

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Licensing and Regulatory Committee held at County Hall, The Rhadyr, Usk, NP15 1GA on Tuesday, 3rd May, 2016 at 10.00 am

PRESENT: County Councillor L. Guppy (Chairman)
County Councillor B. Strong (Vice Chairman)

County Councillors: R. Chapman, R. Edwards, D. Evans,
J. Higginson, J. Prosser, F. Taylor, P. Watts and M. Hickman

OFFICERS IN ATTENDANCE:

Pat Perkins	Legal Assistant
Linda O'Gorman	Principal Licensing Officer
Paula Harris	Democratic Services Officer
David Jones	Head of Community Protection
Chris Rann	Senior Licensing Officer

1. Apologies for absence

We received apologies from County Councillor A. Webb.

2. Declarations of interest

None received.

3. To confirm and sign the minutes of the previous meeting held on 22nd March 2016

We confirmed and signed the minutes of the previous meeting held on the 22nd March 2016.

4. Application for Annual Block Street Trading Consent for Usk Town Centre

The Committee were required to consider Block Street Trading Consent to trade in Usk. Two members of Usk Markets and Festivals Committee for Usk Town Centre, attended the meeting to provide Members with relevant information.

An application was received on 13th April 2016 from Mr Phillip Mungeam, on behalf of Usk Markets and Festivals Committee for Usk Town Centre. The application request is to trade on Sunday to Thursday between the hours of 09:00hrs until 18:00hrs and Friday to Saturday between the hours of 09.00hrs until 23.00hrs. The location and number of pitches requested in the application form for Usk Town Centre are as follows:-

- Twyn Square, Usk – Subject to road closure (2 pitches)
- New Market Street, Usk (4 pitches)
- Bridge Street, Usk (4 pitches)
- Twyn Square Car Park, Usk (12 pitches)
- Owain Glyndwr Field, Maryport Street, Usk (2 pitches)
- Maryport Street, Usk – park area next to number 3 (2 pitches)
- Sitting Area Outside Coop (2 pitches)
- Legion Car Park, New Market Street, Usk (2 pitches)
- Conigar, riverbank next to Usk Bridge (4 pitches)

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- Car Park in Twyn Square (18 pitches)

The total pitches requested for Usk Town Centre is 52 pitches.

The applicant has further stated that if the consent is granted he will ensure pitch holders will comply with the Council's conditions for the consent. The applicant has stated within Section 2 of the application form that each person requesting a pitch will be required to complete an "Application for a Day Market Pitch", which will be issued by Usk Markets and Festivals Committee.

The application was forwarded to the consultees (Appendix A), these being Heddlu Gwent Police, Monmouthshire Planning Department, Monmouthshire Environmental Health Department and the Local Ward Member. No objections were received on this application.

Section 13 of the Street Trading Policy adopted by this Authority on 9th February 2016 states;

An Authorised Officer will approve the application if it:-

- Meets the criteria and
- There are no reasonable and appropriate objections.

And further states, "Except where objections are received for safety reasons the Head of Regulatory Services can determine the application or defer the matter to the Licensing and Regulatory Committee."

The Head of Regulatory Services has decided in this instance to defer the matter to the Licensing and Regulatory Committee for a decision, due to the application being a new application for a permanent consent, which will include a number of pitches with wider potential impact.

Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Part III there is no right of appeal against the refusal to grant or renew a consent or against the revocation or variation of a consent.

As there is no statutory right of appeal the applicant has the right to seek judicial review. As a judicial review is largely about the decision making process, it is difficult to see how any judicial review application could be made, when the applicant understands the reasons for the Members decision. If reasons are not given then there is de facto denial of judicial review.

A District Council are under no duty to grant a street trading consent and need not specify statutory grounds for refusal. However in the case of R v The Mayor and Commonalty and Citizens of the City of London ex parte Matson, the Court highlighted the need for decision makers to give reasons in the interests of fairness and to enable judicial review proceedings to become available.

The Principal Licensing Officer explained that objections had been raised by the Highways Officer on 3 of the sites and asked that the following conditions/additions were made;

2. New Market Street – cobbled area only
3. Bridge Street – not recommended
7. Legion Car Park – subject to road closure.

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The Traffic and Network Management sections will require to know in advance of any event taking place in Usk, as this will allow any potential conflicts to be identified (such as a utility working on a diversion route etc).

Following the report Members discussed the following points:

- It was asked if existing local traders had been consulted and if they had raised any objections. We were told that the application was backed by the local Chamber of Commerce and full supported by the Town Council.
- We were reminded that applications for street closures need to be done well in advance.
- Concerns were raised that scheduled events may clash and we were advised that there is a calendar of events to ensure events do not clash and other bodies in MCC are notified and kept updated to prevent this.
- Members asked for a brief overview of events and were told that there would be a main festival 2nd & 3rd of July and a monthly market.

Members unanimously resolved to grant the application for a Block Street Trading Consent to trade in Usk, Town Centre, subject to the amendments made by Highways.

5.1. Application to waiver the fee for a charitable, non-commercial event for Magor Benefice Churchmen

Members were asked to consider the following;

Information of the approved waiver of fee for the day block street trading event on 2nd May 2016 at Magor Square, submitted by Magor Benefice Churchmen, and approved by the Chair of the Licensing & Regulatory Committee

To consider the waiver of fees for future applications submitted by Magor Benefice Churchmen for day block street trading consents.

It is recommended that Members consider the waiver of fees for future applications submitted by Magor Benefice Churchmen for day block street trading consents.

An application was received on 28th March 2016 for a day block street trading consent from Mr Kevin Gunn, on behalf of Mr Robert Ollerton of Magor Benefice Churchmen for Magor Square. The application was for a day block street trading consent for the Magor Mayfayre event for stalls on 2nd May 2016.

The applicant on submitting the application referred to in 3.1 above further requested by e-mail on 28th March 2016 the fee be waived for this event stating *"it is run on an entirely voluntary basis, and all events are put on to raise money for local charities and charitable causes"*

Item 9 of the Street Trading Policy adopted by this Authority on 9th April 2016 states:-

A fee will not be required for fetes, carnivals and similar charitable and non-commercial events in certain exceptional circumstances, and at the approval of the Licensing and Regulatory Committee. In such circumstances, each application will be treated on its own merit.

The request was unable to go to the full Licensing and Regulatory Committee for a decision as the Committee following submission of the application would not be heard until 3rd May 2016 and the event is on 2nd May 2016.

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As such, an urgent request was made by the Licensing Section with the Chair of the Licensing and Regulatory Committee on 20th April 2016 to decide whether the fee should be waived. The request was made following consultation of the application, of which no responses against the grant of the consent was received.

The Chair, on behalf of the Licensing and Regulatory Committee agreed to waive the fee by e-mail on 20th April 2016, and the consent has been duly processed.

Magor Benefice Churchmen hold a similar event in December in Magor Square, referred to as Magor Frost Fayre. The report request Members consider the waiver of fees for all future events organised by Magor Benefice Churchmen who run non-commercial charitable events.

Magor Benefice Churchmen will still be required to apply for a consent for each event and the Licensing Section will request they confirm the event on each application is processed is of a similar nature.

If Members approve the waiver of fees for future events. The Licensing Section will assess each application made for a consent and if there is any element of doubt as to the nature of the event the matter will be deferred to the Licensing and Regulatory Committee for a decision.

After hearing from the Principal Licensing Officer, Members made the following comments;

- Members were pleased that this decision had been taken as they hope that it will encourage charitable groups to approach MCC to waive fees.
- A Member was concerned that other groups would presume that their fees would also be waived and were reassured that all requests to waive fees have to be deferred to the Licensing and Regulatory Committee.
- A Member told the Committee that this was the 30th year of the May Fair and the organisation was aware of their responsibilities.

After voting, Members of the Committee unanimously agreed to waive the fees for future applications submitted by Magor Benefice Churchmen for day block street trading consents.

5.2. Application to waiver the fee for a charitable, non-commercial event for the BBC

The Head of Regulatory Services reported to Members that the Licensing section had received a request, last week, regarding a fee waiver for two street auctions in the county. Unfortunately the paperwork had not been received in time to share with the Committee, so a verbal summary was provided.

The request for a waiver of our Street Trading fees has been received from the BBC. They intend holding two street auctions, to include street parties and various stalls. Both events are non-commercial with proceeds going to charitable causes. They are to be held (1) 9 – 18.00, 28th May in 'Meadway', Rogiet, and (2) same hours, 29th May, Wellfield Close, Abergavenny.

Members agreed to waiver the fees, subject to the Head of Regulatory Services sharing the relevant documentation, when available, with the Chair of the Committee. It was noted that the two road closures had already been applied for and were now being processed.

6. To note the date and time of the next meeting

14th June 2016 at 10.00am

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The meeting ended at 10.40 am