

# Brighton & Hove City Council

## Agenda Item [Insert]

### Tourism, Equalities, Communities and Culture Urgency Sub-Committee

**Subject:** Brighton Marathon 2023

**Date of meeting:** 28<sup>th</sup> November 2022

**Report of:** Executive Director, Economy, Environment & Culture

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**Ward(s) affected:** All

#### Not for publication

Note: Urgency

By reason of the special circumstances below, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency.

Note: Reasons for urgency

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that due to the time constraints created by the imminent administration of the existing Brighton Marathon licensee, failure to secure an agreement in this timeframe would see the failure of the 2023 event.

#### 1. Purpose of the report and policy context

- 1.1 This report seeks permission to grant a 3+2 year licence to London Marathon Events (LME) to deliver the Brighton Marathon event from 2023.
- 1.2 The current organiser of the Brighton Marathon, Grounded Events (GEC), are going into administration. To preserve the monies paid for entry into the 2023 event Brighton and Hove City Council are seeking to licence a new operator who are willing to honour the existing entries from individuals and charities.

## **2. Recommendations**

- 2.1 That Committee agrees to grant a licence to deliver a marathon in the City for a period of 3+2 years commencing in 2023 and running to 2027, subject to the negotiation of the terms of that licence.
- 2.2 That Committee notes that the Brighton and Hove area will become eligible to apply for funding from the London Marathon Charitable Trust (LMCT) as part of this agreement.
- 2.3 That Committee Authorises the Executive Director Economy, Environment & Culture to negotiate and agree the formal licence agreement.

## **3. Context and background information**

- 3.1 Members and Officers have met with representatives of Grounded Events Company's (GEC) Administrators (FRP Advisory), LME and the London Marathon Charitable Trust (LMCT) to examine the potential for LME to take over the running of Brighton Marathon as a result of the recent local business failure.
- 3.2 Following receipt of an initial proposal from LME, the Council responded by putting forward the points it would require LME to meet. These are under negotiation.
- 3.3 The Council would also wish to see any GEC staff who wish to transfer their employment to LME being offered a role in this business. LME are headquartered in London. They have indicated this is possible.
- 3.4 The Council have also requested that local businesses who have lost money supporting the marathon are prioritised for work associated with the new Brighton Marathon.

## **4. Risks of proceeding**

- 4.1 The Council has been clear from the outset that it was important for the marathon organisers GEC to pay everyone due money in order to be in a position to grant a licence to operate in 2023. At a meeting on 11 November 2022 it was made clear to officers that the sale of their assets would not resolve all of the debts. The Council withheld landlord's consent on this basis. At no point to date has Grounded Events received consent to run the 2023 event from the Council.
- 4.2 Officers have received confirmation from FRP Advisory that their notice to appoint expires soon. On expiry either liquidation of GEC or sale action must be taken. FRP Advisory therefore require agreement of heads of terms between the Council and LME by the end of November. This constrains the time officers have to carry out the sort of due diligence process which would be standard practice before entering into a long-term arrangement. The short timescale afforded by the process means there is limited opportunity to appoint a suitable alternative licence holder.

4.4 Officers have been made aware of one other company who would be interested in running the Brighton Marathon and there is therefore a risk of challenge if the Council does not comply with procurement and subsidy control rules.

4.5 The Council is also a creditor of GEC and is likely to lose in the region of £150,000.

## **5. Consequences of not proceeding and Conclusion**

5.1 Regardless of Council actions, there will be a substantial loss to businesses and individuals from the failure of GEC. The extent of the losses are unlikely to be met by LME.

5.2 LME have indicated that agreeing a 3 year licence with the option between both parties to extend for a further two years will secure circa £1.1m of individual and charity payments for the 2023 marathon that otherwise will be lost. However, officers have not seen any written evidence of this sum from LME or GEC and are unable to verify this.

## **6. Analysis and consideration of alternative options**

6.1 Consideration has been given to not providing a licence, meaning the Brighton Marathon as an event to fail in 2023. The council could then issue an invitation to submit proposals for a three year licence in 2023 with the marathon restarting again in 2024. This option would result in the loss of all monies associated with runner entries in 2023 and endangers the event in the long term.

6.2 Alternative operators could be sought who may be more willing to work within the Council's existing model. It is understood that in the sale process FRP Advisory received a number of bids, none of which were equal to the offer from LME. In unofficial conversations with other operators the majority would not be willing to take on the existing runners for 2023.

## **7. Community engagement and consultation**

7.1 Due to the commercial sensitivity and highly restricted timelines there has not been time for in-depth consultation on this matter. Lead Councillors have been consulted throughout and some discrete industry research and consultation has been carried out.

## **8. Conclusion**

8.1 In order to minimise the impact of the failure of GEC it is favourable to find a licence holder who is willing and capable of delivering the event in 2023. For that to be commercially viable for any operator a multi-year deal will be required in order to facilitate the recuperation of investment.

- 8.2 The timescales involved have not enabled the level of due diligence normally associated with a multi-year licence from the Council and the priority has been to enable at least some of the GEC creditors to recover their funds.

## **9. Financial implications**

- 9.1 Any debts outstanding from GEC owed to the Council following the administration process would be written off adding additional pressure to the Council's finances.
- 9.2 Under the prior agreement with GEC land hire fees, parking suspension income and Temporary Traffic Regulation Order (TTRO) fees were receivable to the Council. Parking suspension income compensates the lost parking from the event due to parking bay closures. Land hire fees recovered staff and other related costs incurred by the Council in supporting the event. Traffic Regulation Orders would be payable by the event organiser for the road closures, recovering costs associated with staff time, administration and advertising of the road closures. LME have confirmed TTRO costs also include Parking Bay suspensions.
- 9.3 Should negotiations with LME not result in cost recovery and compensation in lost income, in year pressures to budget would occur should a licence be granted and the marathon to go ahead. Any significant variation to budget will be reported as part of the Council's monthly budget monitoring process.
- 9.4 Should a licence be agreed with LME, this would allow the Council to become eligible to apply for funding from the London Marathon Charitable Trust (LMCT), though this will be for specific projects only and should not be considered in ensuring full cost recovery during negotiations in awarding a licence.

Name of finance officer consulted: John Lack Date consulted: 25/11/22

## **10. Legal implications**

- 10.1 The Council will need to ensure that the nature of the agreement is a licence, rather than a contract as the direct award of a contract would breach the procurement regulations. It is also necessary to ensure that the Council is complying with subsidy control rules. It will be challenging to reach agreement on the terms of the licence in such a short time frame.

Name of lawyer consulted: Alice Rowland Date consulted: 25/11/77

## **11. Equalities implications**

- 11.1 The Council's outdoor events programme caters for people from all sectors of the community as there are a diverse range of events that are staged in the city each year. Issues such as physical access to an event and designated viewing areas are developed and detailed in event plans where

applicable. Major event organisers will be required to complete an Equalities Impact Assessment.

## **12. Sustainability implications**

- 12.1 All events are planned and staged in accordance with the statutory powers and planning obligations as set out in the Outdoor Events Strategy 2019-2024.
- 12.2 The nature of outdoor events means that they often involve a range of potential sustainability impacts (both positive and negative) from travel, energy and water use, food, local economic and social impacts, use of outdoor spaces and production of waste. Event organisers continue to be strongly encouraged to sign up to the Council's Sustainable Event Commitment, helping them to improve sustainability at their events. The Sustainable Events Programme is certified to the international standard for environmental management ISO 14001.
- 12.3 The Sustainable Events Programme also meets the requirements of the British Standard for Sustainable Events that was developed for the London 2012 Games and helped them deliver a highly visible sustainability programme, particularly around event waste recycling and encouraging people to use public transport. The standard was superseded by the International Standard ISO 20121 and the Council's programme has been amended to meet the requirements of the new standard and help the Council continually improve its engagement with event organisers to improve sustainability.
- 12.4 Environmental Impact Assessment and Action plans will be required to be undertaken by organisers wishing to stage their events in the city.
- 12.5 All applications for events to be held on Council land will be reviewed by the Events Team to assess the potential impact and risk of the event to Brighton & Hove City Council land. Factors such as location, size, type of event, and what ground protection measures the event organiser has confirmed will be considered when agreeing if a reinstatement bond is required, and the value of this bond. Event organisers will be responsible for the reinstatement of the grounds used if damage occurs as a result of their event. It is important to recognise that the impact on our open spaces by some events is inevitable, but the positive social and economic impacts of these events outweigh the immediate effects on the land

## **13. Other Implications**

### **Social Value and procurement implications**

- 13.1 Events can affect the way places are perceived and people's relationships with their place of residence, making them feel connected to it. It may encourage people to contribute more towards local projects or take more care of the local environment. Events act as vehicles to bring people together, encouraging social contact leading to enhanced individual

wellbeing and more resilient communities. People benefit from participating in events, but also by volunteering and getting involved in planning and organising them helping to build capacity of communities to organise events and other projects in the future.

- 13.2 Involvement in events can enhance people's quality of life by providing enjoyable, sociable experiences to look forward to and reflect on as well as encouraging personal development to equip people with skills, confidence and knowledge to help them in their lives. Events are not universal appreciated and there may be some associated negative effects that diminish their social value including disruption to everyday routines.

**Public health implications:**

- 13.3 LME have a long history of supporting healthy lifestyles in the areas where they operate. Access to the LMCT funds provides a significant opportunity to both Council departments and local charities with a focus on active lifestyles, to bid for significant sums of money. Facilities grants can be up to £250,000 maximum bids. There is no limit to the number of bids that can be made by area and no amount is ringfenced to specific geographic locations. Currently this funding is very London focussed.

**Supporting Documentation**

None