

Classification: Open	Decision Type: Key
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Report to:	Cabinet	Date: 25 September 2024
Subject:	Part A - Bury Indoor Market Hall – Continued Support for Traders	
Report of	Cabinet Member for Culture, Economy and Skills	

1. Summary

In October 2023 Bury Indoor Market was closed due to the discovery of Reinforced Aerated Autoclaved Concrete (RAAC) which posed a significant Health and Safety risk.

Following the closure, 49 Traders (62 Units) who operated within the hall were either relocated, had their units reconfigured to continue operating, or arranged alternatives for their business.

A considerable amount of emergency support was given by the Council to traders ranging from financial support to mental health awareness and access to wider business support.

During the consultation with traders, the Mill Gate shopping centre became a viable relocation opportunity. Bury Council and Bruntwood had recently entered a Joint Venture to purchase the Mill Gate as part of the wider regeneration plan for Bury.

Traders moving into the Mill Gate Shopping Centre were advised they would receive 2 weeks rent-free and then they would pay their equivalent rent based on their original unit within the Market Hall.

Bury Council committed to pay all utilities, service charges, business rates and BID levies for traders occupying the Mill Gate Shopping Centre.

By committing to this support, the traders that are now operating within the Millgate Shopping Centre are receiving continued financial support, which is over and above their rent and service charge

The cost to the Council for the Indoor Market Traders to occupy and operate within the Mill Gate Shopping Centre is forecast as £268,300.00.

The level of support is unsustainable and is creating increased budget pressures on Bury Council.

The traders were advised that the support would be revisited and reviewed in 12 months. As traders were not relocated together, the date when the 12 months expires varies considerably.

2. Recommendation(s)

It is proposed that traders operating within the Mill Gate Shopping Centre be given notice that the support they are receiving ends in March 2025. This will allow traders time to either negotiate with the Mill Gate Shopping Centre for a formal lease or to consider alternatives, for example, relocation.

It is recommended that the total cost of the emergency response to the closure of the Indoor Market Hall is approved by the Cabinet as it is now over £500,000.00 which deems it a key decision.

3. Reasons for recommendation(s)

Although Bury Council is committed to Bury Market and the continued development of the Town Centre, continued support for a small number of relocated traders operating within the Mill Gate will create a considerable ongoing strain on Council budgets.

Continued financial support for relocated Market Traders operating within the Mill Gate creates inequity for Mill Gate retailers.

The continued support cost could be utilised to deliver the preferred option of the Market Hall feasibility study.

Any decision in relation to an executive function which results in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned, in this case, the expenditure in excess of £500,000.00, is deemed as a key decision and must be approved by Cabinet.

4. Alternative options considered and rejected

Continued financial support to the market traders operating in the Mill Gate was considered, however, this creates ongoing budget pressures, with limited means to mitigate any overspending relating to this within Council budgets.

Relocation support for Mill Gate traders to Bury Open Market was also considered, however occupancy within the Market is at 100%. Units that become available over the notice period will require reconfiguration, which costs cannot be covered by Bury Council, as it would create further budget pressures and be perceived as inequitable.

The option of giving 3 months' notice to vacate the Mill Gate premise in line with the terms of the lease, or 4 weeks' notice to terminate the licence agreement between the Licensor and Licensee were considered. These options would not give the trader sufficient time to consider their position and explore alternatives with the support of Markets and Mill Gate Management.

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5. Background

5.1 RAAC discovery

Bury Indoor Market forms a vital component of the Bury Town Centre retail core. It hosted a six-day-per-week market and functioned alongside other important facilities such as the popular outdoor market (3 days per week operation) and the Meat & Fish Hall (6 days per week operation).

The building is well regarded and is seen by some as a classic modernist structure, featuring a gull-winged roof. The building is over 50 years old.

Reinforced, Autoclaved Aerated Concrete (RACC) is a type of building material that has been used in the construction of several schools across the UK and some social housing in Scotland.

If buildings are found to contain RAAC the Government's advice is that they may need to be closed immediately on health and safety grounds due to the risk of collapse. This advice was not known in the 1970s when many buildings were constructed using RAAC.

Advice was issued to all Local Authorities from Whitehall in September 2023 to check all schools and then all other buildings for RAAC and to close any building immediately that is found to be built with RAAC.

In October 2023, following an initial building survey by Pick Everard LTD, RAAC was found in the loading bay roof and the main roof of Bury Indoor Market, and due to the Health and Safety Risk it was necessary to close the Market Hall, affecting 49 traders.

Once RAAC had been discovered, from the initial survey to determine the existence of RAAC and possible Health & Safety risk, the Council procured Pick Everard LTD formally to compile a more detailed condition report of the Indoor Market Hall. The report covered the following:

- Roofs
- External Elevations
- Internal Areas – fabric

- Structural Matters
- Mechanical, Electrical & Plumbing (MEP)

The cost associated with the emergency response is highlighted in section 5.5

5.2 Relocation and Compliance

The process to relocate the 49 traders who operated within the Hall was started and all were relocated elsewhere in the open Market, the Mill Gate shopping centre, or decided to find their own alternative solution.

- 49 Traders (62 Units) were affected.
- 16 Units reopened in their current perimeter locations of the indoor market hall after consultation with Building control.
- 2 Units were able to open a week after the closure, as entrances to the market hall were reconfigured to allow for trading.
- 8 Traders opted to operate in the open market and on pop-up stalls.
- 7 Traders were relocated to Council owned property on Princess Parade. These have now vacated to the Open Market or Mill Gate units ahead of the flexi-hall construction.

The remaining traders were relocated to the Mill Gate shopping centre. This was facilitated and supported through Bury Council and Bruntwood's joint venture which is the owner of the Mill Gate and in place to redevelop and regenerate the Mill Gate estate within the town centre.

To facilitate the continuation of trade, a relocation strategy was agreed alongside Bruntwood, the Joint Venture partners and asset managers for the Mill Gate. This agreement enabled the council to take 12-month leases.

The leases were agreed with the flexibility to enable the council to exercise a break option upon 3 months' notice should the space no longer be required for the market traders. Further suitable retail units were leased as and when available and ready for occupation.

The agreement with the joint venture, enabled Bury Council, through the Markets Management Team to sub-let the units to individual traders.

The Markets Management team were then able to continue to manage the traders under Bury Market's terms and conditions.

Whilst investigating alternative locations within the Mill Gate shopping centre, many of the vacant units were found to be non-compliant.

To expedite the relocation, the Market management team worked with Property Services, the Mill Gate Management team and compliance teams within Operations to create a work program to ensure compliance checks for all vacant units could take place.

The units must be compliant before that can be deemed suitable for occupation. The responsibility for each area of compliance varies from the landlord, tenant and sub-let tenant. Bury Council funded and facilitated all the compliance checks and remedial works for the units.

The requirements for compliance are:

- Portable Appliance Testing (PAT).
- Fire Risk Assessment (FRA)
- Water Risk Assessment / Legionella Check
- EICR / Electrical Condition inspection
- Fire Sprinkler System Service Inspection
- Fire Detection and Alarm System Service Inspection
- Fire Extinguisher Service Inspection
- Asbestos Survey
- Cooking Equipment and Extract Ducting Service Inspection
- Rodent Inspection

Mill Gate Management figures provided for the trader relocation period show an average year on year increase in footfall of 0.7%. The average monthly footfall was 916,000, peaking on Full-Market days by 40%, validating that Market visitors also spend time within the Mill Gate estate where relocated traders have been trading.

Market footfall stands at an estimated 600,000 per month, with an increase of 20% in coach visitor numbers vs 2023.

5.3 Trader Financial Support

A range of Emergency Financial support measures were made available to traders to help them through the initial period of disruption.

Additional non-financial support was provided including benefits advice, free one-to-one business and personal finance advice, access to the hardship fund, the offer of reduced Council tax (where eligible) and debt advice. Support was also given via the Health Assured Employee Assistance programme which offered sessions to manage stress and anxiety and support good mental health.

The initial emergency financial offers:

- £300 food and fuel payment (given via the faster payment process to ensure same-day payment).
- £100 Council Tax credit (if the trader resided in the borough of Bury and paid Council Tax to Bury Council).
- Access to a benefits calculator (to determine eligibility for Universal Credit/Council Tax support)
- Reduced Council Tax payments or exemptions (where eligible)

As the situation progressed, a discretionary fund was set up to enable traders to access one of two options:

1. Access to £3000.00 to support the relocation of the trader to a location within the Mill Gate or within Bury Market.
2. Access to £3,500.00 to support the traders' own efforts to relocate to an alternative location outside of the Mill Gate or Bury Market.

Each trader was also advised that rent for each of their leases, service charge and any utilities held within the Market Hall would be frozen until the Market Hall reopened, or an alternative option for the Indoor Market Hall was considered and agreed upon.

Traders who opted to relocate within the market footprint were given a 12-week rent-free period after which were required to pay the rent or daily licence of the new location they were operating from, or the rent of their original lease, whichever was lower.

Traders who opted to relocate to a Mill Gate unit were offered a two-week rent-free period upon relocation, after which they would be required to pay the equivalent cost of their lease within the Market Hall. On return to the Market Hall, a further 11 weeks rent-free period would be offered. The Council pays all other axillary costs such as business rates, service charges and BID levy whilst operating in the Mill Gate.

Traders who opted to access £3,500.00 will also be offered a 13-week rent-free period on their return to the Market Hall, or if an alternative option was considered and agreed upon.

5.4 Financial Commitment

The costs associated with the emergency response are wide-ranging. There are costs associated directly with examples including building works and trader support, however, what cannot be quantified is the amount of officer time from across all directorates of Bury Council, including Corporate Core, BGI and Operations which supported the emergency response.

5.5 Emergency response cost

The forecast cost to Bury Council due to expenditure, trader support, to March 2025 is as follows:

	Category	
Building	Building costs including survey/compliance costs etc	£118,000.00
Other	Utility costs £88.5k, Shutter payments £10.0k, Room hire £1.0k	£99,500.00
Support	Support Payment taken up @ £3,500 per trader	£52,500.00
Relocation	Relocation Support payments	£88,180.00
Storage Discount for Traders	To be funded from Bury Market Revenue Account	£156,000.00
Building Capital Costs	Costs which meet capitalisation criteria, including buildings	£289,000.00
Total Expenditure		£803,180.00

Although the total cost includes costs associated with all traders impacted by the market hall closure, there are specific costs to Bury Council due to traders occupying the Mill Gate Units.

Total occupancy cost for Bury Council for units associated with relocated Market Traders within the Mill Gate are as follows:

	Occupancy Costs for Bury Council Leased Units
Rent	£48,635.00
Rates	£120,353.00

Service Charge	£94,150.00
Insurance	£5,197.00
Occupancy Costs	£268,335.00

Although relocated market traders operating from the Mill Gate are recipients of subsidies to operate in the Mill Gate Units, rent and utility costs are being collected.

The breakdown of income generated is:

	Rent and Utilities charged to traders
Rent / Sub-lease	£86,600.00
Utilities	£19,000.00
Total Income	£105,600.00

Total Cost to Bury Council of Support for Market Traders to continue to operate within the Mill Gate to 31 March 2025:

£162,735.00

5.6 Communications Plan

The decision to cease or change any financial support for the market traders operating within the Mill Gate since the relocation requires a strong, clear, and transparent communications plan.

The traders were advised on Tuesday 5th December 2023, at an Indoor Market Trader briefing, held with support from the NMTF (National Market Traders Federation), that the financial support would be reviewed after 12 months of the relocation.

Working with Bury Council's communications team a comprehensive communications plan has been compiled to ensure that traders are fully informed as well as other stakeholders including Bruntwood, Millgate Management and the Joint Venture.

Briefly, however, the communications plan recognises that regular communication and ongoing dialogue have been maintained with all traders impacted by the indoor market hall closure, wider market traders and other key town centre.

However, if the Cabinet approve to end the financial support package, direct communication with the relevant traders will be activated via:

- Group trader briefing

- One-to-one meetings
- Email (to formally confirm the end date for the support and other auxiliary matters)

Internally the Cabinet members will be fully briefed as part of the governance process and this information will be disseminated to ward councillors.

Markets Management team has engaged informally with all impacted traders before the Cabinet meeting takes place.

Following on from Cabinet, each trader will be briefed further on the outcome of the meeting and will have the opportunity of a one-to-one meeting with the Market's Management team, with formal details being confirmed by email and letter.

5.7 Wider town centre stakeholders

- Mill Gate Shopping Centre Management Team
- Bruntwood / Joint Venture

The Millgate and Bruntwood have been updated before the Cabinet meeting informally and then will be formally advised following the Cabinet decision. A meeting with Bury Council and the Joint Venture will be held if the decision is taken to cease the current financial support.

This will initiate traders impacted to speak to Bruntwood and the Mill Gate if they decide to continue to operate within the Millgate on their terms and conditions.

The key messages are:

- Bury Council remains committed to Bury Market and has not taken this decision lightly.
- Bury Council recognises the vital role of the market in bolstering the town centre economy.
- This is a decision taken in the context of Bury Council's limited funds and significant budget pressures from other service areas, particularly children's and adults' social care.
- The cost of the RAAC Emergency with the Indoor Market Hall, including the relocation of traders, has cost more than £952,000.
- The Council is committing to maintain the current financial support package for a further 6 months, including over the Christmas period and throughout the slower trading period at the start of the year.

- Planning to end the financial support in March 2025 allows six months for traders to consider their position and explore any alternatives should they choose to.
 - Over the next 6 months, the Bury Market Management Team will assist traders who may wish to look at options to trade within Bury Market, where possible.
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6. Links with the Corporate Priorities:

Please summarise how this links to the Let's Do It Strategy.

Local – Ending the financial support for the relocated market traders operating within the Millgate Shopping Centre will ensure there is equity for all retailers operating within the Millgate Shopping Centre. This allows for the Joint Venture to implement the Town Centre Master plan which includes carbon reduction.

Enterprise – Ensuring equity with Millgate traders and retailers means that Bury Council are not continuing to financially support businesses. It will give traders the opportunity and time to consider better sustainable options for their businesses. Traders will have access to support through the Business Growth Hub and DWP.

Together – Listening to a wide range of stakeholders has supported the decision to cease the financial support. This brings equity to all those operating within the Millgate and will allow businesses to assess their position to ensure they can remain sustainable and viable where possible.

Strength-based approach – Working with traders and being transparent will ensure that decisions are made which will consider the wider population and the Town Centre plan.

7. Equality Impact and Considerations:

*Please provide an explanation of the outcome(s) of an initial or full EIA and make **specific reference regarding the protected characteristic of Looked After Children**. Intranet link to EIA documents is [here](#).*

A full EIA has been completed which shows a low impact on traders, with mitigations in place to reduce risk, including business support and a 6 month notice period.

8. Environmental Impact and Considerations:

There are no environmental impacts to consider.

*Please provide an explanation of the Environmental impact of this decision. Please include the impact on both **Carbon emissions** (contact climate@bury.gov.uk for advice) and **Biodiversity** (contact c.m.wilkinson@bury.gov.uk for advice)*

9. Assessment and Mitigation of Risk:

Risk / opportunity	Mitigation
<p>Reputational damage to the Council due to lack of understanding among traders as to why the financial support cannot continue.</p>	<p>Pro-active communications with all parties, including traders and press/media.</p> <p>Communications will explain the council's budget position and that public money cannot be used indefinitely to support private businesses.</p> <p>Traders will be offered support through the Business Growth Hub and DWP.</p>
<p>The decision to cease support to this trader group could be viewed as a lack of support for the future of the market as a whole</p>	<p>Communications to reference the council's wider regeneration and growth plans that will help to anchor the future of the market, e.g.:</p> <ul style="list-style-type: none"> - The market regeneration project which includes improvements to the outdoor market and the development of a flexi-hall - The Council's Joint Venture with Bruntwood to redevelop Mill Gate.

10. Legal Implications:

The financial support provided to traders was done so in the public interest, in response to the unforeseen necessity to close the indoor Market Hall. The intention of the support was limited to facilitating the continued operation of the effected traders. In this regard the support has been effective. It is some 11 months since the Hall was closed. It is necessary for the Council to review whether it remains appropriate and in the public interest to continue with this or any further financial support to the affected traders. It is important that the affected traders are not unfairly advantaged by any financial support offered by the authority. The Council's overall financial position and the competing demands on resources is a relevant consideration when making this assessment.

The financial support to affected traders is a subsidy within the meaning set out in the Subsidy Control Act 2022. Section 2 of the Act defines a subsidy as being financial assistance given directly or indirectly from public resources by a public authority, confers an economic advantage on one or more enterprises, is specific in that it creates an economic advantage and has, or is capable of having, an effect on competition or investment within the United Kingdom. However, the level of financial support provided to each trader has been judged to fall within the limit of minimal financial assistance set by the Act, currently £315,000, which can lawfully be received by a recipient of a subsidy over the current and two immediately preceding financial years.

11. Financial Implications:

The costs incurred to date are detailed in the body of the report and have been met from non-recurrent funding. Continued financial support into the 2025/26 financial year would represent an additional financial pressure and increase the funding gap within the medium-term financial strategy.

12. Appendices:

Please list any appended documents.

Background papers:

Bury Town Centre Master Plan - <https://www.bury.gov.uk/planning-building-control/regeneration/bury-town-centre>

Please list any background documents to this report and include a hyperlink where possible.

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
RAAC	Reinforced Aerated Autoclaved Concrete
BID	Business Improvement District
PAT	Portable Appliance Testing
FRA	Fire Risk Assessment

EIA	Equality Impact Assessment
Joint Venture	The agreement between Bury Council and Bruntwood to own and operate the Mill Gate Shopping Centre for economic development through regeneration.
Service Charge	An overhead cost is placed on traders to cover services such as waste removal and communal area cleaning.
DWP	Department of Work and Pensions
BGI	Business Growth and Infrastructure Team within Bury Council