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### **Objection to Kirkgate Market Refurbishment Works Planning Application (14/04516/LA)**

I am writing on behalf of Friends of Leeds Kirkgate Market (FOLKM) to object to the Planning Application (14/04516/LA) regarding the Refurbishment and improvement works to the Kirkgate Market Halls.

FOLKM is a group for members of the public supported by traders who love Kirkgate Market and want it to survive and flourish in its present form and not become yet another bland and soulless shopping centre. Since our launch in April 2010 we have had various discussions about the future of the Market. We have acted as witnesses in a City Centre Scrutiny Board Inquiry into the Market. In February 2011 we presented the council with a petition signed by 10,000 members of the public which demanded lowering rents, investment in the market and greater involvement of traders in discussions over the market's future.

To outline our position, FOLKM's main objection to this development of Leeds Kirkgate Markets is that it presents genuine threats to the Markets' future survival as a community hub, which is contrary to the guidance contained within the National Planning Policy Framework (NPPF). Resolution 42/187 of the United Nations General Assembly defined sustainable development as '*...meeting the needs of the present without compromising the ability of future generations to meet their own needs*', and we strongly believe that the proposed functional changes to the daily running and trading style of the market will have a significant and detrimental impact on the important cultural, ethnic and social diversities of the market for both present and future generations. In relation to **Promoting Healthy Communities**, paragraph 69 of the NPPF advises that '*the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities*'. It also outlines that planning decisions should aim to achieve places which promote '*opportunities for meetings between members of the community who might not otherwise come into contact with each other*'. And we would stress that the proposed functional change to unspecified 'day traders' will have a vastly adverse impact on the inclusion of individuals from lower socio-economic groups, and thus the vital fundamental societal role of the market will be diminished. Additionally, it is our contention that the Local Planning Authority has failed in its obligations under the Public Sector Equality Duty to understand and mitigate this threat, and we therefore ask that this application should be withdrawn and resubmitted only when significant steps have been taken and changes made to mitigate the discriminatory impact of the current proposals.

Turning to economic considerations, we would highlight that the application provides insufficient empirical evidence of how the proposed functional changes to the market will improve long-term income or prosperity. No comparative case studies have been provided, nor have any comprehensive and evidenced projections been included. Therefore, we believe that this should be requested prior to the determination of the application in order to demonstrate sufficiently how the proposed changes are in accordance with section 2 of the NPPF **Ensuring the validity of town centres**. Indeed,

in our own investigation of market regeneration schemes which include a number of other markets including Wakefield and Sheffield we have found that implemented changes similar to those proposed as part of this application were vastly unsuccessful, with irreversible impacts on the use and social function of the respective markets.

In other matters, we also highlight that paragraph 12 of the NPPF advises that '*proposed development that accords with an up-to-date Local Plan should be approved*' and that '*it is highly desirable that local planning authorities should have an up-to-date plan in place*'. However, Leeds City Council is submitting this contentious application for consideration prior to the replacement of the existing Leeds Unitary Plan (UDP) Review (2006) with the emerging Local Development Framework (LDF).

Following due process however, if the Local Planning Authority approves the application, we would request the following conditions be attached to any permission in order to protect the interests of vulnerable members of society who rely on the services provided by Leeds Kirkgate Market:

- Planning permission should not be granted until a proper equality assessment, which would usefully include the analysis of the socio-demographic characteristics of the customers and traders, has been made specifically addressing how these changes to the market will affect protected categories and more generally vulnerable people in Leeds.
- A condition that although the plans are silent on the position of the outside market, Leeds City Council will ensure that the outside market will not be affected by the planning and will not be moved into the day market provisions in the current 1976 Hall.
- A condition ensuring that the traders will be supported fairly and equitably with an open and transparent process for any necessary relocations in the market during the transition process. This is not currently happening.
- A condition that before planning permission is approved the board arrangements will be put in place that meaningfully includes traders and the public in the decision making process.
- A further condition that public-sector employers duty specific measures will be put in place to ensure that there are no excessive increase of rents, which would result in the demise of traders or the consequential price increase to customers. This condition is required to ensure that those within protected categories and more generally vulnerable people in Leeds continue to have access to value for money goods in the future market. Indeed this condition would quite properly require a strategy to encourage these groups to use the market in line with wider Leeds City Council aims as a Local Authority. This aspect will ensure the cultural heritage of the market is maintained and not changed beyond recognition.

Given the importance of our request and the different issues raised, we would also like the opportunity to speak at the Plans Panel meeting that will consider this application.

Yours sincerely



On behalf of Friends of Leeds Kirkgate Market

## **Public Sector Equality Duty (PSED) in the planning process**

Any kind of planning decision is bound to impact on communities and differently on different sectors of our society. Any decisions regarding changes in Kirkgate Market, as a place central to the city of Leeds, will undoubtedly have very important consequences on these various communities. The Equality Duty, since 2010, requires Leeds City Council, as a public body to have **due regard** to

1. eliminate unlawful discrimination, harassment, victimisation and any other conduct, prohibited by the Act;
2. advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
3. Foster good relations between people who share a protected characteristic and people who do not share it.

The case of R (Harris) v London Borough of Haringey [2010] EWCA Civ 703 confirmed that the Public Sector Equality Duty now found in section 149 of the Equality Act 2010 applies to significant planning decisions. This case related to a planning application granted by Haringey Council in London to significantly reform a Market predominantly used by the Latin American community in London. The Court found the effect of that duty is not and should not be confined to assessing the accessibility of proposed developments or the architectural designs. Rather, the impact of a development on existing users of a site (which in the case of a market includes stall holders and market users) needs to be properly assessed and taken into account as a mandatory relevant consideration within the planning process.

### **Leeds City Council's Failure to comply with the PSED**

To date, the local authority has failed to meet this due regard in the process around the redevelopment of Kirkgate Market. Leeds City Council has not carried out any research into the socio-demographic and ethnic characteristics of either the market traders or the current market customers and has made no attempt to either understand or mitigate the impact that refurbishment, relocation, demolition and displacement will have on traders and the more vulnerable groups of customers who are currently reliant on the market.

The council's Equality Impact Assessment (EIA) submitted as part of this planning application has no reference to the Equality Act or the Public Sector Equality Duty. The EIA's focus on the steps taken to include different groups in the consultation and on accessibility and architectural issues shows that there is absolutely no evidence or information on the demographic composition of traders or customers. The council clearly does not feel this is necessary to know. Compare this to the hundreds of thousands of pounds spent on studies on the architectural, etc condition of the Market but absolutely no research on the social composition of the Market. Page 10-11 says that "Kirkgate Market is inclusive and does not disadvantage any equality characteristics" but there is no evidence to understand how and what inclusivity is based on and therefore how could it be disrupted or endangered.

The council have failed even to reflect the limited findings of their own demographic data collected during the consultation phase of this development and to include the concerns raised by the consultants who carried the Feasibility Study that there were indeed particular groups of customers who should be taken into consideration when making any significant changes to the market. In detail NPS said "*there are a number of locally living individuals, from potentially lower income groups (such as students, the unemployed and the retired), who are most likely to rely on the market as a source of good value produce, particularly fruit, vegetables, meat and fish. These individuals rate the variety of the products on offer and the value of these products most highly. Care must be taken to ensure that any changes to the*

*market do not act as a barrier preventing these groups from accessing the market. Any changes need to protect the traditional stores which operate within the market.” (NPS Stage One Engagement Report )*

### **The importance of Kirkgate Market for communities from protected characteristics**

Industry and policy research on Markets recognises the importance of markets for low income groups as they provide cheaper fresh food and household goods (GLA, 2008; ODOM, 2009; Ipsos Mori, 2007; Regeneris Consulting, 2010, NEF, 2005). In London, research found correlation between the most deprived parts of the capital and concentrations of street markets (Regeneris Consulting, 2010). Watson and Studdert’s (2006) study found that in relatively poorer cities and towns Markets tended to serve low-income communities. They also stressed the role of Markets as places for social interaction for those more vulnerable groups of people: older women, women with children, people with physical disabilities.

Therefore it has been established that markets are important places for communities from protected characteristics. While socio-economic background alone does not constitute a protected characteristic by the Equality Duty, it is accepted that women (in particular single parents), older people, and people with disabilities and those from ethnic minorities are over represented in the lower income bracket.

### **Market customers**

FOLKM has compiled their own research in collaboration with postgraduate students at the University of Leeds which provides evidence of a stronger reliance on Kirkgate Market among those groups from lower income areas. Based on an analysis of more than 3,000<sup>1</sup> postcodes of market users we are able to demonstrate that a substantial proportion of customers using Kirkgate Market come from the most deprived neighbourhoods in the city.

This represents the most extensive research that has yet been carried out on where Kirkgate Market shoppers have come from and has demonstrated that a substantial proportion of the Kirkgate Market customer base comes from the most deprived neighbourhoods in the city.

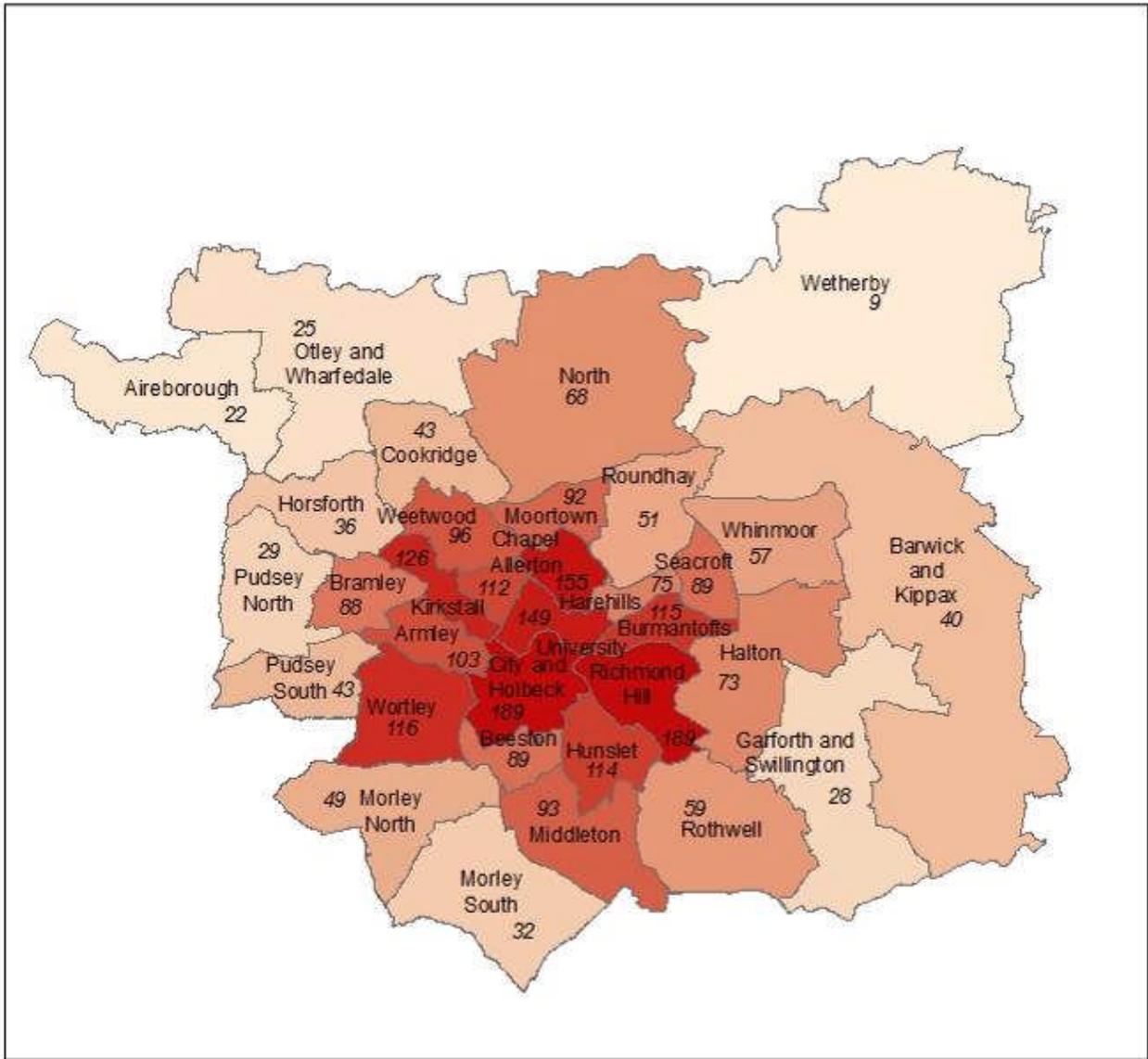
Our analysis of the postcode data showed the relationship between the geographical spread of market users within Leeds and areas of deprivation and demonstrated that, based on the 2007 Index of Multiple Deprivation it is clear that the majority of Leeds market users in the sample live in the most deprived areas of the city. Almost 40% (38.73%) were from the bottom two deciles and well over half of the sample (58.24%) coming from the bottom four deciles.

Using a Geographical Information System technique we created first an aggregated map of the postcode data, summing the number of Kirkgate market visitors within administrative districts. A Leeds choropleth map was then produced which aggregated the Leeds market users in council wards (see figure 1 ).

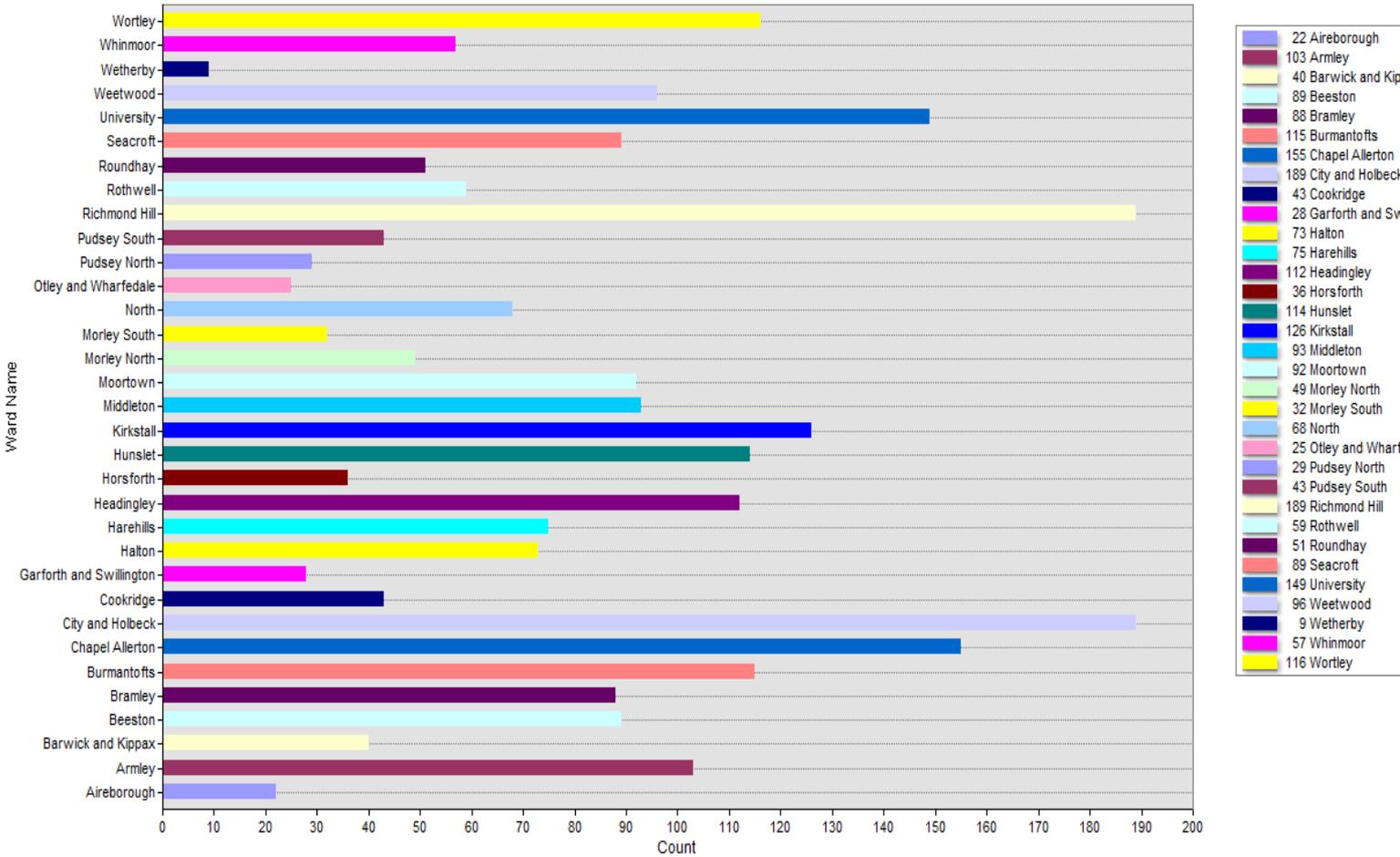
As can be seen from the map and graph below the areas with the highest concentration of market users were Richmond Hill, City and Holbeck, Chapel Allerton and University followed by Armley, Burmantofts, Headingley, Hunslet, Wortley and Kirkstall.

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<sup>1</sup> 10,000 signatures were collected for a petition about the Market. The overwhelming majority of the signatures came from Market customers. Once the data was cleaned we were able to analyse over 3,000 postcodes written by signatories.



### Leeds Market Visitors



### Market traders

Similarly there has been no attempt by Leeds City Council or Market management to gain a detailed understanding of the demographics of traders in Kirkgate Market or to discuss how the proposed changes will impact on that diversity.

There is national evidence that traders in markets are disproportionately represented by those from non white British backgrounds (GLA, 2008, Regeneris Consulting, 2010 and Rhodes, 2005). A recent Freedom of Information<sup>2</sup> requests shows a similar trend in Leeds. Although the data held by Leeds Market Management is not complete and only gives a snapshot of the ethnicity of those applying for stalls on the market it follows this national trend. In Kirkgate Market out of those who filled the equality monitoring form question on Race (around 88% of the applicants), 3.45% were mixed race, 28.45 were Asian, 12.07% were black and 43.9% white. If we compare this data to the overall Leeds population where according to the 2011 Census 92% of people are white the difference is striking. In terms of Religion of the 53% that completed that question, 22.41% were Muslim, 3.45% were Sikh and 18.97 were Christian. Compare this to the overall figures for the Leeds local authority were 68.9% are Christian, 3% Muslim and 1.1% Sikh.

<sup>2</sup>

See

<https://www.whatdotheyknow.com/request/219505/response/547662/attach/3/F12466%20Info.pdf>

What clearly emerges from this data is that Kirkgate Market traders come disproportionately from a non-white and non-Christian background and that Kirkgate Market customers come from some of the poorest neighbourhoods in Leeds. However, nothing in the current EIA and in the planning permission takes into account how the proposed changes could impact on these vulnerable communities.

### **Impact of higher rent prices on most vulnerable sectors of the community**

There is a variety of evidence from the public documentation relating to this redevelopment that rents will be higher in the newly refurbished stalls. We have also gathered evidence from traders in the lower halls who have been served eviction notices, relating to higher rent rates in the stalls they have been 'offered'.

The new covered indoor market and the proposed new George Street area are clearly aimed at more "upmarket" type traders and customers. The investment case of the Feasibility Study states that the new daily market will "attract different traders, rather than drawing from either the existing indoor or outdoor market" and "can be let at a premium" (investment case 5.10).

This redevelopment will lead to higher rents as it is clearly outlined in the various background documents. Indeed, as stated in the Investment Case of the Feasibility Study, the major changes in some areas of the Market "will provide an opportunity for rent increases" but even where there will be no changes "there will be some scope to increase rents in each of the Halls to the same level" (para 7.7). This is despite the fact that Leeds Kirkgate Market rents are already higher than in comparable Markets in the UK and the highest in Northern England (Valuation Report Kirkgate Market Leeds John Murray MRICS Principal Surveyor, January 2010)

Currently in the 1976 average existing leasehold rent is £27 per week (per square foot) while the council estimates charging £100-105 per week in the planned new daily covered market.

When we directly asked the Market Manager to confirm if there would be higher rents she was not able to deny this.

We have also seen information showing proposed rents for the new butcher stalls which are higher than the existing rents in those stalls at the moment:

New Butchers Row - Leeds Kirkgate Market - 08/05/2014

Retail Outlet Number (unit number)	Trading Area	Sq.ft.	First Floor sq.ft.	Indicative business rates ONLY Per annum £	Present monthly Service Charge £ (ex VAT)	Monthly Rent (including storage where applicable) £ (ex VAT)	Monthly rent and service charge total
28	*	477	* 192	** 12859.10	531.13	2,223.22	2,754.34
30	*	547	* 230	** 13371.46	611.55	2,551.11	3,162.67
225	*	282	* 203	** 6329.26	336.63	1,094.27	1,430.90
226	*	303	* 235	** 4915.56	306.54	849.85	1,156.39
227	*	384	* 236	** 9231.26	448.17	1,596.00	2,044.17
228	*	384	* 236	** 9458.77	448.17	1,635.33	2,083.50
231	*	286	* 239	** 7105.76	349.78	1,228.52	1,578.30
233	*	203	* 226	** 4880.07	262.53	843.72	1,106.25
278	*	415	* 220	** 10188.58	475.48	1,761.51	2,236.99
280	*	285	* 206	** 6397.41	340.43	1,106.05	1,446.48
282	*	348	* 237	** 8594.30	412.00	1,485.88	1,897.88
BS1	*	998	* 0	** 25134.13	1,009.64	4,345.46	5,355.10
BS2	*	594	* 0	** 14279.61	600.93	2,468.81	3,069.74
BS3	*	594	* 0	** 14279.61	600.93	2,468.81	3,069.74
BS1 (runned)		499	* 0	** 12567.07	504.82	2,172.75	2,677.55
BS4		499	* 0	** 12567.07	504.82	2,172.75	2,677.55

\* The areas are subject to confirmation - this will be confirmed, once we have vacant possession of the units.

\*\* The business rates figures are for indicative purpose only and will be re-calculated once the units have been re-measured and re-evaluated by the Valuation Office Agency (VOA)

A recent survey we undertook with traders affected by the redevelopment showed that most of them believed rents in new stalls would be higher and that they would not be able to afford them.

There is a real danger therefore that this redevelopment will “displace” existing traders and customers and that one of the project's aims is “replacing” them with wealthier traders and customers. In fact, it is clear that in the last 3 to 4 years (since the Kirkgate Market Strategy process started) many traders have left the Market, many of them having traded there for 40 years, because of a combination of rising costs, uncertainty for the future, disrepair and lack of custom recently aggravated by the closure of the Markets Car Park.

Recent examples of traders leaving include the “Continental shop” selling ham and other charcuterie and Steve Attak who sold fruit and vegetables, both in the 1904 hall or Kay Sharma from the 1976 who had been trading in the Market for 40 years and whose story FOLKM recorded (see <http://kirkgatemarket.wordpress.com/2013/12/03/farewell-to-a-much-loved-trader-in-kirkgate-market-for-40-years/>). But there are dozens more.

[https://www.whatdotheyknow.com/request/kirkgate\\_market\\_numbers\\_of\\_trade#incoming-473788](https://www.whatdotheyknow.com/request/kirkgate_market_numbers_of_trade#incoming-473788)

### No Business case for the indoor daily market

We are concerned that there is no clear business case for the proposed Indoor daily Market. At the same time there has been no proper consultation on this element of the redevelopment project. The daily covered market was not really part of the Feasibility Study and the “elements” that were identified by this study. Therefore there was no consultation on this proposal in the Stage 2 Engagement of the Feasibility Study. Only later it was mentioned in the “pre-application” April 2014 consultation with the leading question: “The proposed design uses the 1976 hall for the daily covered market. It would include an events area where different types of markets, not currently held here, can take place. The idea is that there will be something different to see and do each day to encourage people to visit more. Do you agree that the proposed covered daily market and new events space would attract customers and visitors into the market?” which polarised respondents in the online questionnaire.

What is more, we have repeatedly asked the Market Manager to provide evidence of any market research work done on this proposed idea but so far we have received none.

**Lack of consideration of the destruction of businesses.**

Page 12 of the EIA says that “As a consequence to the works a number of traders will be displaced particularly those located within the 1976”. We are shocked that despite Leeds City Council’s commitment to small businesses and the local economy there is so little information and consideration to this loss of economic activity. The EIA has no consideration of how this loss of employment will affect protected characteristics.