

Supplement to the agenda for

Licensing sub-committee

Wednesday 5 December 2018

10.00 am

**Committee Room 1, The Shire Hall, St Peter's Square,
Hereford, HR1 2HX**

	Pages
4. APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF 'THE BUTTER MARKET, MAYLORD STREET, HEREFORD, HR1 2DS' - LICENSING ACT 2003	3 - 18

Disclosure Bundle of Documents

Re Butter Market Hearing scheduled for 5th December 2018

1. Statement of Truth – Denis GWATKIN
2. Statement of Truth – Jonny BRIGHT
3. Notes of Telephone Call – DUNLOP and WILLIMONT dated 011118
4. Portman Group Guidance Note on Product Sampling
5. Companies House – List of Officers for Sockett Properties
6. Email from Liyana Probyn Skinner

To Whom it May Concern

Statement of Truth

My name is Denis GWATKIN and I am the owner/proprietor of Gwatkin Cider of Gwatkin Cider Co Ltd, Moorhampton Park Farm, Abbey Dore, Herefordshire HR2 0AL.

I have been asked about my recollections of my company's dealings with the Hereford Butter Market on both 7th July and 21st July 2018.

We provide pop up stands and bars advertising and promoting our products all over the UK throughout the year, including Chatsworth, Sandringham and a host of national events.

It is true that my company provided a pop up stand at the above location on the above dates. I remember that the 7th July was a particularly busy weekend for us because we sent out stands or bars to Monmouthshire Show, Hanbury Show (Worcestershire), Cardiff and Hereford Butter Market that day.

On both occasions, I travelled down to the Butter Market believing that there was a Temporary Event Notice in place. In fairness, there usually is. However on these occasions, having loaded up and then unloaded and set up my stand at the Butter Market, a member of the Butter Market Management Team has come down to tell me that Herefordshire Council has refused to grant a TEN. Although a minor inconvenience (as I wouldn't have brought so much kit with me, had I known beforehand) this has not proved to be an inconvenience as my business model is principally to publicise our extremely successful Music Festival that is run every summer, and to promote sales of our products which is subsequently done over the telephone, internet or mail order from our premises in accordance with our Premises Licence.

I have been asked specifically whether we made any retail sales on those days and dates at Hereford Butter Market. We did not.

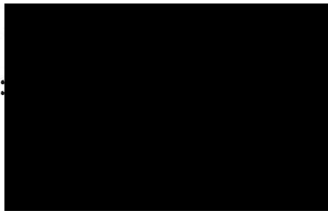
It is true that we provided free tasters of our products in tiny taster cups. I rely upon the Portman Group advice on providing such tasting sessions. Here is the link:

<http://www.portmangroup.org.uk/docs/default-source/advice-and-guidance/product-sampling.pdf?sfvrsn=4>

Portman Group state "Unlike the sale of alcohol, sampling alcohol in public areas does not require any sort of licence." The Portman Group Guidance goes on to provide a Code, covering the size of samples and, for example, – Appeal to U18s, Where People are likely to be Driving, Dangerous Locations and Activities and Immoderate Consumption. I follow this Code to the letter.

This is a Statement of Truth.

Signed:



Dated:

14/11/2018

To Whom it May Concern

Statement of Truth

My name is Jonathan BRIGHT and I am the co-owner/proprietor of Hereford Beer House, 65 West Street, HEREFORD, Herefordshire HR4 0BX. Despite being comparatively young, I have many years of experience in Licensing, having worked for BrewDog on new bar openings, and currently am not only running the Hereford Beer House but am also both a Consultant for a local Hop Merchant but am also a Brewer at a local Brewery.

I have been asked about my recollections of my company's dealings with the Hereford Butter Market on both 7th July and 21st July 2018.

We provide pop up stands and bars advertising and promoting our products on a regular basis.

Firstly I can confirm that we put on no event at the Butter Market, HEREFORD on 7th July 2018.

Secondly I can confirm that we did put on a display of our products on 21st July 2018. On arrival we were told that the TEN for that day had been rejected, after making the effort to get our products and equipment there we decided to use it as an advertising opportunity for our business.

During this event we supplied samples to passing members of the public who expressed an interest in our products and stock. In the event that anyone wished to make a purchase, we would refer them onto our shop which is but a two minute walk away in West Street where they could purchase as much as they wanted under the terms of our pre-existing Premises Licence. What individual products we had on display in the Butter Market were stocked in such low volumes that you couldn't run it as a commercial bar, even if you wanted to - you would soon run out of products to offer as samples - and thus the object of the exercise would have been defeated.

In fairness, the event did not work for us as a business. The amount of people we referred onto our shop that *actually* made their way down to the Hereford Beer House to make a final purchase was negligible. I doubt that the take on the till at the Beer House can have risen much beyond £30 during the entire day and therefore it simply wasn't worth all the extra effort we had gone to in order to put on the display at the Butter Market. We have therefore never repeated the exercise as the model was not for us.

This is a Statement of Truth.

Signed: ..

Dated:14/11/18.....

Notes of telephone call with Marc Willimont, Director

Licensing Department, Herefordshire Council,

Thursday 1st November 2018

Natasha requested a phone call from Marc Willimont on Wednesday 31st October to discuss the refusal of a TENS for Saturday 3rd November and the general concerns about the lack of support and advice about licensing from their department in Herefordshire Council.

Summarised return phone call on Thursday 1st November:

1. Natasha - explained the situation about the market – local business trying to renovate and rejuvenate the market by promoting other local businesses and providing them with an affordable space to sell their goods in high town. Explained we ran Pop Up events twice a month where other local businesses including cider makers could come and sell their products and how well these were working to increase trade and footfall.

Natasha – explained that the TENS application was submitted online on Sunday evening 28th October purely as a result of human error having forgotten to submit it Friday afternoon. Asked if their guidance on the 5 working day rule was local guidance drawn up from the legal framework or if it was law itself and whether or not any management discretion could be applied in awarding a late TENS.

Marc - advised that the law is very prescriptive and that he could not apply any discretion to the application. I explained that we were not asking for anything different to my previous applications all of which had been accepted.

Marc advised that the Licensing Law was an 'ass' for them to apply and for people like myself to use.

2. Natasha – asked about the premises application and if they hadn't had any objections by 5pm on Friday 2nd November could we assume that it would be granted.

Marc - stated that any valid objections would have been made by now. He said that technically the consultation period lasted until midnight and therefore we wouldn't know until Monday at the earliest. He advised that he would get his team to ring me Monday morning and let me know that it had all gone through.

Natasha – asked if there was any way we could trade alcohol on Saturday or should we cancel those stalls.

Marc - explained that if we traded alcohol then it would take someone making a complaint to them in order for anything to happen. He advised that for them to take any further action in relation to a complaint it must meet certain criteria and be in everyone's interest to take further. He advised that given the circumstances if he were to receive a complaint on his desk about the sale of alcohol in the market on Saturday he would say 'thank you very much but I'm not interested' and that would be the end of that. He said he couldn't say that a member of the licensing team wouldn't walk through doing their shopping and he couldn't speak for any action the Police might take.

Natasha - expressed concerns about potential repercussions of that for the premises licence application and that she wouldn't want to jeopardise that.

Marc - advised he couldn't say what it would mean for her reputation, but that he would not take any further action if a complaint were to come in.

3. Natasha – discussed concerns about the lack of support and advice available from the team and expressed frustration that as a local business trying to support other local businesses and the city centre it is very difficult to navigate the licensing law and application process smoothly. It seems nonsensical that all of the expertise and advice needed to help applications go smoothly for the applicant and the Licensing department are inaccessible to everyone.

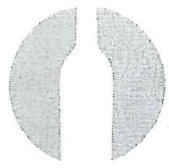
Natasha - explained the only support she had was from the admin team who were very helpful but for obvious reasons had their limits on advice they could offer. It would make more sense to be able to meet with a Licensing Officer and discuss plans for the application and share advice and information. Even down to things like the Public Notices that you are required to publish although the team provide the template there is no guidance on how much information must go in it which had led to complications in the application and this seems completely unavoidable by being able to speak to the team with the knowledge. Advised that their call back system was also unhelpful and hadn't worked for me on the occasions I had tried to use it.

Marc - agreed about the public notices and pointed out that in Planning Department the council have to take out the notices to avoid such issues. He said that for a relatively new law the Licensing Law was unhelpful.

Natasha Dunlop

cc Moira

1.11.18



Portman Group

Guidance Note

Product Sampling

2010

Product Sampling

This help note is intended to help drinks producers comply with The Portman Group's (TPG's) Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The help note represents the opinion of TPG's Advisory Service. Please note that the Independent Complaints Panel (ICP) is the final arbiter on how the Code should be interpreted and applied. Following the advice in this document is no guarantee that your product's packaging or promotion will not be found in breach of the Code if a complaint is received.

INTRODUCTION

Sampling can be defined as the unconditional giving away of alcohol to the general public in a public place, including licensed premises (unless the premises are being used for a private function). It allows consumers to assess free of charge the taste and quality of a product while allowing producers to test a new product, or create brand awareness for an established product. These guidelines have been produced by The Portman Group as a checklist of things to consider before embarking on sampling activity.

LEGAL POSITION

Unlike the sale of alcohol, sampling alcohol in public areas does not require any sort of licence, but it is advisable to seek written permission from the relevant Local Authority that no other formal agreement is required. The Criminal Justice and Police Act 2001 enables Local Authorities in England and Wales to designate any public place as a non-drinking area if satisfied that consumption of intoxicating liquor in that place has caused nuisance, annoyance or disorder.

The area would be covered by an Alcohol Designation Order which replaces any existing alcohol bylaws. The Act provides the Police with the power to enforce this restriction by requiring a person not to consume alcohol in the named public place and, if required, to confiscate the alcohol. Local Councils in Scotland have similar powers under the Local Government (Scotland) Act 1973. If you are contemplating sampling activity in any public area then check with the relevant Local Authority that it is not covered by a Designation Order, or its equivalent in Scotland.

Please note that there may be other legal issues to be considered when undertaking sampling activity. The help note is not intended to be a comprehensive guide to the law and companies are therefore urged to obtain their own legal advice before embarking on any activity.

REQUIREMENTS UNDER THE CODE

All elements of sampling activity (including, for example, supporting materials and script for sampling staff) are required to comply with all of the Code's provisions in both the spirit and the letter. There are two Code rules, however, that have particular relevance to sampling activity. They are as follows:

3.2(f) [Sampling should not] encourage illegal, irresponsible or immoderate consumption, such as binge-drinking, drunkenness or drinkdriving.

3.2(h) [Sampling should not] have a particular appeal to under 18s.

Below, we consider various issues arising under these two rules, and offer advice on how best to avoid problems under the Code and achieve best practice.

APPEAL TO UNDER 18s

In order to avoid your sampling activity having a particular appeal to under 18s:

- Only offer samples to people who are over the age of 18. If in doubt ask for proof of age (driving licence, passport or PASS-accredited proof of age card like The Portman Group's Proof of Age card). If proof of age cannot be supplied and you have any doubts as to whether the person is over 18 then you should politely refuse to offer them a sample.
- Sampling should not occur in or near areas that attract or appeal predominantly to children and young people (e.g. youth clubs, schools, bowling alleys).
- Ensure the sample is to be consumed by the person receiving it, i.e., it should not be obtained for someone else's consumption.
- If the activity is to take place in a public area, avoid using promotional equipment, materials or themes that are likely to have a particular appeal to under-18s (e.g. a birthday party themed stand with balloons and clowns). Where sampling will only take place in the controlled environment of the on-trade, allowances may be made for elements that would otherwise have an under 18 appeal.
- While rule 3.2(i) of the Code requires that marketing materials should not feature images of drinkers who are, or look, under 25 years of age, this is not relevant to sampling staff. Such staff, however, should be, and look, over 18 years of age.

SAMPLING IN LOCATIONS WHERE PEOPLE ARE LIKELY TO BE DRIVING

In order to avoid encouraging drink-driving, one should clearly avoid deliberately targeting sampling activity at drivers. This would normally rule out sampling in stand-alone car-parks. It may be considered acceptable under the Code, however, to conduct sampling immediately outside a licensed premise (e.g. a pub or supermarket) in which the sampled product is on sale.

This might involve sampling in an area which is on the fringe of a car-park serving those premises.

If contemplating sampling in this type of location:

- It would be advisable to keep sample sizes small, for example no more than 0.5 of a unit¹, just enough for the consumer to assess the taste and quality of the product.
- Restrict samples to one per person.
- Restrict samples only to people entering premises; that way you can ensure that those people that are in charge of a vehicle will not resume driving immediately.
- It would be good practice to have on display anti drink-drive messages and material. The Portman Group may be able to provide such material.

¹ Units can be calculated by multiplying the volume of the drink (in ml) by its alcoholic strength (in ABV%) and dividing by 1000. For more details, visit drinkaware.co.uk

OTHER POTENTIALLY DANGEROUS LOCATIONS AND ACTIVITIES

Apart from driving, there may be other locations or activities that are unsuitable to be associated with alcohol consumption:

- Do not provide samples in or near premises where it would be inadvisable to consume alcohol (e.g. building and industrial sites, go-kart arenas, swimming pools).

IMMODERATE CONSUMPTION

The Government's guidelines on sensible drinking state that provided men drink no more than 3-4 units of alcohol a day, and women no more than 2-3 units, there is unlikely to be a significant risk to their health. Sampling activity should not involve giving away individual samples of greater volume than this (and note the advice above in respect of locations where people may be driving).

To be as safe as possible, however, under the Code:

- Consider individual sample sizes of no more than 1.5 units (on-trade) and 0.5 units (off-trade), just enough for consumers to assess the taste and quality of the product. The reason for the difference is that most people visiting the on-trade will be there to consume alcohol.
- Do not provide samples to anyone who appears to be intoxicated or under the influence of drugs.
- Avoid delivering the sample in an irresponsible manner (for example, allowing the sampling staff to pour or squirt alcohol down the throat of the member of the public).
- Ensure sampling staff are able to offer information about the ABV of, and the number of units in, the product sample. This could be done either orally or by having leaflets readily available on site.
- It would be good practice to have on display responsible drinking messages or materials, including a reference to The Portman Group's Drinkaware website (www.drinkaware.co.uk). The Portman Group may be able to provide such materials.

THE PORTMAN GROUP'S ADVISORY SERVICE

The above guidance should help you to avoid problems under the Code. If you are in any doubt, however, as to whether your proposed activity conforms to the Code you can seek free, fast and confidential advice from The Portman Group's Advisory Service. To obtain advice, please telephone The Portman Group on 020 7290 1460 and ask for the Advisory Service. Alternatively, email your request to advice@portmangroup.org.uk, with full details of the proposed activity.

Companies House

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SCOTT, Clive John

Correspondence address **21 Burcott Road, Hereford, Herefordshire, England, HR4 9LW**

Role Active **Secretary**

Appointed on **3 February 2006**

SOCKETT, Darren Paul

Correspondence address **Longmeadow, Breinton, Hereford, Herefordshire, HR4 7PA**

Role Active **Director**

Date of birth **June 1965**

Appointed on **3 February 2006**

Nationality **British**

Country of residence **England**

Occupation **Company Director**

SOCKETT, Clayton Del

Correspondence address **158 Ross Road, Hereford, Herefordshire, United Kingdom, HR2 7PH**

Role Resigned **Secretary**

Appointed on **22 January 2016**

Resigned on **16 February 2017**

THORNE WIDGERY SERVICES LTD

Correspondence address **33 Bridge Street, Hereford, HR4 9DQ**

Role Resigned **Secretary**

Appointed on **3 February 2006**

Resigned on **3 February 2006**

THORNE WIDGERY LTD

Correspondence address **33 Bridge Street, Hereford, HR4 9DQ**

Role Resigned **Director**

Appointed on **3 February 2006**

Resigned on **3 February 2006**

Is there anything wrong with this page?

From: Natasha Dunlop
Sent: 04 December 2018 14:09
To: Spriggs, Fred
Cc: Marshall, Caroline (Democratic Services Officer)
Subject: Late addendum for the Hearing 5.12.18

Please find below a late addendum to be added to the bundle for tomorrow's hearing.

Many thanks

Natasha Dunlop

My name is Liyana Probyn-Skinner. I am a case progression officer working in children's social work for Herefordshire Council. I have been in children's social work for 22 years and I have worked for Herefordshire Council in children's social care for 15 years.

I have known Tash Dunlop both personally and professionally for the last 15 years. I met her through work when we worked together in the children's duty team for 10 years and we became friends.

Tash was an exemplary and well respected social work manager who has strong family values which is reflected both in her work and at home. She has a firm moral compass which has been demonstrated in her work with children and families and when managing social workers. I have been witness to her decision making - important decisions around securing children's safety and has consistently demonstrated robust professional judgement throughout my 10 years of working with her. She has a strong sense of social responsibility and working to a high ethical standard and recognises the power and influence she holds in her social work and further recognises her important role in the community. I have witnessed her liaising with a lot of other agencies such as health, police, education, probation, adult mental health and drug and alcohol services to name but a few with a high degree of professionalism.

On a personal level, Tash is a very kind and generous person who is always ready to help anyone in need. She is a great listener and is always able to see through the wood for the trees - helping to problem solve and work through issues presented to her. She is clever and funny and a very loyal friend.

Regards,

Liyana Probyn-Skinner

