did not go to hereditary/long-term licence holders, all Berwick Street Traders will be impacted by the plans should they be executed, with potential costs increases that will close every business in no time, and bring this historic market to a close, because there is no time to prepare for dramatic changes or to propose a solution to the considerable issues now presented.

I repeat, jobs and livelihoods are at stake, community stakeholders will be negatively impacted, and there is high probability that the community will lose a 300 year old asset.

To save time and any unnecessary expenditure, please will you confirm:

1. The validity of the notice to terminate - the City Of Westminster Act 1999 may impose certain condition and ought to be reviewed
2. Whether or not passing the market from public ownership to a private operator is incompatible with rights and obligations of the Council

3. What pitch price/annual revenue you are trying to achieve and how you came to those numbers
4. What terms are being offered to the private sector, why there is no public consultation, is it not possible for the operation of the market to be handed to a not for profit organization?
5. Whether or not you are willing to halt progress of privatisation and/or postpone the date of the execution of short licence to enable a proper consultation period and explore options
6. Whether or not there is to be a stay and if so, what date is being proposed?

We have not stopped developing a realistic economic plan for Berwick Street Market, remain confident that there is a solution that serves the best interests of the community, residents, businesses, traders, developers and Westminster City Council and, with that in mind, ask you to consider a proposal from an independent organisation with community and economic interests at its heart, that will promote a sustainable solution for all.

Best Regards

Robin Smith
On behalf of Berwick Street Traders
Co-signed

Appendix C

Response to Trader Questions

Ed Watson
Executive Director, Growth, Planning and Housing

Please reply to: Roger Austin

Direct Line / Voicemail: 020 7641 7061
Email: raustin@westminster.gov.uk

Date: 10th May 2016

Robin Smith
Berwick Street Traders
Berwick Street Market
Soho
London W1

Dear Robin,

Thank you for your letter dated the 20th April 2016. I regret to hear you feel that you have not been sufficiently informed about the changes to Berwick Street Market. Our genuine intent has always been to keep local stakeholders up to date, and we have been communicating with the local community and traders since February. However, I would be happy to offer another meeting with if you feel this would be of benefit.

The council's decision to move to an operator led model for part of Berwick Street Market is because it is currently not reaching its full potential.

Under the proposed new model, the selected operator would run and manage the market, while a board comprised of the council, trader representatives, the new operator, and key local stakeholders will oversee strategic direction. We believe this will give traders greater ownership over the future overall direction of the market, allowing them to hold the operator to account, and generate wider benefits for the local community.

Please find clarifications to the six points you specifically mention:

1. The validity of the notice to terminate – the City of Westminster Act 1999 may impose certain conditions and ought to be reviewed.

On 2 March, the council notified all temporary licence holders of the decision to pilot an operator led model for part of Berwick Street market. All temporary licences are for a maximum of six months, and as such the council cannot

provide any guarantees that these will be renewed. Permanent licence holders will not be affected by the change.

The council will ensure that any trader interested in trading under the new model is referred to potential operators and that this is taken into consideration. Details for registering an interest will be communicated to all temporary licence holders in writing on Tuesday 10th May. For more information about this process, please contact Roger Austin on raustin@westminster.gov.uk.

2. Whether or not passing the market from public ownership to a private operator is incompatible with the rights and obligations of the council.

The existing legislation does not prevent the council from granting a licence to a market operator. As stated above and outlined in letters to traders, local residents and businesses, the decision is based on our strong desire to ensure that Berwick Street market reaches its full potential, providing a sustainable and vibrant environment for the residents, workers and visitors in Soho.

We do have vacancies at our other markets in Westminster and, should any market trader wish to relocate, we will facilitate the transfer of their licences and waive any variation fees that would normally apply. For more information about this process, please contact Rosalind Hick on rhick@westminster.gov.uk.

3. What pitch price/revenue you are trying to achieve and how you came to those numbers?

The costs per pitch to the selected operator are being finalised. These costs will be based on the council's own costs relating to the market, including officer time, administration, enforcement, maintenance costs relating to electricity and water, commercial waste and street cleansing.

4. What terms are being offered to the private operator, why there is no public consultation, why it is not possible for the operation to be handed to a not for profit organisation.

As stated towards the beginning of this letter, the selected operator would run and manage part of the market, while the strategic direction would be overseen by a board comprised of local stakeholders. New operators will be required to take account of affordability for traders while also ensuring the market is financially sustainable. Should the 12 month pilot be deemed successful by the council and key local stakeholders, the contract will be extended for a further four years. Based on the revised launch date we feel that 12 months is the right amount of time to assess the success of the contract and allow the trading cycle to be tested robustly.

There has been engagement with traders and key stakeholders on this decision and we are currently seeking views from the local community as to what they would like to see from their market here: www.westminster.gov.uk/berwick-street Please note that we are not limiting bids to a certain type of operator. Not for profit organisations with the necessary experience in operating a market are welcome to submit a bid proposal. As part of the selection process, any potential operator will need to demonstrate an ability to manage the market effectively. They will also obviously be required to submit their plans for supporting start-up businesses and providing future opportunities for Westminster residents.

5. Whether or not you are willing to halt progress of privatisation and/or postpone the date of execution of a short licence to enable a proper consultation period and explore options.

As previously communicated to traders and other local stakeholders, the council will progress with the procurement as it strongly believes that this would be the best option to ensure a flourishing market.

Advertisement of the opportunity is now likely to be towards the end of May. The council follows strict procurement guidelines and interested operators who have approached the council have been advised that we will contact them with more information once the notice has been advertised.

6. Whether or not there is to be a stay and if so, what date is being proposed.

I believe you are referring to the date when the current temporary traders' licences will cease. We have taken account of your feedback and that of other traders. We will launch the new market in April 2017. Temporary licences will continue to be granted for street trading up to the 31st March 2017, subject to the standard licensing process. This will ensure the successful launch of the new market in collaboration with the new operator (and any existing traders they recruit), the existing permanent traders, and key local stakeholders. We will notify all traders of this decision on Tuesday 10th May 2016.

I hope this letter provides the clarification that you and your fellow traders are seeking. Again, I am very happy to arrange for you to meet with me and my team to discuss this matter further.

Yours sincerely,

Ed Watson
Executive Director, Growth Planning and Housing