

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Pegasus 2011 limited for a Special Licence pursuant to s.138 of the Act in respect to premises situated at 14 Oxford Terrace, CHRISTCHURCH, trading as 'The Pegasus Arms'.

BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE:

Chairman: Mr G B Buchanan
Members: Mr A J Lawn
Mr M J Wilson

Hearing at the Christchurch City Council Chambers, CHRISTCHURCH on the 16th of April 2014.

APPEARANCES

Mr M Ferguson; Christchurch City Council Licensing Inspector
Sergeant Giddens for NZ Police
Mr P Tweed on behalf of the Medical Officer of Health

APPLICANT

Ms Alex Brackstone

Introduction

- (1) This decision relates to an application for a special licence under section 138 of the Sale and Supply of Alcohol Act 2012.
- (2) The application relates to the premises situated at 14 Oxford Tce, Christchurch, trading as "The Pegasus Arms".
- (3) These premises operate with a Tavern style on-licence. Their normal hours of trade require them to close at 3.00am. They are also required to be closed on certain days as described in section 46 and 47 of the Act. They have applied for a Special Licence to allow them to sell alcohol on specific days and for specific times while the FIFA world Cup Football tournament

is being held. The licensing Inspector has sought a decision from the committee. Police and Health have objected to the granting of this licence.

The Application

- (4) Ms Brackstone appeared as the applicant for this Special Licence. Ms Brackstone gave evidence which demonstrated she was an experienced operator within the liquor industry. She had previously operated the “Bard on Avon” before it was destroyed in the Canterbury earthquakes. She has since purchased the Pegasus Arms in 2011.
- (5) As this licensed premise previously operated under a 24 hour licence, she was able to host a number of similar events including the last World Cup Football. All of these events were very successful and were held without any problems.
- (6) The FIFA World Cup takes place only once every four years and is the most popular sport in the world. It is an opportunity for locals and visitors to gather to support their team and country. She gave evidence that the event was not just about the game but it was about the people. People would come to celebrate what was seen as a community event.
- (7) Canterbury has changed since the earthquakes. There are now large groups of immigrants from a variety of countries working on the rebuild. She felt an opportunity to gather together with others was a “special” event. The screening of the match was simply the excuse to come together.
- (8) Ms Brackstone said that entry would be by ticket only. Tickets would be distributed to groups and individuals without cost, via the internet, post or could be collected from the premises. To questions from the committee, she stated that she did not want to charge for entry and include a meal, as she did not think that this would be what the customers would want. Groups would plan their event and the Pegasus Arms could plan for the size of the event.
- (9) Food would be available for these events and breakfast would be offered, both upstairs in the dining room and downstairs where the match was being watched.
- (10) She did not think that alcohol would be a focus at that time of the morning, but would ensure that sufficient staff were on duty and that appropriate training was in place.
- (11) To questions from the committee, Ms Brackstone said that in her experience supporters would often really get into the event, turning up in the team uniform and waving team scarves and national flags.
- (12) Ms Brackstone told the committee that the Pegasus Arms had hosted national or community groups in the past. Previous celebrations have included Oktoberfest and the

Dutch Queen's Birthday. She is also aware that there is an active Czech community in Christchurch.

Reporting Agencies

Licensing Inspector

- (13) Mr Ferguson gave evidence that he had worked with the applicant to ensure that he understood exactly what type of event she was holding. His opinion was, that after several meetings with Ms Brackstone he was of the opinion that the function was more of a "function of coming together for a social activity" rather than just watching TV.
- (14) He also said that the applicant had worked with him and made significant changes to the initial application for the special licence. Particularly to ensure it was not simply an extension of trading hours when the property would normally be closed. The application now better reflected that the premises would open to host the "event" and was not merely continuing to trade from late the previous night.
- (15) Mr Ferguson said that the events that Ms Brackstone had previously held at the Bard on Avon were all held without incident.
- (16) To questions from the committee, he said that he supported the application now that changes had been made to address some of his concerns. He said that he did not want to see the granting of a Special Licence as "opening the flood gates" to everyone who wanted to watch their team on TV.
- (17) He said that "At this stage he is looking for guidance as to how far the Committee is prepared to go and where the line should be drawn."
- (18) Ms Brackstone was asked if she had spoken to any of her neighbours about holding these events. She said that she had not but in response to further questions, she advised that Christchurch Hospital was their main neighbour and that the hotel enjoys a good relationship with hospital staff, who are among their best patrons. She said that there would be only minimal noise from these events. She said that the outside bar would not be used and the events would be held inside with the doors and windows closed, particularly at that time of the year.

Police

(19) The Police had no submission to make, explaining that Ms Brackstone had covered all the points which they had wished to make to the committee and that she had satisfied their concerns.

Medical Officer of Health

(20) Mr Tweed also had no additional comments or submissions to make to the committee. He said that Ms Brackstone had covered all the points they wished to identify to the committee.

Decision

(21) The committee is guided by section 142 of the Act having regard to the matters listed therein. The reporting agencies raised no concerns about the suitability of the applicant, nor the manner in which she would run the events. The committee likewise, were satisfied that Ms Brackstone has had considerable experience running similar events and that she had given consideration to address any concerns that might arise in holding the events.

(22) The matter for consideration was whether the events that were the subject of this application were events which were suitable to be issued a "special Licence".

(23) In a UK decision in *R v Leister Justices, ex p Watchorn (1978 142 JP 375)*, the court held in deciding whether watching sports on television could amount to an occasion or event:

"On the occasion in question there was no celebration of an event, but merely a provision of a facility for observing an event by the licensed customers."

(24) Ms Brackstone gave evidence that it was the gathering of the people together to celebrate the World Cup match that was the event, not merely the watching of Television.

(25) The committee does acknowledge that the Christchurch social scene has changed since the earthquakes. The increase in other nationalities now present in Christchurch presents opportunities for national groups to gather in greater numbers than in the past.

(26) Ms Brackstone has sought hours of trade under the special Licence that coincide with the matches being played. This is not merely an extension of trade.

(27) A group of people watching television does not in itself necessarily mean that a special licence cannot be granted, if it is the common purpose of the event itself that is being celebrated.

Reynolds [2004] NZLLA 246 the Authority was persuaded that watching a televised event fell within the parameters of a special licence. It commented as follows:

“Nevertheless, it is our view that there may be occasions where events are televised which would justify the granting of a special licence. There may also be times where a special licence would be granted to sell liquor to persons attending a social gathering which involves the common purpose of watching an event on television. There would need to be an element of control over who could attend the occasion or social gathering. That element of control in respect of the occasion might well be reflected in the pre-selling of tickets or charge for admission.

In either case ordinary members of the drinking public would be excluded. The occasion might include a meal and/or guest speakers and/or other entertainment based around the television broadcast. In the case of a social gathering there would have to be a connection between the common purpose of the members of the group and the event being broadcast. In cases such as the above, it will not be the nature of the event being televised which would be the determining factor, but the nature of the occasion being promoted.”

(28)The special licence sought by the applicant is controlled by ticketed admission. Those tickets will be targeted at various groups and nationalities.

Also in *Bond Street Ltd [1991] NZAR 9*,

“the applicant wanted to open his bar during any televised sporting event, particularly provincial, national, and international sporting fixtures. The Authority observed it ‘could not rule out the possibility that watching a particular television broadcast could in some circumstances be an occasion or event’. It might amount to ‘entertainment’ in terms of s.7(1)(c), but there would need to be some additional element over and above the telecasting of a sports event to warrant the designation of ‘a particular occasion or event.’”

(29)The applicant has presented her case in a thorough and professional manner. She has satisfied the committee that she does wish to host a special event, where the focus is a controlled, managed social gathering of specific groups to celebrate and watch the FIFA World Cup Football.

(30)The application has been amended from the original to have the Special Licence granted for six dates. They are detailed in the application, together with the times.

For the reasons outlined, a Special Licence is granted.

Conditions

- The Premises may be open for the sale of alcohol 30 minutes before the commencement of each game.
- The special licence shall end 30 minutes after the final whistle signalling the end of the match.
- Only ticket holders who have pre booked their tickets may attend.
- That drink shall stop being served 20 minutes after the commencement of the second half.
- That food shall be served as per the menu presented in the application.
- The event shall be conducted inside and noise contained within the building.

A handwritten signature in blue ink, appearing to read 'G. Buchanan', is written in a cursive style.

Mr G Buchanan
Chairman District Licensing Committee