

## Appendix 2 – Summary of Alternative Options Considered

**IMPORTANT OVERRIDING LEGAL CONSIDERATION:** The Human Rights Act entitles people to the peaceful enjoyment of their possessions and that no one should be deprived of them except in the public interest. The legal advice received by the Council is that this “particularly make[s] reference to the livelihood of the members of the Guild... who may well have a legitimate expectation that the Mop Fairs or Runaway Fairs will continue to operate and undertaken by these organisations”.

Option	Pros	Cons	Legal Aspect	Reasons for Rejection
<b>No changes to the Mop</b>	<ul style="list-style-type: none"> <li>• Maintains tradition</li> <li>• Supports the established arrangement with the Showman’s Guild</li> <li>• Is a ‘known quantity’</li> <li>• Legally an ‘easy’ option</li> <li>• Supports the wider, established circuit of Showmen fairs</li> <li>• The larger portion of the public seem to support the maintaining of the Mop</li> <li>• Does not venture into the realms of ‘public benefit’</li> </ul>	<ul style="list-style-type: none"> <li>• Large numbers of town centre residents oppose the Mop in this format</li> <li>• A small yet active group of business oppose the Mop and have done for many years. This is supported by the Chamber of Trade</li> <li>• Perception of ASB</li> <li>• May be perceived as not listening to the vocal groups</li> <li>• Potential continued inconvenience to town centre residents and business owners</li> <li>• Continued perception of ASB, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Easiest option as the Mop operates in the format it always has</li> <li>• Will not be open to legal challenge</li> </ul>	<ul style="list-style-type: none"> <li>• There are legitimate concerns from those responding to the consultation and work needs to be done to address things where possible</li> </ul>

Option	Pros	Cons	Legal Aspect	Reasons for Rejection
Alter the location of the Mop for some or all of its duration (mainly focusing on the Racecourse)	<ul style="list-style-type: none"> <li>Moves it from the town centre, satisfying some locals but still maintaining the Mop</li> </ul>	<ul style="list-style-type: none"> <li>Moves it from town centre, aggrieving some locals</li> <li>Many will no longer view it as the Mop</li> <li>For many, the town centre location a defining element of a Mop fair and Warwick's heritage</li> <li>Risk of legal challenge</li> <li>Must be for the public benefit</li> <li>Ground conditions are not ideal</li> <li>Unlit area</li> <li>Current licence holder has trialled fairs on the Racecourse and is likely to have reasons as to why they do not work</li> <li>Damage to the Racecourse and potential of cancelling races</li> <li>Changes would require an establishment of policy and procedure which should include a consultation with the public</li> </ul>	<ul style="list-style-type: none"> <li>Any changes have to be for the public good... with such a divide in public opinion, this may be hard to justify</li> <li>The Mop does not have a specified place of holding within Warwick, but it must be held within the 'area of the franchise right'. It is assumed that this means that the fair must be <i>somewhere</i> within Warwick. It should also be noted that, in 1999, the Guild refused attempts to relocate the Mop whilst Market Place was being refurbished.</li> <li>Changing the location will <b>not</b> require an application to the Secretary of State, though it may require approval from Highways</li> <li>Will have a negative impact on those living near to the Racecourse and may be open to challenge from them</li> </ul>	<ul style="list-style-type: none"> <li>Any changes must be for the benefit of the public. It was felt that moving the Mop to the Racecourse would simply shift the problem from one set of locals (who are fully aware of when and where the Mop operates) to those who selected their houses in the knowledge that there was no Mop operating next to them.</li> <li>The Showmen, should they be successful in attracting the new licence, could have grounds for legal challenge via judicial review</li> <li>Consultation comments regarding damage to the fabric of the town centre buildings and streets are unsupported by any evidence (as also pointed out by other locals). All the rides are transported by lorry and so fully supported by the roads &amp; streets</li> <li>Moving the Mop to the racecourse would likely cause legal issues with the racecourse licence</li> <li>Residents expressed safety concerns for a racecourse based Mop – they felt an out of town location would be less safe. Whilst there are similar comments about the town centre Mop being unsafe, the police crime figures do not support this perception</li> </ul>

Option	Pros	Cons	Legal Aspect	Reasons for Rejection
Alter the timings of the Mop	<ul style="list-style-type: none"> <li>• Potentially halves the impact on the town centre in terms of setup and takedown</li> <li>• Many of the businesses who are against the Mop state that it affects their trade for a full two weeks as people stay away during the period. This will remove that elongated impact</li> <li>• Seeks to find a balance between the needs of two opposing views</li> <li>• Potential to change the Thursday set-up to mitigate some of the impact on the town, but may also bring additional health and safety issues</li> </ul>	<ul style="list-style-type: none"> <li>• Changing days (timings or number) requires applying to the Secretary of State (1873 Act)</li> <li>• Changing the days requires WDC to devise a policy and procedure and to consult on the proposed changes (carries a risk for the review as it may not be complete in time for the 2015 licence to be in place)</li> <li>• May be legally challenged with a judicial review</li> <li>• Showmen's Guild operates the Mop and Runaway Mop as part of a national cycle of events. Should they successfully attract the new licence, altering the timings of the Warwick Mop could adversely affect them in ways that may not be obvious</li> <li>• Some residents and businesses may find this change unacceptable</li> </ul>	<ul style="list-style-type: none"> <li>• Changing the days (whether timings or number) requires applying to the Secretary of State (1873 Act)</li> <li>• Changes must also be "for the convenience and advantage of the public"</li> <li>• The hours for which the fair is held during the specified days are <b>not</b> subject to the above controls. According to ancient law, the proper hours for holding fairs are from sunrise to sunset. In practice, however, this has not always been followed.</li> </ul>	<ul style="list-style-type: none"> <li>• Quickly discounted due to the legal ramifications of such an act, not to mention the impact it would have on the way of life of the Showmen and their cycle of events across the country.</li> </ul>

Option	Pros	Cons	Legal Aspect	Reasons for Rejection
Cancel the Mop	<ul style="list-style-type: none"> <li>Satisfies those businesses and residents who feel the Mop has an adverse effect upon their lives</li> <li>Market Place could be developed further more easily</li> </ul>	<ul style="list-style-type: none"> <li>Removes centuries of tradition and part of the culture of Warwick</li> <li>Serious opposition from the Showmen</li> <li>Removal of the livelihood of the Showmen</li> <li>Opposition from local residents and businesses who support and/or benefit from the Mop</li> <li>Highly likely to be challenged legally – an almost guaranteed case of Judicial Review</li> <li>No public good to be served</li> <li>Removal of one of the few events aimed at younger people in Warwick</li> </ul>	<ul style="list-style-type: none"> <li>Could be challenged in the Courts – legal advice is that “the courts would be loath to overturn the tradition of the mops”</li> <li>Would almost certainly be challenged – an almost guaranteed case of Judicial Review</li> <li>Must be for the public good</li> <li>Requires a procedure laid out in the 1871 act to be put into effect</li> <li>The Showmen &amp; public could have ‘locus standi’, and could have a legitimate expectation that the Mop will continue</li> </ul>	<ul style="list-style-type: none"> <li>End of centuries of tradition and heritage</li> <li>Will satisfy some locals but anger others</li> <li>Serious detrimental effect on the Showmen</li> <li>No public benefit gained</li> <li>Huge legal implications and a decision that would likely be overturned in the courts</li> <li>The establishment of rights and expectations from the Showmen’s Guild, means that they may reasonably expect the Mop to continue.</li> <li>Almost guaranteed legal challenge from the Showmen. Time could be better spent working with the Showmen to resolve any issues instead of working against them</li> </ul>

## Alternative Options Considered for Inclusion in a New Licence – All Rejected

Please note that many of these options were drawn directly from suggestions put forward by members of the public as part of the consultation exercises.

Option	Include in the new licence?
1. Require that an area of the Mop be given over to traditional rides and stalls (may rely on option 3 being permitted)	<p><b>No.</b> This will not be possible with the existing size of the Mop; one or two traditional rides will be 'lost' amongst the Mop and would usurp the normal rides and stalls.</p> <p>It should be noted that the current licence holder was very keen to provide a traditional <i>element</i> to the Mop, but not to alter the whole theme. Though this element would rely on additional space being used (see option 5);</p> <ul style="list-style-type: none"> <li>• There would not be enough rides available at this time of the year for a wholesale change (due to Showmen's Guild event cycles)</li> <li>• Removal of large 'anchor' rides would cause loss of business for many Showmen. It needs to be reiterated that the Mop is not a single business entity, but a collection of many individual businesses. As such, they are each relying on the large anchor rides to draw people to their own attractions... the whole being greater than the sum of its parts</li> <li>• Showmen who run the much-supported Victorian Fair would take umbrage. Their business is supported by the fact that they provide a contrast to the Mop on the following month. Their business and capacity to run the Victorian Fair would likely suffer as a result of a wholesale Mop change</li> </ul>
2. Whether to mandate a selection of free space within the town upon which the Mop may not stray. Again, Members should be aware that this may cause displacement and so require more space elsewhere	<p><b>No.</b> Such areas would only serve to compress the Mop further and reduce accessibility (something which many consultation respondents were very clear that they did not want).</p> <p>In summary, this option would cause more problems than it would solve.</p>
3. Insisting on a fully themed traditional fair	<b>No.</b> See above
4. The licence holder works with the local	<b>No.</b> Whilst this is to be encouraged, it should not form part of a legal

community & WDC to put on an exhibition around the history of the Warwick and the Mop	<p>agreement.</p> <p>The current licence holder is very keen to be involved in such heritage activities – the Mop Fairs are as much a part of the history of the Showmen’s Guild families as they are the towns in which they’re held.</p>
5. Whether to give over the M&S car park or part of the bus station to the Mop to allow for greater flexibility and spacing of the rides, and/or the creation of a ‘traditional area’	<p><b>No.</b> For the last few years, Parking Services have not allowed the Mop to use the M&amp;S car park. Whilst a number of locals would like to see this in use again, it is believed that no public good can be served by doing so. This is a high turnover car park and removing it from public use would not be advisable.</p> <p>Similarly, the bus station is now under the jurisdiction of WCC. As with above, the disruption caused by allowing the Mop on here would be significant.</p>
6. Require a greater variety of food stalls at the Mop.	<p><b>No.</b> It is felt that Warwick offers plenty of food outlets already, and these businesses benefit from the presence of the Mop. To enforce a licence condition that would take business away from these outlets is not considered to be an option.</p>
7. To place restrictions on the use of Market Square so that, in the future, more can be done with the space	<p><b>No.</b> It is felt that this would be too difficult to write into the licence in any meaningful way since there are no current proposals for Market Place.</p>
8. To consider a more flexible placing of generators	<p><b>No.</b> They were moved to their current locations to reduce the impact on locals. This suggestion was brought forward in an attempt to reduce the number of trailing cables (see next option).</p>
9. To require that all cables are suspended above head height	<p><b>No.</b> While this would be excellent, the practicalities make it unfeasible. 3 phase power cables are very thick and heavy. The Mop currently suspends overhead any cables that they can, but they use existing fittings to do so. Other cables would need temporary poles to safely support them; due to the weight of the cables, these supports would need to be quite large. In the confines of the Mop these would not be feasible and would likely cause more access problems than the cables themselves.</p> <p>Instead, the licence will require that cables are suspended overhead wherever possible, and that those that cannot be lifted are instead dealt with in line</p>

	with the health and safety legislation referred to in Appendix 1, option 11.
10. Whether to require the Mop to set up on Friday morning instead of Thursday afternoon.	<p><b>No.</b> Too disruptive on both the town and the surrounding roads.</p> <p>A Friday setup would need to start at around 5:30am and it is felt that this would prove more disruptive than the current arrangements in terms of early morning noise, congestion with people travelling to work, and removing parked cars.</p> <p>There are long standing issues with cars being parked where they shouldn't be when the Mop is being set up on Thursday. If the Mop is set up on Friday morning, there will be less time and flexibility in getting them removed.</p> <p>This would necessitate a firmer approach to those who fail to move their cars when requested; towing them away quickly to give the Mop enough time to set up and safety test the rides. This is likely to be greeted with initial hostility.</p> <p>Additionally, the rush of a Friday morning setup would bring potential health &amp; safety issues and would likely be more chaotic. The risk of health &amp; safety issues that could occur is too great a risk to consider such a change.</p>
11. The splitting the Mop over two locations	<p><b>No.</b></p> <ul style="list-style-type: none"> <li>• Splitting the Mop would create additional problems for residents. Whilst some in the town centre may potentially receive slightly less disruption, it would simply create a disturbance for those who back onto the racecourse.</li> <li>• Splitting the Mop would cause individual Showmen to suffer as they would need to compete against each other in differing locations.</li> <li>• It would remove the effectiveness of the 'anchor' rides and so damage the overall business model of the Mop.</li> <li>• A number of residents expressed concern that there would be safety issues should the Mop move to the racecourse. It would also be harder for the police to cover two locations.</li> </ul>
12. The removal or replacement of large rides	<b>No.</b> See above.

Options taken from other Councils' licences	
13. That no ride, stall or 'dressing' shall be allowed to obstruct access to buildings or other public areas unless agreed	<b>No.</b> Much of this clause is covered as part of the setup processes involving the emergency services and so this additional clause is not required.
14. Whether to introduce into the licence maximum chargeable amounts for rides and stalls	<b>No.</b> It is not appropriate for WDC to tell business owners how to charge for their products/services.
15. Clause regarding treating customers & Council employees with respect and dignity, and to uphold the values of the Council	<b>No.</b> Such things are not demanded of other licence holders or event organisers and the Mop should not be the exception.
16. Make the charity donation a licence requirement	<b>No.</b> This should be a personal choice for the organiser and, again, it is not required of others.
17. Introduce vehicle weight limits	<b>No.</b> Roads & Market Place are already engineered to cope with the weight.
18. Minimum clearance between rides/stalls and buildings, with a 'where practical' clearance that is larger	<b>No.</b> The issue of clearance and minimum distances between rides is dealt with as part of the work with the emergency services. Any issues arising from proximity to buildings can be addressed as part of the liaison meetings mentioned in Appendix 1, option no. 3.
19. Require that all stalls selling food be registered with the local authority	<p><b>No.</b> This would be impossible to enforce and food sellers are already required to be registered with <i>their</i> local authority.</p> <p>The licence should ask for a list of food sellers for each Mop instead. This will then be given to Health &amp; Community Protection and they will be asked to make a risk based assessment. The licence will also need to allow for H&amp;CP to impose sanctions for repeat offenders and the like.</p>