

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

AND

IN THE MATTER of an application by B & S LIQUOR  
LTD for an Off Licence pursuant to  
s32 (1)(b) of the Act for premises  
situated at 495 Papanui Road,  
Christchurch.

DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Chairperson Mr R J Wilson JP  
Members Mr D L Blackwell OSM  
Mr P Buttell

HEARING at Christchurch on 2<sup>nd</sup> June 2016

APPEARANCES Mr P Egden, Counsel for the Applicant  
Mr J Singh, B & S Liquor Ltd, Applicant  
Mr M Ferguson, Senior Licensing Inspector, CCC  
Constable A Jones, NZ Police  
Mr P Shaw, for the Medical Officer of Health  
Mrs J Anderson, Hearings Adviser, CCC

INTRODUCTION

- [1] This is an application by B & S Liquor Ltd for an Off Licence pursuant to s32(1)(b) of the Act for premises situated at 495 Papanui Road, Christchurch. The shop is located among other retail premises in the Papanui Shopping Centre. It has not previously been licensed.
- [2] The application was duly advertised and attracted three public objections plus a small petition. The NZ Police are also in opposition but have chosen not to present evidence. The Hearings Adviser has been in contact with the public objectors but none turned up to the hearing to give evidence. Accordingly we give what weight we can to their submissions but note that is limited by the fact that no one is available to be cross examined.

- [3] The Committee notes that in a previous application (which was declined) the applicant's suitability to hold a licence was considered. The Committee sitting at that time found no reason to fault the applicant on that ground. While we must consider all the criteria in s105 in the light of the Object of the Act, it is s105(h) that attracts our particular attention today, *whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence.*
- [4] The Inspector has commented in his report that this is one of the most comprehensive applications he is seen. The Committee concurs that the application is particularly well presented and supported by a good deal of useful information gathered together by the applicant.

#### EVIDENCE OF THE APPLICANT

- [5] Mr Singh produced a brief of evidence and was not required to read it. He told the Committee that he had been working in the liquor industry off and on since coming to New Zealand from India in 2009. He had made a previous application for an Off Licence for premises in East Christchurch in 2014 but this was not granted. The Committee at that time concluded that if the licence were granted the amenity of the locality would be affected by more than a minor degree. However the Committee noted that it was confident Mr Singh could make a useful contribution to the industry at another location.
- [6] Mr Singh explained that since then he has been driving a taxi to support his family while looking out for another site for a liquor store. When the present site became available he conducted a thorough investigation and concluded that there were no neighbourhood issues which might reasonably impact on a liquor store business. Parking was an issue raised by objectors with some reference to the bus lane outside the premises limiting this. Mr Singh explained that the bus lane did not actually extend as far as his proposed shop. In his view there was plenty of public parking in the area and he was hoping to obtain two permanent car parks adjacent to the premises.
- [7] With reference to the concern that school students might frequent the area, Mr Singh said he had spent time observing foot traffic past the shop. He saw very few students pass by. He concluded that most students used public transport from the major bus stops on the Main North Road. Papanui High School is about 900 metres away and there are no public playgrounds in the vicinity.
- [8] There are only three Off Licences within a 1 km radius of his shop, two being supermarkets some 450 to 650 metres away. There is a Super Liquor outlet about 230 metres away but otherwise there are no Off Licences for more than 2.5 kilometres. There are many restaurants and takeaway businesses in the area as well as hotels and motels on the busy arterial route on which his shop is situated. There are also other established businesses in the area and he hoped to draw customers from all of these as well as the passing public.
- [9] With respect to amenity and good order Mr Singh said he knew the neighbourhood well having driven taxis in the district at all hours of the day and night. He also shopped regularly in Papanui as he lives not far away. Before deciding to go ahead with this venture he had conducted his own research. He concluded there were no significant

issues around noise, nuisance or vandalism nor was alcohol related harm particularly prevalent. There is a small public reserve across the road from the shop but he did not expect this to pose any problems. He noted that there was a liquor ban in force in Papanui and the Police Station was within 100 metres of the reserve.

There is a Youth Facility quite close to his premises but he had spoken with the Manager who expressed no concerns. Similarly the RSA is close by but has not raised any objection.

- [10] If the licence is granted Mr Singh intends to enter into a franchise agreement with the Liquor Centre chain. He chose this franchise because it does not require advertising of specials or cheap liquor in the store. The exterior of his shop would be devoid of signage apart from the Liquor Store name on the windows. Although he will stock pre-mix drinks these will not be displayed at the front of the shop and no single bottle or can sales of beer or pre-mix would be made.

### CROSS EXAMINATION

- [11] Mr Shaw for the Medical Officer of Health questioned Mr Singh on his knowledge of schools in the locality. Mr Singh was aware of some but not of others which he said he may have missed in his research. As he had said earlier he did not believe there was any significant foot traffic of students past his shop. He agreed that there was a church close by but said he had been unable to locate anyone when he called in. He was aware that the Super Liquor outlet was shortly to relocate temporarily even closer to his shop while a new building is constructed. He knew Super Liquor well having previously worked for that franchise. Its values and practices were similar to his own and he agreed they would have a similar clientele.
- [12] Mr Shaw referred the Committee to an appeal decision of the Alcohol Regulatory and Licensing Authority dated 17<sup>th</sup> March 2016 [2016] NZARLA PH 73 in the matter of *Pangotra Holdings (Palmerston North) Ltd* where the Authority expressed its views among other things on the degree to which an applicant might be expected to engage with the community prior to applying for a licence.
- [13] Constable Jones asked about the appearance of the business from the street and obtained an assurance that there would be no external advertising other than the franchise name on the front windows. The shop would also be painted in the colours usually used by the Liquor Centre.

### DISCUSSION

- [14] We have considered the matters raised by the objectors. These have been picked up in the reports of the Agencies and have also been covered by Mr Singh both in his very detailed application and in his evidence. Unfortunately none of the objectors was on hand to press their points of view. While we accept that they have genuine concerns, from what we have read and heard we were not brought to share those concerns. With respect to s105(h) as amplified by s106 we were not persuaded that the good order and amenity of the locality would be reduced, to more than a minor extent by the granting of this

application. When we consider the criteria in s105 as a whole we are satisfied that the grant of an Off Licence would be consistent with the Object of the Act. We are also mindful, as Mr Egden pointed out in his final submissions, that without the objections which were not pursued, the application would likely have been dealt with on the papers without the need for a public hearing.

## DECISION

[15] We are satisfied as to the matters to which we must have regard and we grant the applicant an Off Licence for a period of one year. The licence will not issue until all clearances have been received and until the required fees are paid. The licence may issue on payment of the annual fee payable in accordance with Regulation 15 of the Sale & Supply of Alcohol (Fees) Regulations 2012. 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.

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

### Compulsory Conditions

- (a) No alcohol is to be sold or supplied on Good Friday, Easter Sunday, Christmas Day or before 1 pm on Anzac Day.
- (b) Alcohol may only be sold or supplied on the following days and within the following hours:  
Monday to Sunday 9 am to 10 pm
- (c) Water must be freely available to customers while alcohol is being supplied free as a sample on the premises.

### Discretionary Conditions

- (a) The following steps must be taken 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 to ensure that the provisions of the Act relating to the management of the premises are concerned:
  - Alcohol must only be sold, supplied and consumed within the area marked on the plan submitted with the application.
- (c) The following steps must be taken to promote the reasonable consumption of alcohol:
  - The licensee must implement and maintain the steps proposed in his host responsibility policy aimed at promoting the reasonable consumption of alcohol.
- (d) The whole of the premises is designated a supervised area.



Other restrictions and requirements to be noted on the licence

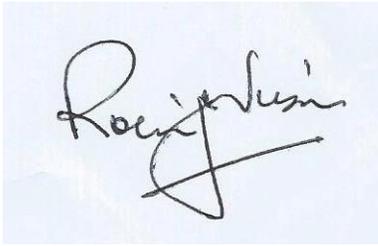
s56 Display of signs

s57 Display of licences

s59 Requirements relating to remote sales by holders of off licences

s214 Manager to be on duty at all times and responsible for compliance

DATED at Christchurch this 9th day of June 2016

A handwritten signature in black ink on a light blue background. The signature is cursive and appears to read 'R J Wilson'.

R J Wilson

Chairperson

Christchurch District Licensing Committee