

Decision Number: 60F [2024] 20426

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

AND

IN THE MATTER OF an application by **SSSD LIMITED** for a new Off-Licence in respect of premises situated at **436 Prestons Road, Christchurch** to be known as '**Super Liquor Prestons**'

BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Hearing: 28 January 2025 (at Christchurch)

Committee

Chairperson: Mrs M S Redstone

Members: Ms T McIlraith
Mr M Hossain

Appearances: Mr John Young, Counsel for the Applicant
Mr Simranjeet Singh, Director of the Applicant
Ms Anneke Lavery, Licensing Inspector, to assist
Snr Const Graeme Joliffe, New Zealand Police, to assist
Ms Louise Bromley, Medical Officer of Health, to assist.

RESERVED DECISION OF THE COMMITTEE

Introduction

[1] This is an application by **SSSD LIMITED** (the Applicant) for a new Off-Licence. The premises is situated at 436 Prestons Road, Christchurch, and to be known as 'Super Liquor Prestons'. The application was received on 18 March 2024.

[2] The Application, whilst resulting from a change of ownership, realistically seeks to establish a new premises in a shopping development in the subdivision of Prestons Park by virtue of the fact that the previous Licensee never opened a bottle store on the site.

[3] The Applicant has sought the following trading hours:

Monday to Sunday, between the hours of 9:00am and 10:00pm

These hours are shorter than the default maximum trading hours for Off-Licences.¹

¹ Section 43 of the Act.

[4] The application was publicly notified on the Council's website on 18 March 2024 and remained on the website for a minimum period of 25 working days.

[5] A total of 14 public objections were received within the required timeframe. None of the objectors chose to appear at the hearing to give evidence.

[6] The application was not opposed by the District Licensing Inspector,² the New Zealand Police³ or the Medical Officer of Health (MOH)⁴

[7] As all objectors had not responded to the Hearing Manager, a hearing of the application took place on 28 January 2025.

Submissions and Evidence

[8] Mr Young opened on behalf of the Applicant. The Applicant's brief of evidence was taken as read, as were the written objections. Mr Singh then answered questions on behalf of the Applicant Company.

[9] In response to questions from the Committee, Mr Singh advised as follows:

- a) **Conditions on Existing Licence** - Mr Singh advised that his company accepted the conditions imposed on the existing licence.
- b) **Specials** - Super Liquor specials which would be advertised inside the store.
- c) **Communication with local community** - Mr Singh advised that he was aware of local sensitive sites, and the large community park across the road from the premises. If his staff became aware of any customer drinking in the park they would be refused future service. Mr Singh commented further that this was a new community with a deprivation level of 2 on the City Council Suburban Deprivation Scale, a copy of which was provided with the application. He did acknowledge in response to questions that many of the residents had moved there from Eastern earthquake-affected subdivisions such as Bexley, which was a highly deprived area.

Mr Singh advised that he planned to meet with representatives of the Tri-Agencies together with leaders in the local community, representatives from sensitive sites such as schools, pre-schools, the retirement village next door, on a regular quarterly basis to assist with addressing issues related to alcohol and other social issues within the community. He expressed a wish to financially support the local community, as he did from his bottle stores in other areas.

- d) **Minimisation of Harm and Refusal to Supply** - Mr Singh provided his Issues Register which showed that it was used on a regular basis to report incidents.
- e) **Sale of Tobacco** - Mr Singh advised that they would be keeping only a small amount of tobacco and vaping products which would be in locked cabinets under the counter and would only be made available on request. In answer to a question

² Inspector's report 08/10/2024

³ Police notification of non-opposition 04/04/2024

⁴ MoH Report 21/06/2021 and 10/04/2024.

about possible burglaries, he advised that they has installed security cameras inside and outside the premises, and “fog cannons”.

- f) **Opening Hours** - Mr Singh advised that they had sought opening hours of 9:00am to 10:00pm. He advised they currently opened from 10:00am until 8:00pm Sunday to Wednesday and 10:00am until 9:00pm Thursday to Saturday. The Committee put to him that those should be his licensed hours but a final decision was left until after closing submissions.
- g) **Staffing** - Currently staff were paid above the minimum wage and had two days off per week. Some staff worked across this and other stores owned by the Applicant Company. Of concern was the advice of the applicant in his Security statement that there would always be two staff working after dark but this had not been found to be the case by the Inspector when visiting the premises. The Applicant undertook that on Thursdays, Fridays and Saturdays there would be two staff working from 3:00pm until closing. In answer to a question around observing statutory breaks for staff he said if only one staff member was present they would close the store to allow for their breaks. This was not addressed further in final submissions.
- h) **Staff Training** - the Applicant spoke to internal and external staff training, which the Committee considered to be satisfactory.
- i) **Competition & Viability** - in response to a question about the viability of the business and a concern about competition causing price wars, Mr Singh said that Bottle stores do not tend to compete because their margins are low. He did not watch the specials advertised by competitors in the local area and had no interest in entering any form of price war with other bottle stores in the area. He said his company sells on convenience and service. He said the company was an experienced operator and knew how to make money by giving good service.

Inspector Anneke Lavery

[10] Ms Lavery said in evidence that the concerns raised in her report had been addressed either in evidence or during questioning.

Snr Constable Graeme Jolliffe:

[11] SC Jolliffe raised security concerns, especially where businesses sold cigarettes and vapes which attracted crime. Mr Singh advised there had been a planter box outside the store which formed a barrier, but the landlord had this removed following a complaint from a wheelchair user. Mr Singh advised that bollards were not allowed but explained the strengthened roller doors he had installed.

Site Visit

[12] The District Licensing Committee (DLC) members undertook a site visit on 5 February 2025. They found the premises to be brand new and well laid out, fresh and bright. It is in a new block of shops which were being well-patronised at the time of the hearing. The subdivision surrounding the premises is very new, with well-kept houses and properties. There was no litter in the streets or in the shopping precinct. The park across the road was an open space, with some trees, and looked to be well-maintained by council. The whole of the park area was easily viewable from within the premises.

Closing Submissions

[13] On behalf of the Applicant, Mr Young addressed the conditions discussed during the course of the hearing. The Applicant accepts the conditions of the current licence:

- (a) There will be no sales of single-serve RTDs (or Beers from broken cartons).
- (b) No sales will be made to young persons in school uniform regardless of their ability to produce ID.
- (c) There shall be no advertising of alcohol products attached to the exterior of, or visible from outside, the premises.
- (d) No sandwich boards shall be used to advertise the premises or goods for sale. One flag may be used, dependant on the approval of the Developer.

[14] In addition, the Mr Young addressed the following matters raised:

- (a) A restriction on sales of 1lt and over alcohol products in PET bottles containing guarana or caffeine - the Applicant agreed no such products would be sold.
- (b) Sale of vapes - the Applicant, whilst not seeking to sell cigarettes and vapes in the written application, sought to do so. It was accepted by the Committee that sales of these products was small, and that they are kept in locked cabinets under the counter and not out on display.
- (c) Remote Sales - the Applicant currently does a small number of remote sales with deliveries being made by his staff. He would like to retain the ability to make remote sales. He said if volumes increase he would employ further staff to carry out the deliveries. He agreed to a condition that alcohol sold by remote transaction after 7:00pm on any day would not be delivered until the following day. The Committee accepts that limitations on remote sales would be more appropriately addressed as part of an LAP process or by legislative change. The Committee thanks Mr Hoare, Super Liquor Operations Manager, for his input.
- (d) Hours - An earlier closing time of 9:00pm was discussed and the Applicant sought some flexibility to open until 9:30pm over the summer months. The Committee accommodates this request.

Considerations of the Committee

[15] Having considered the Application together with Agency Reports and written Objections, together with the oral evidence and submissions received today, the Committee must now stand back and determine whether the application for a new Licence should issue.

[16] The Committee notes that there were no objections raised as to the suitability of the Applicant to hold a Licence.

[17] The Committee has read to the public objections and believes that the undertakings given in the course of the hearing, together with the Conditions imposed, substantially address the concerns raised.

Evaluation and findings under s.105 and s.106 of the Act

[18] The role of section 105 and how it is to be approached in relation to applications has received plenty of judicial attention.⁵ The approach, when considering the licence application, is succinctly summarised as follows:⁶

“Is the decision-maker satisfied, having regard to all the relevant factors set out in s 105(1)(b)–(k) that the grant of the licence is consistent with the object of the Act?”

[19] The Committee is satisfied, having heard the evidence and traversed a number of concerns, that the Applicant is a suitable entity to hold a Licence and has considerable experience in holding Licences for three other locations. The Committee is satisfied that the granting of this licence, subject to conditions, is consistent with the object of the Act.

[20] Further, the Committee has turned its mind to 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. In its opinion the amenity and good order will not be reduced to more than a minor extent by the issue of this licence.

[21] Similarly, Section 106 requires the Committee to consider whether the amenity and good order of the locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of this licence:

- (a) The following matters (as they relate to the locality):
 - (i) Current and possible future, noise levels;
 - (ii) Current, and possible future, levels of nuisance and vandalism;

[22] The locality was described as a pleasant area in which to live and is noted as Level 2 on the Deprivation Scale. Objectors did not attend the hearing and produce any significant evidence specific to this application to support that amenity and good order of the locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of this Licence. Their objections in terms of proliferation and sensitive sites have been addressed by the Applicant, particularly by its willingness to meet with the Tri-Agencies and community leaders on a regular basis.

Decision

[23] Accordingly, having regard to the matters in sections 105 and 106 of the Act together with the evidence and submissions of the Applicant, the Agencies and the Objectors we are satisfied that the issue of a licence for a period of **12 months** subject to the following conditions is consistent with the object of the Act.

⁵ *Re Venus NZ Ltd* [2015] NZHC 1377, [2015] NZAR 1315 per Heath J; *Auckland Medical Officer of Health v Birthcare Auckland Ltd* [2015] NZHC 2689 per Moore J; and *Christchurch Medical Officer of Health v J & G Vaudrey Ltd* [2015] NZHC 2749, [2016] 2 NZLR 382 per Gendall J.

⁶ *Re Venus NZ Limited* at [20] and *Auckland Medical Officer of Health* at [60] see Westlaw NZ, SA 105.02

The Licensed Premises

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

Restricted and Supervised Areas - section 147(2)

- (b) The licensed area is designated as a supervised area.

Discretionary conditions – section 116 (1)

- (c) The following steps must be taken to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed:
 - (i) 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.
- (d) The following steps must be taken to ensure that the provisions of the Act relating to the management of the premises concerned are observed:
 - (i) Alcohol must only be sold and supplied within the area marked on the plan submitted with the application.

Compulsory conditions – section 116 (2)

- (e) No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1pm on Anzac Day.
- (f) Alcohol may only be sold or delivered the following days and during the following hours:
 - (i) **Between 1 May and 31 October - Monday to Sunday, between the hours 9:00am and 9:00pm.**
 - (ii) **Between 1 November and 30 April - Monday to Sunday between the hours of 9:00am and 9:30pm.**
- (g) Drinking water is to be freely available to customers, while alcohol is being supplied free as a sample on the premises.

Section 117 – Other Discretionary conditions

- (h) The licensee must implement and maintain the steps proposed in The Super Liquor Prestons Responsibility Policy⁷ aimed at promoting the reasonable consumption of alcohol.
- (i) There shall be low alcohol and alcohol-free products prominently displayed to promote responsible consumption of alcohol.
- (j) There will be no sales of single-serve RTDs (or Beers from broken cartons).

⁷ Attached to the application

- (k) No sales will be made to young persons in school uniform regardless of their ability to produce ID.
- (l) There shall be no advertising of alcohol products attached to the exterior of, or visible from outside, the premises.
- (m) No sandwich boards shall be used to advertise the premises or goods for sale. One flag may be used, dependant on the approval of the Developer.
- (n) There will be no sales of alcohol products packaged in plastic PET bottles over 1 litre that contain guarana or caffeine.
- (o) Any alcohol sold by remote transaction after 7:00pm will not be delivered until after 6:00am the following day.

Conditions applying to all remote sales and supply of alcohol

- (p) The following information must be displayed on the internet site in a prominent place, in any catalogue used by the licence holder and on every receipt issued for any alcohol sold via the internet site.
 - (i) The licence holders name, the licence number, and the date on which the licence expires.
 - (ii) A copy of the licence or a clearly identified link to such image must be displayed in a prominent place on the internet site.
- (q) The following steps must be taken to verify that people are over the purchase age:
 - (i) In the case of an order made using an internet site, telephone order, or physical order –The prospective buyer must declare that he is she is 18 years of age or over (and where the prospective receiver is involved that the prospective receiver is also 18 years of age or over)-
 1. Once, when the prospective buyer first commences the order process; and
 2. Again, immediately before the sale of alcohol is completed.
- (r) Sales made after 7:00pm will not be delivered until after 7:00am the following day.

Other restrictions and requirements

- (s) Section 56 – Display of signs
- (t) Section 57 – Display of licences
- (u) Section 59 – Requirements relating to remote sales by holders of off-licences.
- (v) Section 214 – Manager to be on duty at all times and responsible for compliance

[24] The licence shall be issued for 12 months.

[25] The Applicant's attention is drawn to section 259 of the Act which makes it an offence not to comply with certain requirements and restrictions imposed by or under the Act. Specifically, sections 46 to 63 and 231(1). The Applicant must comply with all conditions specified on a licence.

DATED at CHRISTCHURCH this 11th day of February 2025

A handwritten signature in black ink, appearing to read 'Merelyn Redstone', written in a cursive style.

Merelyn Redstone
Chairperson
Christchurch District Licensing Committee