

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) held at the Council Offices, Gloucester Road, Tewkesbury on Tuesday, 8 November 2022 commencing at 11:00 am**

**Present:**

Chair

Councillor E J MacTiernan

**and Councillors:**

C L J Carter and M J Williams

## **LSB/B.20 ELECTION OF CHAIR**

20.1 It was proposed, seconded and

**RESOLVED** That Councillor E J MacTiernan be appointed as Chair for the meeting.

## **LSB/B.21 ANNOUNCEMENTS**

21.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

## **LSB/B.22 DECLARATIONS OF INTEREST**

22.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

22.2 There were no declarations made on this occasion.

## **LSB/B.23 APPLICATION FOR STREET TRADING CONSENT - WINCHCOMBE CHRISTMAS FESTIVAL**

23.1 The report of the Licensing Operations and Development Team Leader, circulated at Pages No. 1-6, outlined an application for a street trading consent for the Winchcombe Christmas Festival taking place on 6 December 2022. The Sub-Committee was asked to determine whether or not to grant the street trading consent; whether to waive the application fee for the event; and whether to permit the event on an annual basis, subject to the necessary renewal application being made.

23.2 The Licensing Operations and Development Team Leader advised that the Winchcombe Christmas Market had been taking place for eight years without any problems or issues. The event organiser had applied to Gloucestershire County Council for the necessary road closure order which was subject to statutory consultation and the Council's Safety Advisory Group was also aware of the event. The event had come to the attention of the Licensing team due to a Temporary Event Notice (TEN) enquiry being made; however, the buying and selling of goods

required a street trading consent from the Licensing Authority. The applicant had been very co-operative and had submitted the necessary paperwork as soon as possible. Due to timescales, the application had not been advertised or consulted upon as required by the Council's Street Trading Policy; however, the Town Council was involved with the event and it had been subject to consultation via other applications required, such as the County Highways road closure order. Members were advised that North Street, Winchcombe, where the event would be held, had been designated as a prohibited street which meant that no street trading applications could be made for the area. The Sub-Committee was requested to consider overriding this restriction to allow trading to take place on the prohibited street and to consider permitting the event on an annual basis, subject to a renewal application being made. There was a fee for the application but the event organiser was a charitable committee so, although they received money from the traders, it was on a cost recovery basis and they had asked that consideration be given to waiving the fee for the event.

- 23.3 The Chair indicated that nobody was in attendance to represent the applicant and she invited questions for the Licensing Operations and Development Team Leader and the Environmental Health Manager. A Member noted that the event had been taking place for eight years and he questioned whether any complaints had been received. The Licensing Operations and Development Team Leader advised that the Licensing Authority had never received any complaints and no concerns had been reported to the Safety Advisory Group. She clarified that, whilst the Licensing Authority had been unaware of the event taking place prior to the TEN enquiry, other departments within the Council were aware and it was intended to put in place better communications for other events which may be taking place without licensing permission in place. In response to a query as to whether formalising the event by granting street trading consent would ultimately make things easier for the event organisers going forward, the Licensing Operations and Development Team Leader advised that the Sub-Committee could resolve to permit the event on an annual basis, subject to a renewal application being received, which would enable the event to be held on the prohibited street for years to come.
- 23.4 A Member noted the request to waive the fee for the application and asked if that would apply to future renewal applications. The Licensing Operations and Development Team Leader advised that was a decision for the Sub-Committee - Members could decide to waive the fee on this occasion only or for future events as well. In response to a query regarding the amount that was payable, Members were advised that the fee structure for street trading was not fit for purpose; this was categorised as a prime site but the fee for that was based on a six month period. The fee for this application had therefore been calculated at £91 but assurance was provided that there would be a new fee structure in place for the next financial year when the fee was likely to be in the region of £200. A Member raised concern that waiving the fee may open the door to other charitable groups within the borough making similar requests and the Legal Adviser confirmed that it would set a precedent; however, there was a case for waiving the fee on this occasion on the basis that the need for the application had only recently come to light and the fault lay with Tewkesbury Borough Council. The Licensing Operations and Development Team Leader advised that, with regard to charitable events, the policy allowed the Head of Community Services, in consultation with the Chair and Vice-Chair of the Licensing Committee, to waive the application fee; however, in her experience, there was usually a profit being made somewhere, in this case through the traders, so there was a way the event organisers could recoup costs if necessary. A Member asked whether a decision to waive the fee would need to be taken on an annual basis and the Legal Adviser explained that, if the Sub-Committee chose to waive the fee for this occasion only, going forward the decision could be made by the Head of Community Services in consultation with the Chair and Vice-Chair of

the Licensing Committee. The Licensing Operations and Development Team Leader reminded Members that licensing was a cost-recovery service so income was needed to run it.

- 23.5 A Member expressed concern that the organisers had failed to contact the Council to establish whether consent was needed; if events were being organised in his Ward, the organisers would question whether they needed a licence and contact the Licensing Authority to find out. The Licensing Operations and Development Team Leader explained that the organiser had it in writing that no permission was required – that was incorrect advice and the Licensing team would be writing to Town and Parish Councils, Ward Members and event organisers who had applied to Gloucestershire County Council for road closures to outline all of the licences required and to ask them to pass this on to other event organisers so she was hopeful that any events which needed to be licensed would be picked up. A Member asked when that would be happening and was advised that the letter had been drafted and was awaiting sign off from the Environmental Health Manager and Head of Community Services before sending out the following week.

- 23.6 In accordance with the Local Government (Miscellaneous Provisions) Act 1982 (Schedule 4) and having considered the report, the relevant legislation and Tewkesbury Borough Council's Street Trading Policy, it was

**RESOLVED** That the street trading consent be **GRANTED**; that the application fee be waived on this particular occasion only; and that the event be permitted on an annual basis, subject to the necessary renewal application being made.

The Licensing Sub-Committee had made its decision on the basis that the event had taken place for eight years with no issues or problems being raised during the time it had been running and the organisers had always completed all other necessary procedures as required, for instance, obtaining road closure orders. It was unfortunate that the Licensing Authority was not aware of the event before and the applicant had been very cooperative and submitted all of the paperwork as soon as possible. The Sub-Committee acknowledged that the consultation required by the Street Trading Policy had not been undertaken due to timescales and was satisfied that consultation had been carried out as part of the other applications required. The Sub-Committee was happy for the event to be held on an annual basis, provided that an application was submitted yearly, and to waive the fee on this occasion given the circumstances and on the basis that the organisers were a charity committee.

## **LSB/B.24 SEPARATE BUSINESS**

- 24.1 On a proposal from the Chair, it was

**RESOLVED** That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

**LSB/B.25 REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE**

*(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)*

- 25.1 The Licensing Sub-Committee resolved to revoke a private hire driver's licence with immediate effect as the applicant could not be considered a fit and proper person to hold a such a licence.

The meeting closed at 11:25 am