

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

AND

IN THE MATTER of an application by
CALIENTE KITCHENS
LTD for renewal of an
On Licence pursuant to
s127 for premises
known as Tequila
Mockingbird and Boo
Radleys situated at 98
Victoria Street,
Christchurch.

DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

INTRODUCTION

- (1) This is an application by Caliente Kitchens Ltd for renewal of an On Licence for premises known as Tequila Mocking Bird and Boo Radleys situated at 98 Victoria Street, Christchurch. The application was made on 6th June 2014 with respect to a licence set to expire on 4th July 2014. There have been two public hearings already with respect to this application, one in November 2014 and one in March 2016. The District Licensing Committee adjourned the matter on the first occasion mainly to allow time for some certainty about the provisions to be included in the Local Alcohol Policy. When it became clear that the Local Alcohol policy was still some time from implementation the hearing was resumed. Unfortunately following the completion of the hearing a perception of bias issue was raised with respect to one of the List Members. After consultation with the parties the Committee decided that it would not proceed to issue a decision and that the matter should be reheard by a new Committee in due course.
- (2) It soon became apparent that there was no appetite among the parties for a third public hearing. Following discussions between the applicant, the objectors and the agencies it was agreed that opposition to renewal of the licence would be withdrawn. This was on the basis of an amendment to the application to take account of Agency's concerns about patrons moving between adjoining premises, some undertakings by the applicant and the understanding that a renewal for the usual term of three years would in effect only have a little over one year to run given the time elapsed since the licence expired. The parties also appreciated that the long awaited Local Alcohol Policy might by then issue guidance on the vexed question of trading hours in the Victoria Street entertainment area.

- (3) S203(3) of the Act provides that an application may be decided by the Chairperson on the papers if objections filed within the prescribed time have been withdrawn. I comment on the objections later in this decision but all have now been withdrawn or are considered to have lost their status. The Victoria Neighbourhood Association which participated fully in both previous hearings has advised that it does not wish to be heard at a third hearing but would like its views to be taken into account. I will do so later in this decision. Pursuant to s202(1) I therefore proceed to decide this matter on the papers. I record that I have not previously had any involvement in this matter but since being appointed to deal with it have read carefully all the papers relating to the two previous hearings including the evidence given by the objectors.

OBJECTIONS

- (4) Six objections were received by the closing date viz 2nd July 2014. A further two objections were received on 9th August 2014 and were accepted by the Committee dealing with the matter at the first hearing. For the record a waiver is granted pursuant to s208 with respect to the late filing of these objections.
- (5) The difficulty with this application has been the uncertainty surrounding what a future Local Alcohol Policy might prescribe as trading hours for the Victoria Street area. Currently this licence permits trading until 3 am from Monday to Sunday. It has been mooted that the Local Alcohol Policy might reduce trading hours to 1.30 am. If this came to pass then it is argued that there would be an improvement in the behaviour of late night patrons of the numerous bars and restaurants in the area. This could have a significant effect on the inroads to amenity of which local residents complain.
- (6) The District Licensing Committee has taken the view that it does not wish to disadvantage any particular establishment by reducing its trading hours just because its licence has come up for renewal when neighbouring premises could continue to be open later. It hoped that the Local Alcohol Policy might resolve the situation by stipulating hours that would apply to all. Unfortunately Christchurch still does not have a Local Alcohol Policy and applications for renewal such as this one are now long overdue to be decided.
- (7) The common theme among the objectors was the reduction in amenity caused by patrons leaving the area's restaurants and bars in the early hours of the morning. The present applicant has the reputation of a good operator but nevertheless there have been some complaints relating to his premises. In addition he must share the responsibility for the street behavior of patrons who may or may not have been in his establishment at some stage in an evening.
- (8) The behaviour complained of by the objectors is exceedingly well documented in the full and detailed submissions of the Victoria Neighbourhood Association. I commend the Association on the quality of its research and presentation. Nothing much is served in the context of the present decision by repeating in detail what the Association has so graphically described. Nevertheless for the record I note that vomiting, public urination, noise and vandalism seem to have become the norm on the streets in this area at night particularly at the week ends. I have no doubt that the amenity and good order of the locality has been reduced, to more than a minor extent, as a consequence of the issue of

licences collectively. Drawing a nexus between the conduct of this licence and the behaviour complained of is more problematic. I also note that licensees both individually and as a group have taken steps to improve the situation but have not been able to achieve results that satisfy the objectors. The present applicant has taken steps to improve security within his premises by fitting a lock to the door which connects to adjoining premise Revival Bar. This had been of major concern to Agencies. He has also agreed to rigorous enforcement of his alcohol management plan. These steps are in the right direction.

- (9) As noted above, all objections have now either been withdrawn or are considered to have lapsed. Nevertheless the concerns raised have not been resolved. These may well be raised again when the next application for renewal of this licence is considered in mid 2017. The Victoria Neighbourhood Association for its part is in the meantime concentrating on attempting to influence the drawn out process towards a Local Alcohol Policy. The promulgation of such a Policy may, as already observed, do much towards improving the situation for local residents as well as providing some certainty for hospitality operators.

DECISION

- (10) I am satisfied as to the matters I must have regard as set out in s105 and I grant the applicant renewal of an On Licence for a period of three years. I note the three year period will expire on 4th July 2017. The licence may issue when all required fees are paid. The applicant's attention is drawn to s259 of the Act which makes it an offence to fail to comply with certain requirements and restrictions imposed by or under the Act specifically ss46-63. The licence will be subject to the following conditions:

Compulsory Conditions

- (a) No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day or before 1 pm on Anzac Day to any person who is not on the premises to dine.
- (b) Alcohol may only be sold or supplied on the following days and during the following hours: Monday to Sunday from 8 am to 3 am the following day
- (c) Water must be freely available to customers on the premises while the premises are open for business.

Discretionary Conditions

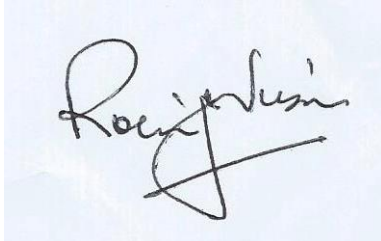
- (a) The following steps must be taken by the licensee to ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed
- Display of appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (b) The following steps must be taken by the licensee to ensure that the provisions of the Act relating to the management of the premises concerned are observed
- Alcohol must only be sold, supplied and consumed within the area marked on the plan submitted with the application.
 - Compliance with the alcohol management plan submitted to the Inspector.
- (c) The following steps must be taken to promote the responsible consumption of alcohol
- The licensee must implement and maintain the steps proposed in their host responsibility policy aimed at promoting the reasonable consumption of alcohol.

The whole of the premises is designated a supervised area.

Other restrictions and requirements to be noted on the licence

- s50 One way door restrictions in local alcohol policy to be complied with
- s51 Non alcoholic drinks to be available
- s52 Low alcohol drinks to be available
- s53 Food to be available
- s54 Help with information about transport to be available
- s56 Display of signs
- s57 Display of licences
- s214 Manager to be on duty at all times and responsible for compliance

DATED at Christchurch this 26th day of May 2016

A handwritten signature in black ink, appearing to read 'R.J. Wilson', is written on a light blue background. The signature is stylized and includes a long horizontal stroke at the end.

R.J. Wilson
Chairperson
Christchurch District Licensing Committee