

Decision maker:	Cabinet member transport and regulatory services
Decision date:	Monday, 25 February 2019
Title of report:	May Fairs - Hereford and Leominster
Report by:	Bereavement and markets services manager

Classification

Open

Decision type

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been serviced in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012.

Wards affected

Central; Leominster South;

Purpose and summary

To approve a new concession contract for the provision of Hereford and Leominster May fairs within their existing locations. Hereford fair is held in Commercial Street, High Town, St. Peters Street, St. Owen Street, Broad Street (below junction of West Street and East Street), King Street and Bridge Street. Leominster fair is held in Corn Square and Broad Street (below junction of Burgess Street and Church Street to the junction with New Street.

Recommendation(s)

That:

- (a) a new seven year concession contract be awarded to ‘The Showmans Guild of Great Britain (South Wales and Northern Ireland Section)’ for the continued provision of the May Fair in the streets of Hereford from May 2020 to May 2026 at an annual value of £51,000; and**
- (b) a new seven year concession contract be awarded to ‘Joanne Morris, David William Henry Morris and Allison Jane Appleton’ for the continued provision of the May Fair in the streets of Leominster from May 2020 to May 2026 at an annual value of £11,000; and that**
- (c) in the event Corn Square, High Street, Broad Street and Broad Street car park Leominster undergoes refurbishment within the duration of the Leominster May Fair concession contract, a clause be written into the contract to provide that, following appropriate consultation, the council may consider whether all/part of the May fair should be moved to an alternative location during and/or after completion of such works.**
- (d) That the Acting Assistant Director for Technical Services be authorised to take all operation decisions necessary to complete the contraction negotiations.**

Alternative options

- 1. Procure a new contract via a full procurement process for either/or both the Hereford and Leominster May fairs to be held in existing locations – This is not recommended as pre-market testing did not see alternative providers coming forward confirming they can deliver the service. A full procurement exercise would take time and cost money to which there is a high probability no further bids would be received.
- 2. Discontinue the May fairs on council managed public land - This is not recommended as the fairs have been a part of local tradition since the twelfth and seventeenth centuries respectively
- 3. Continue with the May Fairs on alternative council managed public land – This is not recommended as there is no indication of majority support for relocating these fairs

Key considerations

- 4. The Hereford May Fair was established in 1121 by Royal Charter of King Henry I, granting to Richard de Capella, Bishop of Hereford and his successors, the right to hold a fair in the streets of Hereford every May. The Leominster fair was referenced in a 1685 charter granted by Charles II and confirmed by Queen Anne in her charter of 1706 and was held in the streets of Leominster. All rights with respect to both fairs are vested in the council.
- 5. It is recognised that these street fairs create a unique atmosphere and represent a part of the heritage of Hereford and Leominster attracting both local residents and visitors from further afield
- 6. The current agreements for both fairs were renewed in 2013 for a period of seven years up to and including May 2019.

7. The Hereford fair is accommodated in: Bridge St, King St, Broad St, High Town, Commercial St, St Peters St, St Peters Square and St Owen Street and the Leominster fair is accommodated in Corn Square and (part of) Broad Street.
8. In 2017 the council carried out a survey to gauge opinion as to the location of both fairs. A total of 1,453 responses were received for the Hereford fair and 748 for Leominster fair. Responses to the surveys appeared to indicate that there remains support for both fairs to continue in their current location, although responses for the Leominster fair were not as clear as those for the Hereford fair.
9. Leominster Town Council is developing a transport plan with Herefordshire Council, which includes potential improvements in the town centre and may include some level of pedestrianisation in Corn Square. The town council requested that the contract should have a clause that enables any changes recommended in this plan to be reflected and incorporated and this is reflected in recommendation c above.
10. Hereford Business Improvement District carried out a survey of businesses in 2016 (appendix 3 – HBID 2016 survey) and 2018. HBID stated the response to the 2018 survey was too low to be valid and a report was not produced however the individual responses were not substantially different from the earlier survey'
11. Approximately 90% of fun fair operators are members of the Showmans Guild and operate under their rules and regulations. The Established Rights Rule (rule 23(a)) allows members of the Guild who have organised a fair for the previous two years to have established right to organise that fair, or occupy the ground in question at that fair, for the following year. Unless an operator agrees to transfer their rights to another Guild member, operators continue to operate fairs in their own area. To determine whether there would be any competition from the remaining 10% of the market, particularly in the Leominster area as this is not a Showmans Guild organised fair (albeit the present operators are members of the Showmans Guild), the council undertook a soft market test in May 2018 to determine whether any other operators would be interested in bidding for this opportunity. Only the incumbent providers, one of which operates under the Showmans Guild, responded to the soft market test.
12. This decision therefore seeks approval to award a contract to the existing fair operators 'The Showmans Guild of Great Britain' and 'Joanne Morris, David William Henry Morris and Allison Jane Appleton' who will continue to organise and operate the Hereford and Leominster fair for the next 7 years.
13. The contract will clearly set out the requirements and responsibility expected of the operator in particular around areas of health and safety and environmental health and trading standards.

Community impact

14. Contributes to the corporate plan for 'supporting the growth of our economy'. It is well recognised that street fairs create a unique and vibrant atmosphere. The fairs represent a part of the heritage of Hereford and Leominster attracting both local residents and visitors from further afield who in turn visit the local shops and eateries.
15. A survey carried out in 2017 was available from 13th April until 25th May. Responses to the surveys indicate that those attending the fairs also utilise local shops, pubs, restaurants.

Equality duty

16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
17. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.
18. Where a decision is likely to result in detrimental impact on any group with a protected characteristic it must be justified objectively. This means that attempts to mitigate the harm need to be explored. If the harm cannot be avoided, the decision maker must balance this detrimental impact against the strength of legitimate public need to pursue the service change.
19. This recommendation could have an impact on the elderly and those with disabilities. In order to try and mitigate this, the council notifies in advance relevant disability groups the dates of the fair each year. Furthermore, appropriate measures are put in place by the council and fair organiser to ensure any impact on such groups are minimised whilst the fair is in situ.
20. Clauses are written into the concession contract that the organiser shall ensure that a number of gangways of adequate width are provided. Also that gangways are free from obstruction.
21. On the Friday of the Leominster fair and on the Thursday of the Hereford fair, the organisers open selected rides, for one hour, exclusively for disabled people and their carers. These rides are made available without charge.

Resource implications

22. The council have a discretionary right to apply an annual uplift to the amount we charge within the operator's contract. The table below shows the figures before any uplift.

Revenue budget implications	2019/20	2020/21	2021/22	Future Years	Total
	£000	£000	£000	£000	£000
Hereford Fair Income (contract charges)	43	43	43	173	302
Leominster Fair Income (contract charges)	7	7	7	28	49
BBLP costs	(13)	(13)	(13)	(52)	(91)
Staff and associated costs	(3)	(3)	(3)	(12)	(21)
TOTAL	34	34	34	137	239

Legal implications

23. The opportunity to operate a fair in Herefordshire under contract with the council is effectively a concessionary services arrangement, in law. The value of this contract, over the proposed term, is significantly below the EU threshold for a concessionary services procurement. Therefore it is not necessary for the council to follow a specific procurement process before determining to award the contract to a certain provider. However the council still has a duty under s3 of the Local Government Act 1999 to obtain best value in the discharge of all of its functions: putting a contract in place with the selected operator provides a mechanism by which standards of quality and compliance can be regulated and the soft market testing exercise which was undertaken provides evidence that there are no other competitors interested in this opportunity.

Risk management

24. There are risks associated with implementing this recommendation. Criticism from local businesses and members of the public not in favour of the fairs continuing in the streets.
25. Risk will be managed at a service level, with steps taken to try and mitigate any criticism by ensuring the events are advertised in advance of them taking place.

Consultees

- 26 Hereford City Council. No comments or questions were received.
- 27 Cllr L Tawn (ward member – Central) No comments or questions were received.
- 28 Leominster Town Council Town Council - A reply was received from the Mr P Russell Town Clerk, whose comments have been incorporated into recommendation c.
- 29 Cllr J Bartlett (ward member – Leominster East) -

In summary Cllr Bartlett was pleased to see that the fair is continuing for a further seven years in Leominster and receiving over 700 responses is a great result, but had some concerns over the wording of the questions in the survey and in particular the absence of a question consulting on options for the location of the Leominster Fair.

Cllr Bartlett also advised that Leominster Town Council is working with Herefordshire Council and BBLP to undertake a traffic management study and town centre street scape plan. One of the key considerations for the town centre street scape which affects surface material, street furniture or our trees to name but a few, is the use of the Square by markets, events and the May Fair and proposed that a further specific consultation just about the fairs location be carried out in three years' time, or during the Town Council's consultation (whichever comes first), so that the results can feed in and work with the Town Council / BBLP decisions on materials and needs of the Square etc.

Cllr Bartlett's comments have informed recommendation c.

- 30 Political groups have been consulted and the following replies received.
- 31 The Herefordshire Independents group expressed the view that the contracts be renewed
- 32 The Green group expressed the view that they were content that a new seven year concession contract for the provision of Leominster May Fair be awarded for the continued provision of the May Fair in the streets of Leominster, with parking provided in Broad St car park, from May 2020 to May 2026. The group also requested that a clause be written into the contract for Leominster that in the event that Broad Street, High Street (used by the lorries) or Corn Square undergoes refurbishment, or there are major changes to Broad St car park, within the duration of May Fair concession contract, to provide that, following appropriate consultation, the council may consider whether all/part of the May fair should be moved to an alternative location during and/or after completion of such works.

Further that a joint evaluation be carried out in more detail over the next 18 months with the option of moving heavy rides to Broad Street car park and keeping either Broad St (& Corn Square if needed) for smaller and less heavy attractions and a clause in the contract to the effect that this move may take place during the second half of this contract.

The Green group's comments have informed recommendation c

- 33 The Liberal Democrats group noted that there have been several surveys as to the continuance of the May Fair in the city centre, all have wished to retain it in the city centre, so expressed support for that.
- 34 It's Our County group – no comments or questions received.
- 35 The Conservative party group – no comments or questions received.
- 36 The Labour party group – no comments or questions received.

Appendices

Appendix 1 - Collated consultation questionnaire responses – Hereford

Appendix 2 - Collated consultation questionnaire responses – Leominster

Appendix 3 – HBID 2016 survey

Background papers

None identified