

IN THE MATTER

of the Sale and Supply of Alcohol Act.

AND

IN THE MATTER

of an application by **St Albans Catholic School PTA** for an On-Site special licence pursuant to s.22 of the Sale and Supply of Alcohol Act 2012 in respect of premises situated at, **49 Rutland Street, Christchurch**, known as **St Albans Catholic School**.

DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

DECISION ON THE PAPERS

Chairperson

Mr P.R. Rogers

Members

Mr D. Blackwell QSM

Mr R.J. Wilson JP

[1] This is an application by **St Albans Catholic School** for an On-site special licence for the premises at **49 Rutland Street, Christchurch** known as **St Albans Catholic School**, to hold a School Gala and Family Afternoon between the hours 11.00 am to 3.00 pm on Sunday the 24 March 2019.

[2] There has been no objection or wish to be heard expressed by members of the public and neither has the application been opposed by the Licensing Inspector or the NZ Police. The Medical Officer of Health (MOH) has however reported in opposition. Such opposition does not necessarily require a public hearing to be held pursuant to s. 202 of the Act, only public objections require this. The Committee may choose to decide the matter on the papers although s. 191(2) requires a full quorum of three members sitting. The Committee has given careful consideration to the matter and has decided that a public hearing is not necessary. We therefore proceed to determine the matter on the papers.

[3] The MOH has consistently opposed applications for Special Licenses for events such as this, which he have previously described as "child focused". In 2014 we heard evidence presented on behalf of the MOH at a public hearing:

St Patrick's School Parents, The Friends' Association of Cathedral Grammar School and Cashmere Primary School, Christchurch District Licensing Committee, Decision No. 60B [2014] 137.

Since that time there have been other applications considered on the papers and on each occasion we have taken careful note of the arguments put forward by the MOH.

[4] In the notice of opposition relating to this application the representative of the MOH has made the following statements. The MOH had spoken to the applicant's representative, Rebecca Sparrow. The MOH's position had been put to the applicant. Ms. Sparrow had advised that there had been a discussion in-house prior to the application being made and that it was their intention to proceed with the application despite the MOH opposition.

[5] The MOH states in his opposition 'There is strong health evidence that children's future drinking behavior can be negatively influenced by seeing adults drink in the school setting'. There is no citing for this comment and the Committee has not been given any previously reported evidence of a causal nexus between adults seen drinking and future drinking behavior of children.

[6] The MOH quotes the recommendation from the Ministry of Education that alcohol should only be at adult only fundraisers. The Committee has stated before that the Ministry of Education has also stated that it is a matter for individual schools to make their own decisions on the issue of alcohol at school events on school grounds. The Ministry of Education is not prepared to ban such events and has recommended only that alcohol be confined to adult-only fundraisers. The school committee, in this Committee's opinion, would have weighed up the issue of alcohol at school events on school grounds. As stated before, they have chosen to take a different view from that of the Medical Officer of Health.

[7] This event has been held for a number of years and the MOH's position is well known to the applicants and he has undertaken dialogue with them over this matter.

[8] We record that we respect the position of the MOH, but equally with respect, we have not been sufficiently moved by the evidence to refuse the licence. The applicant proposes to run this event as can be seen at paragraph 5(i), Event Details: it is recorded as a gala event where there will be stalls such as books, white elephant, second hand clothing and cakes. It is recorded as being open to school families and the community with no mention of it being 'child focused'. While there will be a live singer and other events such as mini golf, fizzy fishing and a bouncy castle, the Committee takes the view, after due consideration, that providing activities for children does not make it a child focused event.

[9] The proposed licensed area is on a grassed area and will be roped off.

[10] The role of the Committee is to satisfy itself that the application before it meets the requirements of the Act. As we have said in previous decisions we do not set ourselves up as experts on the harm which might be caused to society generally, or to the community directly or indirectly (s.4(2)(b) refers) by the granting of the licence. We do note that the Act talks of 'harm' in s.4, but not the words 'potential harm'.

[11] At page 14, paragraph 5 of the previously mentioned St Patrick's Decision, the MOH referred to what he called incorrect or inappropriate "parental modelling". The Committee commented at page 15, paragraph 2, that such parental modelling is not listed as one of the harms under s.4:- The object of the Act.

[12] Section 4(1)(b) states that the harm caused by the excessive or inappropriate consumption of alcohol should be minimized; the Committee does not believe this event breaches the intent or purpose of the Act.

[13] We also have to be satisfied that such harm is likely to occur before we would stop a responsible group of citizens from exercising a lawful right. The consumption of alcohol in the presence of children is not illegal; indeed it is commonplace in other licensed venues.

[14] The Committee notes the time at which this event is being held, namely a Sunday between the hours of 11.00 am to 3.00 pm, and in our view the relatively short period of the event with those licensed hours will have minimal impact on alcohol harms, if any. The organisers are also expecting only about 80 to a 100 persons to attend.

[15] The applicants are a responsible group of citizens who have run similar events without problem in the past. We are simply not satisfied that the arguments, including the matters in the latest opposition put forward by the Medical Officer of Health, outweigh the right to have alcohol at the event, provided a licence is obtained and any conditions complied with.

[16] We are satisfied after standing back and evaluating all the matters placed before us that the application fulfils the criteria as set out in s.142 of the Act and does not offend against either the purpose or object of the Act. Pursuant to s.211(1)(c) the Committee's attitude to this application is therefore that it should be granted. We hereby grant the application for a special licence pursuant to s.104(1).

[17] The licence will not be issued until all relevant clearances have been obtained. The applicant is not entitled to sell alcohol until the licence is issued.

[18] The applicant's attention is drawn to s.259 of the Act which makes it an offence not to comply with certain requirements and restrictions imposed by or under s.46 to 63 and s.150.

[19] The applicant must comply with all conditions specified on a licence.

[20] A **waiver** is granted pursuant to s.213(2) of the Act exempting the applicant from the requirement to appoint a duty manager. Patrick O'Neill and Jeanine Marriott have been nominated as persons to manage the conduct of the sale of alcohol under the licence. The Committee has no reason to doubt the ability of these persons to manage this event.

[21] The licence will be subject to the following conditions –

Compulsory conditions – section 147(3)

The following conditions are compulsory:

a) Alcohol may only be sold under the licence only on the following days and during the following hours:

Sunday 24 March 2019, between the hours of 11.00 am to 3.00 pm

b) Drinking water will be freely available on the premises as specified in the application.

Discretionary conditions – section 147(1) the following discretionary conditions:

a) The licence holder must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.

b) Food must be available for consumption on the premises as specified in the application.

c) Low-alcohol beverages must be available for sale and supply on the premises as specified in the application.

d) Non-alcohol beverages must be available for sale and supply on the premises as specified in the application.

e) The licensee must provide assistance with or information about alternative forms of transport from the premises as specified in the application.

f) Members of the public must be excluded from the premises in the following circumstances: Entry is not restricted and is open to school families and the community.

The licence is also subject to the following conditions, which in the committee's opinion are not inconsistent with the Act:

- Noise should be controlled so as not to disturb neighbouring residents.
- Alcohol must only be sold, supplied and consumed within the premises as per plan provided.
- A copy of the licence, together with signs showing the age restriction must be clearly displayed on the premises.

Other restrictions and requirements to be noted on the licence

The following restrictions and requirements are to be noted on the licence:

Section 57 – Display of licences

Section 214 – Manager to be on duty at all times and responsible for compliance

A copy of the licence setting out the conditions to which it is subject is attached to this decision.

THE LICENSED PREMISES

The premises are identified on the plan provided with the application for a licence.

DATED this 16 January 2019

A handwritten signature in blue ink, appearing to read 'P R Rogers', is written over a light blue grid background.

P R Rogers
Chairperson

Christchurch District Licensing Committee