
EXTRAORDINARY LICENSING COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT on Monday, 22 August 2022 from 2.00 pm - 2.39 pm.

PRESENT: Councillors Roger Clark, Mike Dendor, Carole Jackson, Peter Macdonald, Lee McCall, Julian Saunders, Paul Stephen, Ghlin Whelan, Mike Whiting and Tony Winckless (Vice-Chair).

PRESENT (Virtually): Councillor Cameron Beart.

OFFICERS PRESENT: Robin Harris, Chris Hills, Jo Millard and Helen Ward.

OFFICER PRESENT (Virtually): Philippa Davies.

ALSO IN ATTENDANCE (Virtually): Councillor Steve Davey.

APOLOGIES: Councillors Derek Carnell, Alastair Gould, Alan Horton and Eddie Thomas.

253 **Emergency Evacuation Procedure**

The Chair drew attention to the evacuation procedure.

254 **Declarations of Interest**

No interests were declared.

255 **Potential Relaxation of Street Trading Requirements**

The Licensing Team Leader introduced the report which asked Members to consider waiving several of the licensing requirements contained within Swale Borough Council's (SBC) current Street Trading Policy, in respect of a one off 2 day street trading application submitted by the Faversham Hop Festival organisers, scheduled to take place on the weekend of 3/4 September 2022. She referred to the Local Government (Miscellaneous Provisions) Act 1982 which gave permission for Local Authorities to designate 'consent streets' that allowed sellers to seek authority from the Council, unless it was exempt. The Licensing Team Leader explained that trading without a licence was a criminal offence and offenders could receive a £1,000 fine on conviction. She said that SBC designated all streets in July 2010 and the Street Trading Policy, which was agreed in 2013, set out the application process.

The Licensing Team Leader said that a revised Street Trading Policy was agreed by Members in February 2020, and following a consultation, the final draft policy was approved by the General Licensing Committee in January 2021, and was adopted by Full Council in March 2021.

Drawing attention to the changes to the previous policy, the Licensing Team Leader said this included the following:

- Changes to the application process which meant an event organiser could no longer apply for a one-off consent to cover a number of stalls and a trader must have their own consent;

- new applications to be submitted 8 weeks before an event and now included a 28 day consultation as detailed in paragraph 5.3.3 of the policy; and
- a requirement for all annual or 6 month consents to provide a basic DBS check and applications for one-off consents to have a DBS check if considered necessary.

The Licensing Team Leader referred to the consultees on the draft policy as set out in paragraph 2.5 of the report and highlighted that whilst holders of existing annual or 6 month consents were consulted, previous one-off event consents such as the Faversham Hop Festival, were excluded from the consultation.

The Licensing Team Leader then gave a background to the circumstances that had led to the Extraordinary Licensing Committee being necessary. She explained that the event manager of the Hop Festival had emailed in early July 2022, to clarify the new licensing requirements, and they had not followed up with colleagues as directed on the out of office response received whilst she was on annual leave. Once the process had been confirmed on her return from leave, an application was received for a one-off Street Trading Consent on 27 July 2022 but no fee was received. The expected DBS checks for the directors of the event company and a list of stall holders had yet to be received.

The Licensing Team Leader explained that whilst there was insufficient time to consult on the application, the Safety Advisory Group which included many of the consultees for Street Trading Consents, had considered the event management plan and no adverse comments had been received. In addition the licensing team were not aware of any issues involving street trading at previous Hop Festival events. The Licensing Team Leader highlighted that, in accordance with the policy, DBS checks were required 'where necessary' and might not be relevant for all stall holders. She added that as a large event, with many people around, the risk was less than for annual or 6 month consent holders.

Finally, the Licensing Team Leader acknowledged that greater clarity on the Street Trading policy was needed for event organisers and a report to address this would be considered at a future Licensing Committee.

The Vice-Chair-in-the-Chair invited Mr Jones from Community Heritage Events (applicant), to speak. Mr Jones expressed his dis-satisfaction that the Faversham Hop Festival, the biggest street festival in Swale, was not consulted on the changes to the Street Trading Policy and how little time there was to carry out the proper process to secure the relevant licences once the changes were known. He said it was not viable to run the event without the stalls.

Mr Jones explained that the preparation for the event had been challenging, with some financial costs being funded by the public, and whilst waiting for the licence issue to be resolved, preparations had to continue since the Festival's scheduled date was imminent. Mr Jones thanked officers for their constructive response to the issue and he highlighted the benefits to Swale and said that without the Licence waiver, the event could not go ahead. He asked that the new licensing requirements be waived for this year only and for a 2 day Street Trading Licensing to be granted to the organisers without individual DBS checks of street traders. Mr Jones asked that, as a Not-For-Profit event, the fee for the Licence be waived.

Members made points and asked questions including:

- Confirmation needed as to whether the events company were consulted on the change in the Street Trading policy;
- was a DBS required prior to the policy change?;
- Faversham Hop Festival was a huge tourist event that benefitted the Borough;
- how would vendors be policed to ensure they had a licence?;
- SBC got this wrong and had let organisations down, and must hold their hands up;
- the wording of the agreed Policy was too ‘woolly’ and needed tightening up;
- the delay in responding to the event’s email was unfortunate – how could this be addressed when key officers were on leave?;
- pleased that issues in the policy will be addressed;
- who was responsible if an incident occurred, if a DBS check had not been carried out?;
- the consultation on the updated policy was insufficient; and
- SBC should have let all past event organisers know of the changes in policy.

In response, the Licensing Team Leader said that the consultation was advertised, including in the press and on the Council’s website, but there was no direct consultation with an historic one-off event organiser. She confirmed there were no DBS check before the new policy and the Police Licensing team monitored the event and checked for licensed stall holders.

Referring to the delay in responding, due to annual leave, the Licensing Team Leader advised that there was a standard out of office message to contact a colleague in the Licensing team but the applicant did not follow this up.

In response to the question of responsibility in the case of an offence against a child or vulnerable adult, if a DBS check had not been carried out, the Contentious Lawyer explained that the risk was low and it was unlikely that a child would be alone with a street trader. The wording in the Policy stated that a DBS check should be carried out where necessary and it was not always appropriate to carry out a DBS check. Any offence would be investigated by the Police. The Contentious Team Leader added that a criminal offence could not be transferred from an offender to SBC.

Resolved:

(1) That a two-day Street Trading Consent application to be made by the organisers of Faversham Hop Festival 2022, rather than by individual traders at the event be agreed.

(2) That a two-day Street Trading Consent application to be made without the requirement for any individual trader to have a DBS check be agreed.

(3) That a two-day Street Trading Consent application be made without a formal 8 week consultation as required within the current Swale Borough Council Street Trading Policy 2021 – 2024 be agreed.

(4) That a fee of £230 be charged for the Street Trading Consent.

(5) That the applicant notes the decision to wave the licensing requirements of the policy in respect of a one-off street trading consent to the organisers of the Hop Festival without full compliance with the adopted policy, as set out in the report, would be a concession for 2022 only and that it would be expected that any future Faversham Hop Festival events would fully comply with the requirements contained within the current Swale Borough Council Street Trading Policy 2021- 2024.

Chair

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All minutes are draft until agreed at the next meeting of the Committee/Panel