

STRATFORD-UPON-AVON TOWN COUNCIL

TOWN COUNCIL MEETING

27 JULY, 2021

TOWN CLERK'S OPEN REPORT

1) Community Builder Initiative

- **To consider a financial investment in the above initiative**

From the Minutes of the Community Services Pre-discussion/Consultation on 6 July, members will see that further information was required in order for the matter to be considered by Council.

At the CS consultation, Marie Darwen (the District Council's Policy Officer Older People) introduced herself and presented the Community Builder initiative. She did so on behalf of the District Council and Cllr Fojtik. He has a non-pecuniary interest in the matter and has been advised by the Monitoring Officer that he can take no part in proceedings. The Town Council was asked for a contribution of £5,000 towards the project.

The minutes state:

The project would be working within the Bishopton and Clopton communities. These two areas have been recognised as two of the most deprived areas in the Stratford on Avon District. The Community Builder would work with those most in need in the catchments for Bishopton Community Centre and Ken Kennett Centre. Both Centres are run by a very limited number of volunteers.

A survey from residents in these two areas found that there was a lack of community supportive initiatives. Residents in these areas felt the need for an improved sense of community. The project aims to leave a legacy robust enough to encourage volunteers and help both community centres to be more sustainable.

The Community Builders role and project aims to promote physical and mental wellbeing, engage with residents, and support the establishments by providing more available groups. It is hoped the project would go out to tender in August, a host would be appointed in October and the Community Builder appointment would be in December, 2021.

The Community Builder is a collaborative project, with funding being sort from several organisations. The total amount required is £66,180.

Members felt that more information was required on the project plan, the budget breakdown, the job description, and funding levels which would give more structure in the overall proposal. Members asked for the information to be made available before the matter is considered by Town Council.

Marie Darwin has subsequently submitted a report, attached as **Appendix 'A'** with three further appendices:

- **Appendix '1'** – Proposed Funding Breakdown;
- **Appendix '2'** – Draft Outcomes and Output;
- **Appendix '3'** – Key Tasks & Dates.

Members will see from the report under item 4.3 that the project board agreed that the host organisation would produce the job description to be reviewed and signed off by the project board before recruitment begins. Therefore, a job description has not been included with the papers.

The Town Council is now requested to determine the issue.

2) CIL Projects

- **To consider/determine the strategic use of CIL monies**

The current CIL 'wish list', attached as **Appendix 'B'**, has been revised and updated.

The Bridge Street/High Street design project, funded by the Council's CIL money, provided a 'shovel ready' initiative worthy for submission by WCC on behalf of the Strategic Partnership to the government's levelling up scheme.

The Town Council has since received a further £8,225 of CIL funding with the next instalment of funds expected in late September/October.

Following a discussion with the Mayor, the Town Clerk proposes to take a suggestion to Council on 27 July for the Town Council to consider using CIL monies more strategically to the benefit of the whole town, rather than it being used piecemeal on a ward by ward basis which would benefit relatively few people in just one area.

At the Strategic Partnership Meeting on 15 July, all partners were in agreement that 'shovel ready' schemes were required in order to stand any chance of government funding. The timeframe turnaround imposed by the government is incredibly tight and without something ready to go and agreed, there is a likelihood that Stratford-upon-Avon could miss out, as it has many times in the past.

It is proposed that the Town Council's CIL money should be accrued so that Council will once again 'be ahead of the game' and be in a position to instruct a transport planning, engineering & placemaking organisation, such as PJA, to draw up re-design plans for delivering future NDP projects so we are fully prepared for future funding rounds.

The Town Council's Traffic and Town Centre Working Party identified Greenhill Street as the next important town centre project, which is also the primary development on the Strategic Partnership's list.

3) Increase in the Debit Card Balance

- **To agree an amendment to the Finance Regulations**

The Responsible Finance Officer (RFO) has requested that Council considers amending the Finance Regulations to increase the maximum debit card balance to £1,000. Finance Regulation 8.2 currently states that 'The (debit card) bank account will not exceed £550.00'

The reason for this request is that the Facilities & Finance Officer (FFO) had a situation last month where the Open Spaces Foreman required several payments to be made by debit card which involved numerous 'top up' requests to be authorised by councillors. Such was the work involved in the administration, the numerous transactions accounted to practically a day's work for the FFO. It must be emphasised that it does not happen

on a regular basis but this change is intended to improve processing efficiency.

As it is the FFO who is processing the expenditure, it is further suggested that the requested amendment to Financial Regulations includes a proposal that the FFO's payment authorisation limit should also be increased to £1,000.

Finance Regulations also require amendment to reference the RFO not the Deputy Town Clerk.

4) Market Contract

- **To consider an extension to the market contract**

An agreement was reached on 6 April 2017 between Stratford on Avon District Council, Stratford-upon-Avon Town Council and LSD Promotions (Market Place) Limited. Both authorities entered into a contract with LSD, who have, since 1 October 2017, successfully staged the town's market offer.

The Agreement is for a period of five years until 30 September, 2022. By the end of the fourth year of this Agreement, the two authorities will consider whether to extend their current partnership arrangements for the management and operation of the markets in Stratford-upon-Avon, and no later than the end of the fourth year, the Market Operator will be advised whether an option exists for the Markets Operator to be granted an extension of a further five years.

As members are already aware, Stratford on Avon District Council's Cabinet considered the Agreement at their meeting on 17 May, 2021. The minutes from the Cabinet meeting state:

Market Contract - Extension
Councillor Shenton – Operations Portfolio

Prior to consideration of the item, the Portfolio Holder informed the meeting of an amendment to the agenda report, point 5.2.3, and consequently the recommendation, as Stratford-upon-Avon Town Council had not yet agreed the contract extension. Consideration was then given to an option for the District and Town Council to

extend the existing market contract for a further five years until 30 September 2027.

The Councils were required to notify the contractor of their intentions in regard to the possible extension to the contract one year before the end of the current five-year period, namely 30 September 2021. The current contract at award was £135,550 per annum with an annual Retail Price Index uplift.

The contract had been jointly awarded by the District and Town Councils with the income split 60/40 respectively. Given the uncertainty in the running of markets due to Covid-19, and the nature and success of the current contract, it was recommended that the option to extend the contract for a further five years be taken, to guarantee profit to the Council for a further five years. This was on the basis of this Council providing administration for the Market Forum and with a profit split of 50/50 to each Council.

The options available to The Cabinet were to:

1. Extend the current market contract until 30 September 2027;
2. Re-tender the contract for a 2022 start with less markets/differing terms and conditions; or
3. Decide not to continue with the provision of markets after 2021.

At the invitation of the Chairman, Mr Steve Halford, a local business owner and Councillor J Fradgley, addressed the meeting.

Accordingly, it was RESOLVED: That, subject to Stratford-upon-Avon Town Council approving the contract extension at their meeting to be held on 27 July 2021, the current market contract be extended until 30 September 2027 and a new revenue and costs split arrangement of 50/50 be entered into by the relevant Head of Service in agreement with the relevant Portfolio Holder.

Consideration of whether to agree to the District Council's proposal of a 50/50% split of the net profit is a separate agenda item. The RFO has done a financial analysis of the proposal.

The only question arising at this stage is whether to concur with the District Council's resolution and grant LSD an extension to the Agreement until September 2027.

The relationship between the market operator and Stratforward BID had not been straightforward for some time. However, LSD Director, Dermot McGillicuddy, is now a member of the BID Board and there is definitely an appetite by all concerned to work in partnership collaboratively to the mutual benefit of businesses, retailers and market traders.

Council is aware that both Councils are members of the National Association of British Market Authorities and the letter from its Chief Executive, David Preston, to the Chairman of the BID is noteworthy and should be taken into consideration during the deliberations.

STRAFORD UPON AVON MARKETS

I have been asked by the District and Town Council's Market Forum and the private operator currently engaged in the delivery of the Councils market services to write to you about the town's markets and markets generally and explain their importance and role in a national context. NABMA is the leading markets organisations in the country supporting market operators and making the case for markets on the national stage. It is clear that markets are regarded as a very important part of town centre regeneration. In a recent survey, markets were assessed as one of the top twenty-five assets of a successful town centre.

Markets have played a vital role in the life of Stratford-upon-Avon for many years and NABMA is in a position to comment on the town's markets having worked with the two Councils and the current private operator on a number of projects. Indeed, the way the markets are operated in the town through a partnership between the two Councils and a private operator has been the subject of a government report on good practice in markets management. The markets in the town have also won national awards and in recent years have been the scene of the National Young Trader event which has been featured on national television.

While markets provide a retail outlet they also provide so much more, and as demonstrated by the National Young Trader event, an opportunity for new businesses to become established. They

also provide animation and colour and further research has demonstrated that a successful market can have a positive impact on overall footfall numbers. In a number of towns, it has been shown that the highest footfall figures in the week are on the days the market is held.

NABMA accepts that it is important that markets must be part of the overall retail offer of the town and I know that the two Councils have worked hard to ensure that the interests and views of organisations like the BID are fully taken into account when considering the delivery of market services. Indeed, the two Councils were among the first local authorities in the country to establish a Markets Forum to ensure that various stakeholders are able to review the performance of the town markets and consider relevant issues.

Both Councils went through a rigorous tender process in choosing a private operator and NABMA is able to confirm that in LSD, Stratford-upon-Avon have engaged one of the best private market operators in the country. NABMA have received a number of compliments from other local authorities about the performance of LSD in other parts of the country.

While recognising the role of the BID, it is important that the BID and markets work together for their mutual advantage. Both the BID and markets have a vital role to play in the future of Stratford-upon-Avon and NABMA is happy to help in any way to secure this future. Please let me know if I can do anything more.

Yours sincerely,

David Preston,
Chief Executive.

As a result of the temporary suspension to the adherence of the contract financially, the Councils are receiving payment on a per stall basis, detailed in the RFO's report **Appendix 'C'**. The ongoing COVID-19 pandemic means that forward planning is problematic, but it is anticipated that the full financial contribution will resume in April 2022 when the market returns to Waterside following the winter break.

It is hoped, but by no means certain, that the incredibly successful Victorian Christmas Market (VCM) will be staged again this year. LSD Promotions is contracted to provide the market stalls and market traders and undertake substantial marketing and promotional activity, but all the other elements of staging the spectacle is down to the two authorities. As a consequence, the Council's incur significant expense in staging the VCM and this year it is anticipated that the four-day event will cost in the region of £48,500 on a 60/40% basis.

Most of the expenditure arises as a result of security - £16,215, vehicle mitigation - £13,276, entertainment/stage - £7,330, traffic management - £3,800, first aid - £3,370 and street cleaning - £2,800 amounting to £46,791.

However, LSD Promotions has agreed a financial contribution to the VCM for 2021 of £40,000 plus a fee per stall. However, the stall fees will be paid into the overall market contract budget head rather than set against the costs of the VCM.

Some further incidental expenditure is anticipated but with LSD's cash injection the Councils VCM expenditure will be approximately £2,000 split 60/40%.

The options available to Council are:

1. Extend the current market contract until 30 September 2027;
2. Re-tender the contract for a 2022 start with less markets/differing terms and conditions; or
3. Decide not to continue with the provision of markets after 2021.

Although both Stratford on Avon District Council and Stratford-upon-Avon Town Council are market authorities in their own right, if Council decides not to concur with SDC on extending the market contract, there is a danger that SDC could sever the agreement with STC and administer the contract entirely independently retaining the full 100% of market income.

The Town Council could set up a rival market but as the Market Policy is retained by the District Council, the legal costs incurred in challenging SDC would be substantial and totally damaging. SDC's Market Policy states:

Commercial Markets

A commercial market is one which is operated for profit and where the traders are engaged in a business activity of selling goods for their own purposes. The Council will consider applications in respect of commercial markets having regard to the following requirements:

- No new market will be authorised within 6 and 2/3 mile radius of Stratford-upon-Avon markets, unless it can be demonstrated that the new market will not undermine the existing market and not prejudice the overall market offer;
- In respect of any consent the operator must have adequate insurances, comply with trading standards guidelines, health and safety requirements and any other statutory provision laid down by the Council;
- A fee will be paid in respect of any consent given by the Council and the fee will be based on the size of the market and the frequency of the market. Refer to Section 6 in respect of fees;
- The goods to be sold on the market will be approved by the Council;
- A licensing agreement will be entered into between the operator and the Council and such licensing agreement must be concluded before the market takes place;
- The Council will insist on such other requirements as are deemed appropriate to ensure consumer and public safety standards.

Recommendation:

Given the success of the markets, and LSD's co-operative approach resulting in a good working relationship with the two councils, it is Recommended that Stratford-upon-Avon Town Council agrees to the extension of the Market Agreement until September 2021.

5) Market Contract - Financial Split

- **To consider deferring the decision until further information has been considered and agreed**

The merger by Stratford on Avon District Council with Warwick District Council will see markets being managed and administered by existing officers in Warwick. The District Council's excellent and knowledgeable officer who acts as SDC's market officer retires at the end of July 2021. She will return on a part time basis from September, but at this stage it is

understood that her return is only to oversee the MOP and SDC's involvement in the Victorian Christmas Market 2021.

The Market Agreement which exists between the two Councils and LSD Promotions stipulates that the Town Council will be responsible for the day to day running of the markets and will be the contact point for the Markets Operator. The Town Council must ensure that:

- The markets are operated and managed by the Markets Operator in accordance with the provisions contained in the Agreement;
- Receive the annual fee from the Markets Operator;
- Take such action as may be necessary arising from any breach of the provisions of the Agreement by the Markets Operator and where the Town Council initiates any such action it will be taken in the name of both the District Council and the Town Council;
- Ensure that only markets held by the Markets Operator are those set out in the Schedule;
- Ensure that the Markets Operator complies with all legislation regulations and other requirements relating to the holding of the markets;
- The Markets Forum will be administered by the Town Council.

In 1974 a major local government reform took place under the Local Government Act 1972. The Town Council lost its borough status with most of its powers being transferred to the District Council. Although the Town Council retained its status as a markets authority, the same power was bestowed on the District Council. It was for this reason that the District Council and Town Council collaborated to manage Stratford-upon-Avon markets together based on a 60/40% split in favour of the District Council.

Apart from collecting the fees and administering the Markets Forum, the management of the market on a day to basis has evolved over the years and the main point of contact for the Market Operator is with the District Council Officer who retires this month.

Taking into account the salary of this individual, the District Council has found that their profit margin is less than the Town Councils and as they

are fundamentally managing the contract, they proposed the 50/50% split of net profit, with the District Council managing everything.

This was discussed with the Town Clerk who could see the logic in the proposal and would certainly be recommending this approach to Council if the roles were reversed. The matter was also discussed at the Markets Forum but the decision to agree to the proposal, or otherwise, is that of the Town Council.

The Responsible Finance Officer has provided a paper with further details and the financial ramifications which is attached as **Appendix 'C'**. Whilst supporting his recommendation, the Town Clerk would like to reiterate the point that we are currently unsure what the effect of market management from Warwick will have on the Stratford-upon-Avon markets. The Market Operator has serious reservations as the Agreement will be managed by officers with little knowledge of the town and its market history. Although LSD tendered recently for the Warwick market, both Warwick and Leamington market contracts were awarded to an alternative operator.

It is understood that both Warwick and Leamington markets will come under the directive of the new combined district councils. It is not clear how and where Stratford-upon-Avon markets fit in and whether the sharing of market fees by this new authority and Stratford-upon-Avon Town Council will fit in the new equation.

There remain unanswered questions and it is important to fully understand and agree the expenditure that can be claimed from contract fees by the managing organisation prior to the 50/50% split in order to ensure that the profit margin is not eroded by unforeseen additional expenditure - e.g. an increase in officer time resulting in greater staff costs, whether expenses such as mileage is taken into account, or a contribution towards the provision of an officer's mobile phone.

The Town Council is unaware of the finer details and to this end the Recommendation is to defer agreement to the 50/50% split until the Town Council is made aware of how the SDC/STC/LSD Agreement will be managed from Warwick. Julie Lewis, the current Head of Service will no longer be responsible for markets from 1 August. The Portfolio Holder is now Matt Jennings. The Town Clerk is unaware which officers, if any, at SDC will have markets within their remit or whether it is purely to be administered by existing Warwick officers. To date, the Town Council

has received no approach by those responsible for markets at Warwick DC.

Town Clerk
27 July 2021