

Decision Number 60D [2016] 2600

IN THE MATTER of the Sale & Supply of
Alcohol Act 2012

AND

IN THE MATTER of an application by St
Joseph's School for an
On-Site special
Licence pursuant to
s22 of the Act in
respect of premises
known as the St
Joseph's School
situated at 4 Vagues
Road, Christchurch.

DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Chairperson: Mr G Buchanan

Member: Mr R Wilson JP
Mr P Rogers

INTRODUCTION

[1] This is an application by the St Joseph's School for an On-Site Special Licence for premises known as the St Joseph's School situated at 4 Vagues Road, Christchurch. The occasion is a School Fair to be held on Friday 30th October 2016 between the hours of 11.00am and 2.00pm. The applicant has appointed an experienced and certificated Duty Manager to take charge of the licensed area which will be contained within a small roped off area outside. This is an annual event and there have been no problems with similar events in the past.

[2] There has been no objection to this event nor any 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.

[3] The Medical Officer of Health has, however, reported in opposition. Such opposition does not necessarily require a public hearing, s202 of the Act providing that only public objections require this. The Committee may choose to decide the matter on the papers although s191(2) requires a full quorum of three not just the Chairperson sitting alone. 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.

THE OPPOSITION BY THE MEDICAL OFFICER OF HEALTH

[4] On the 5th of October 2016 Dr Humphrey the Medical Officer of health contacted the applicant and cited a letter dated 28th May 2015 from the secretary of education's position "that alcohol should only be at adult only fundraisers" and that it is important that schools are encouraged to set positive example and avoid alcohol use around children". The letter did go on to make it clear that school boards of trustees were independent of the Ministry in the matter and could make their own decisions. The applicant considered the Medical Officer of Health's urging of the school to withdraw its application but decided not to do so.

[5] The Medical Officer of Health has provided a report where his view is that the consumption of alcohol at "*this event is inappropriate, I have taken the view that the nature of the event is such that it will likely lead to the creation or reinforcement of an association in the minds of the young children attending the event, that the provision of alcohol and parental drinking as being both inevitable as necessary behaviors*"

[6] However this report differs little from the evidence the Medical Officer of Health has put before the Committee in past applications, where on balance we have preferred the opposing view, which points to the positive influence of children seeing parents having a social drink in a socially acceptable manner in a controlled and family oriented environment. We are not setting ourselves up as experts in the matter. We are required to reach our decision on the evidence before us and we are not convinced that the granting this application is likely to have the dire consequences that the Medical Officer of Health suggests.

[7] We are required as in all decisions to consider the object of the Act as set out in s4. S4 (1) says:

The object of this Act is that-

- (a) The sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and*
- (b) The harm caused by the excessive or inappropriate consumption of alcohol should be minimized.*

S4 (2) goes on:

For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes-

- (a) any crime, damage, death, disease, disorderly behavior, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and*
- (b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behavior. Illness, or injury of a kind described in paragraph (a).*

[8] There will be agreement that we are not discussing excessive consumption of alcohol here. What is envisaged is the opportunity for members of a community to take time out in the course of a community event to have a glass of beer or wine in the company of friends and neighbours.

[9] The Medical Officer of Health's argument is that such, at what he terms a "child focused event", will contribute to harm to society generally by normalizing the consumption of alcohol. The Senior Licensing Inspector in his report says that "To hold the view that the exposure of children to alcohol causes significant harm would imply that no licence should be granted to any licensed premises or special licence granted for any event where children are present." Clearly this would not be practicable or consistent with the Act.

[10] The applicants in this case are responsible people seeking a special licence for a community event. They are seeking a licence as the law allows them to do. We see no reason why they should not get one and they are granted a Special Licence pursuant to s104(1).

[11] The licence will be subject to the following conditions:

Compulsory Conditions

The following conditions are compulsory:

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

Sunday 30th October 2016 between the hours of 11.00am and 2.00pm

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

Discretionary Conditions :

The following discretionary conditions will apply:

- (a) The licence holder must display appropriate signs adjacent to every point of sale detailing the statutory requirements 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 alcoholic 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) A copy of this licence together with signs showing the age restriction must be clearly displayed.
- (g) Entry is open to the general public.
- (h) Alcohol may only be sold, supplied and consumed within the area marked on the plan submitted with the application.

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

(a) Noise should be controlled so as not to disturb neighbouring residents.

The premises are not designated.

Dated at Christchurch this 6th day of October 2016

Christchurch District Licensing Committee

A handwritten signature in blue ink, appearing to read 'G Buchanan', is written over a faint, circular official stamp.

G B Buchanan
Chairperson,
Christchurch District Licensing Committee