

**Minutes of the meeting of Licensing sub-committee held at
Committee Room 1, The Shire Hall, St Peter's Square, Hereford,
HR1 2HX on Wednesday 5 December 2018 at 10.00 am**

Present: Councillor DW Greenow (Chairman)
Councillors: PJ Edwards and KS Guthrie

Officers: Claire Corfield and Fred Spriggs

The meeting was adjourned until 10:10am.

29. APOLOGIES FOR ABSENCE

No apologies for absence were received.

30. NAMED SUBSTITUTES (IF ANY)

There were no substitutes present at the meeting.

31. DECLARATIONS OF INTEREST

Councillor DW Greenow declared that he knew Nick Semper (agent for The Buttermarket application), Darren Sockett and Dennis Gwatkins but that they were not close personal associates.

Councillor PJ Edwards declared that he knew Nick Semper but that he was not a close personal associate.

Councillor KS Guthrie declared that she knew Darren Sockett but that he was not a close personal associates.

There were no other declarations of interest made.

32. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF 'THE BUTTER MARKET, MAYLORD STREET, HEREFORD, HR1 2DS' - LICENSING ACT 2003

Members of the licensing sub committee of the council's planning and regulatory committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Fred Spriggs, Licensing Officer, who presented the report.

Members heard from Claire Corfield, Licensing, Travellers & Technical Support Service Manager, who was representing the licensing authority. Ms Corfield set out that the licensing authority had received information about events which had been held without a premises licence or temporary events notices (TENS). The licensing authority on receipt of the information had carried out a basic investigation and the results were set out in supplement one. The licensing authority believed that the premises were operating events without TENS. On this basis the licensing authority had concerns about a premises licence being granted with the current designated premises supervisor.

Ms Corfield clarified that there had been a separation of functions with regard to the member of staff determining the licence application.

Members then heard from Nick Semper, agent for the applicant, and Natasha Dunlop, who was the designed premises supervisor. As part of Mr Semper's representation, the following points were made:

- Mr Semper outlined the history of the Buttermarket and indicated that Local businesses were key to the success of the Buttermarket.
- TENS had been applied for between February 2018 and July 2018.
- During this period of time, there had been no crime, disorder or anti-social behaviour
- At the end of July, two TENS had been rejected. At this point, Natasha Dunlop had taken over the licensing management of the Buttermarket
- Ms Dunlop's personal history was outlined which included the facts that she had previously worked in licensed premises and had undertaken licensing training. Ms Dunlop would be returning to work for Herefordshire Council as a manager in children's safeguarding.
- Ms Dunlop had taken responsibility for the submission of TENS since 6 August 2018.
- Since 13 September 2018, Ms Dunlop had held a personal licence.
- Revised conditions had been approved by police.
- The Buttermarket would only be operating during the day time and not during the night-time economy.
- With regard to the licensing authority's serious reservations about Ms Dunlop's ability to be able to run a premises, Ms Dunlop had a degree, had received licensing training and had obtained 100% pass mark when obtaining her personal licence.
- It was acknowledged that prior to August 2018, the level of knowledge may not have been sufficient, but the applicant had concentrated on marketing the Buttermarket.
- The application was not retrospective but was forward facing.
- No evidence had been produced to evidence the sale of alcohol when no TENS was in place.
- The applicant had requested on two occasions a meeting with the licensing authority and this had not happened.
- Facebook posts did not represent prima facie evidence but was considered intelligence. The photographs on the Facebook posts did not provide evidence of sales.
- The applicant maintained that when no TENS had been granted, then they believed that no sale by retail of alcohol had taken place. The licensing authority had not provided any evidence of sale by retail.
- As part of supplement 2, there were some statements from the pop up vendors stating that they had provided samples in line with the Portman Guidance.
- With regard to live music, under the Live Music Act 2015 live music is not regulated if it takes place between 0800 hrs and 2300 hrs and within a work place. The Buttermarket is clearly a work place.
- It was refuted that there was evidence that Ms Dunlop had demonstrated a willingness to disregard the licensing objectives. Ms Dunlop was a manager within the Council who was responsible for looking after the most vulnerable children within Herefordshire. If there was a demonstration of the unwillingness to disregard the licensing objectives, then the director of children's services would need to be informed.
- It was believed that the licensing authority may have acted ultra vires in objecting to Ms Dunlop being the designated premises supervisor as the only responsible authority who could object were the police.
- Unless there was evidence of the sale of alcohol, then the licence should be granted.

The legal advisor to sub-committee clarified that the licensing authority were not objecting to Ms Dunlop as the designated premises supervisor, but had serious reservations.

Following questions from members of the sub-committee, the following points were made:

- Ms Dunlop had been responsible for licensing activity in the Buttermarket since 6 August 2018.
- Ms Dunlop had held a personal licence since 13 September 2018.
- Ms Dunlop was not responsible for social media in connection with the Buttermarket but had been aware of the posts.
- Ms Dunlop confirmed that on the dates when no TENS had been granted, the stall holders selling alcohol had been cancelled. However, there had been no posts about the cancelling of these stall holders on social media.
- Ms Dunlop was able to demonstrate her understanding of a standards TENS and a late TENS and that it was not unreasonable for the sub-committee to expect standards TENS to be submitted rather than late TENS, especially as the personal licence exam had been taken twice.
- Ms Dunlop assured the sub-committee that the premises would be run a professional manner in future and that she would take greater control over the social media content, if necessary.
- That there was no policy with regard to the hiring of space to pop up companies which clearly set out their responsibilities.

DECISION

The sub committee's decision is to grant the licence subject to a policy which all pop up companies proposing to sell alcohol are required to sign when hiring the space in the premises. Such policy to include that all staff employed by the pop up company are aware of and trained in accordance with the Herefordshire Council's model conditions for licensed premises. The policy to be agreed with the licensing authority prior to the licence being granted. Such policy to be available on request for review by a responsible authority.

REASONS

The committee had listened very carefully to all the representations and were concerned over the lack of management of the premises. Having received assurances from Natasha Dunlop, that the premises were to be managed in a more timely and better manner in the future, the sub-committee were able to grant the licence subject to the additional condition detailed above.

33. APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN RESPECT OF DROVERS REST, LLANERCH-Y-COED, DORSTONE , HR3 6AG - LICENSING ACT 2003.

At the request of the applicant, this application was deferred until 11 January 2019 at 10.00 am.