

Decision Number: 60G [2025] 22453

IN THE MATTER OF

the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER OF

an application by **IK HOSPITALITY LIMITED**
for renewal of an On and Off-Licence in
respect of the premises situated at 15 Main
North Road, Christchurch and known as
‘MAD’Z DRINK N DINE’

BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Chairperson: Mr D Ivory
Members: Ms T McIlraith
Mrs M Redstone

HEARING at CHRISTCHURCH on **30 May 2025**

APPEARANCES

Mr D Singh – Director and Shareholder of the Applicant
Ms A Lavery – Licensing Inspector, opposed
Ms L Bromley – on behalf of the Medical Officer of Health, opposed
Sergeant D Robertson – NZ Police, opposed
Constable E Bensley – NZ Police (witness)

Natasha McDonnell- Hearing Manager

RESERVED DECISION OF THE COMMITTEE

PRELIMINARY MATTER

In mid-May 2025, Mr Singh requested a delay in the hearing date due to stress he was experiencing because of his current circumstances, citing an on-going insurance investigation because of a fire on/at the premises (12 May 2025). The Committee declined this request due to a lack of any evidence to confirm the health status of Mr Singh and that participation at hearing would have an adverse effect.

On 22 May 2025, the Committee was advised that Mr Singh had instructed Ms Pervinder Davies as Counsel. Ms Davies requested a delay in the hearing so Mr Singh could have the opportunity to provide proper instruction, and to allow counsel sufficient time to consider the file and assess the evidence. The Committee declined this request on the basis Mr Singh was aware of the significance of the hearing and chose to instruct Counsel at a late stage. However, the Committee was also of the view and even at the point where Ms Davies was instructed sufficient time was still available to adequately prepare for the hearing. Subsequently the Committee was made aware Ms Davies was no longer engaged as Counsel.

INTRODUCTION

[1] This is an application by **IK HOSPITALITY LIMITED** (**'the Applicant'** or **'the Applicant Company'**) for an On Licence. The premises is situated at 15 Main North Road, Christchurch and known as **'MAD'Z DRINK N DINE'**. The application was received on 23 September 2024. The current Licence has an expiry on 23 October 2024.

[2] The current On-Licence¹ for the premises has a licensed area which includes an interior seated bar and pool area, the gaming room and an outdoor area down the side of the building, next to an alleyway.

The Applicant company has one director, Daler Singh.

[3] The application states that the nature of the business is that of a Tavern. The current trading hours under the Licence are as follows (**Tavern**):

Monday to Sunday 8.00am to 2.00am the following day.

These hours are consistent with the default maximum trading hours for on-licences (section 43).

[4] The Tri-Agencies, Inspector, Police and Medical Officer of Health, are opposed to the renewal of this application.

[5] The Committee individually undertook a site visit of the surrounding area prior to the hearing, although none of them entered the premises on those visits due to the fire damage cordon in place.

¹ 60/ON/246/2020

[6] By agreement opening submissions were taken as read, with the Tri-Agencies highlighting certain aspects of their opening submissions. Similarly, the brief of evidence was taken as read, for the one witness, Constable Bensley. An opportunity was provided to Constable Bensley to highlight or elaborate on the Brief of Evidence.

[7] Mr Singh provided no opening submission or brief of evidence prior to the hearing.

THE APPLICANT

[8] Mr Daler Singh presented the Committee and the Tri-Agencies with a few copies of a 19-page document once the hearing had commenced. The contents comprised a written commentary by Mr Singh on Police exhibits of evidence (which had been circulated in advance). The Committee stated its disappointment in receiving this document at hearing and not in advance, as a result not giving the Tri-Agencies an opportunity to respond. The document was accepted, pursuant to Section 207 of the Act, with the Committee to decide what weight it would provide to the document. The Police also noted concerns with the late disclosure of material.

[9] In the absence of an opening submission Mr Singh responded to a range of questions asked by the Committee relating to reported incidents, and the operation of his premises.

[10] Mr Singh explained his lack of filing a submission or brief of evidence was due to a procedural error on the part of the Secretariat. He stated that attachments were lacking in the email received. However a check of emails showed he had received an email sent to all parties including all attachments.

[11] Mr Singh said he had worked in the premises since 2020 and that no concerns were raised by the Tri-Agencies before the current matter. He explained the purpose of the Act, and provided a description of his premises and the economic context in which it now operates. Mr Singh talked about his pre-fire trial of food tastings, including chicken parmigiana, fish fillet burgers and pizza, in an attempt to generate increased revenue for the business. To reduce costs Mr Singh had increased his own hours of work at the premises.

[12] Mr Singh was asked if he had changed his practice as a result of a reported incident on the premises (December 2022) where an altercation occurred between himself and a customer. He spoke initially of staff training which was provided to cover areas like transport availability, identify intoxication, and food offerings. In terms of his own behaviour, he said he would not let the intoxicated patron into the bar, refused to serve him and asked him to leave. Mr Singh stated the customer came back into the bar, smashed a door, and punched Mr Singh on the nose. In retaliation Mr Singh “punched him and tried to kick him but he missed”. He asserts this was the “first and last time” where such an incident occurred. Mr Singh now reports “he is not involving himself in incidents and keeping himself calm”. In terms of wider staff learnings from the incident the Committee was assured there is new software employed, “it has been introduced for the training of staff, and we are always talking to each other”.

[13] Mr Singh confirmed a fire at the premises was started by an electrical fault which has resulted in a temporary closure. The identified reopening date was stated as 30th August 2025.

[14] Mr Singh was questioned on paying his security guard in cash. He said this arrangement provided flexibility. Security was only engaged on special nights.

[15] Surprise was expressed by Mr Singh when he read the dairy owner, Mr Regan Austin, stated Mad'z Drink n Dine staff referred their patrons to his dairy to purchase food. Further he denied any knowledge of a proposal to supply food by the dairy operator to his premises: "My customers do purchase cigarettes, lighters and other stuff".

[16] Mr Singh reported a previous Incident Book had been destroyed after he spilt a drink on it. He was asked about dated incidents, including his fight with patron, this was recorded in the former Incident Book. The Committee was told staff meet to reflect on incidents, discuss training and how to tackle issues.

[17] The suggestion that gang members frequented the premises was denied by Mr Singh who referred to a confusion, the alleged gang member was a friend of a former patron. When asked again about his fight with a customer: "I might have lost control". Mr Singh reported now there is security in place on weekends and staff training: "how to deal with intoxication – don't put yourself into it". He also applies these learning to himself, "I don't put myself into the situations, don't get aggressive, I have control of myself to not get aggressive".

[18] Mr Singh said he started working in hospitality in 2019, and before that was a taxi driver. His first managers certificate was gained 2019 from Palmerston North. He worked in a bar then moved back to Christchurch in November 2019. He then reported working at Bickertons Bar and Café as Duty Manager, and in 2020 started working at Mad'z Drink n Dine where his brother owned the business. Further, he purchased an alcohol business in Tauranga in December 2023. Mr Singh reported he visited India in January 2024 and while away "issues" occurred and when he returned an application for a second Temporary Authority was declined and the substantive application for an On-Licence went no further. When asked about general manager experience Mr Singh referred to his work in Palmerston North.

[19] Mr Singh explained to the Committee the financing for the purchase of Mad'z Drink n Dine. He paid his brother in return for "some shares" and then completed the purchase from funds received while in India "from my dad".

[20] Mr Singh provided an email sent to the ARLA Registrar with company documentation attached. The email presented to the Committee was not a notification to ARLA according to the Inspector. Police said the email may be sufficient, but no acknowledgment of receipt was provided. The consequence was the Agencies had not had the opportunity to assess any application with Mr Daler Singh as the owner.

[21] Mr Singh was asked how he delivered staff training and the content: look for signs of intoxication, don't serve, speak to the customer and then can judge and determine if to serve. He was then asked, given the staff training provided, how come there are so many reported incidents? The Committee was informed the incidents occur once there was refusal to serve, and that's when the incidents occur. He was referred to the list of Police calls-outs (page 15) where the Committee was told "only one incident" of intoxication existed as he didn't serve intoxicated patrons. Mr Singh attempted to explain the context for each incident on the Police list and denied the cause of each incident was through intoxication.

[22] The Committee put to Mr Singh, are Police lying when saying persons are intoxicated. Mr Singh in response referred to the real estate agent-singer who dropped the microphone during a karaoke session. He had only served one drink to the patron who later started punching Mr Singh and the "people in bar saved me". The incident ended up in the middle of the main road outside the premises, where the Police reported intoxication was present. This was denied by Mr Singh.

[23] The Committee referred to another incident on 28 April 2024 where a heavily intoxicated male was involved in a fight on the premises. The customer was served a drink by Mr Singh, "then suddenly a fight occurred in the smoking area involving the customer. Mr Singh denied he had missed the signs of intoxication. The Committee put to Mr Singh – the Police are wrong – "not telling the truth"? No discernible response was provided from Mr Singh.

[24] Mr Singh was asked to comment on the Inspectors report - that the deep fryers were cold during visits. The Committee were advised only 4 to 5 minutes was required to heat oil. If the fryer was constantly turned on it was reported the flame burns the oil, so we avoid wastage: "we don't get through much food – people don't ask for food". Mr Singh also reiterated the neighbour dairy owner (Regan Austin) was not correct stating he was serving patrons food from his diary.

[25] Next the Committee referred the photos, provided in evidence, of the outside of the premises showing urine and vomit which suggested people had too much to drink. Mr Singh said he has never seen evidence outside premises but often people jump over the fence to spend time in the smoking area of the premises during the early morning.

[26] The Committee referred to an unsigned letter of support provided to Mr Regan Austin (dairy owner) to sign. Mr Singh denied asking anyone to sign the letter, but he admitted to drafting it, "staff may have sent letter", nobody else had signed it. He also sought to clarify confusion around the food offering proposal by Mr Regan Austin: "he was giving one voice to Police and another to me - playing both ways".

[27] Mr Singh was asked once again how he identified intoxication of customers, he responded by referring to the new steps being taken on the premises with the roll out of new technology (Tipsy application).

[28] Staffing levels were reported to be one member on Sunday and Monday nights as the premises close between 6.30pm and 7.00pm. Tuesday, Wednesday, and Thursday the premises are open until 9.00 pm and 10.00pm, with one staff member employed. On Friday and Saturday evening the premises are open till 1.30am and two staff are employed (who would cover the requirements of intoxication and preparing the food offering when requested).

[29] Mr Singh was asked how he could recall all incidents he had dealt with without the need to refer to an Incident Book, bearing in mind his earlier evidence that the book was destroyed. Mr Singh said he had total recall of all events. He referenced one occasion, the date was unclear, where two intoxicated people entered the bar then security removed them from the bar. Both were aggressive but security prevented the persons from re-entering and the Police were not notified but the incident was entered into the new Incident Book (not cited by Committee as access only available once cordon lifted on premises).

[30] When questioned around security arrangements, Mr Singh confirmed there was no contract or hiring agreement in place. He paid cash, and the security guard usually worked three-hour shifts from 11.00pm to 2.00am on the weekend. Mr Singh stated its “handy for me paying in cash against an invoice”. The Committee were advised the security guard is the owner of the company engaged. Mr Dean Dellaway was identified as the security person, an independent contractor.

[31] The Committee asked Mr Singh about the nature of the food offering. Mr Singh advised patrons know food offered via social media advertisement and menus on the bar. Mr Singh considers he is fulfilling his requirements or conditions to supply food under which the licence issued. The Committee was left with the distinct impression that there was, at best, a modest promotion of food.

[32] In response to a question, Mr Singh noted more money was made from alcohol than pokies (9 machines).

[33] Further questions were asked about the experience of Mr Singh in the industry. He responded that he worked at Stunned Mullets Bar in Palmerston North which had a mature customer base. On Fridays and Saturdays, the demographic was those “aged people over 50”. His current customers are a mixed crowd of different ages, mostly 30’s, 40s and some older. Customers during weekdays ranged from 20 to 30 years. In the evenings, around 5.00 to 6.00pm, it was reported “not many” customers were present, and those customers who were present wore work uniforms “tradies”.

[34] Mr Singh said to the Committee the decision to purchase was when the business was going alright, but things changed after the new year (2025). He stated he was comfortable not having a formalised purchase agreement with his brother.

[35] Mr Singh was asked about his lack of proactive interaction with the local environment as earlier he referred to not speaking to any of the other neighbours. Mr Singh said not true, he was a customer of the

dairy where he occasionally purchased coffee and also purchased incidentals from the local liquor store (Super Liquor). He reported assisting another neighbour with cardboard boxes.

[36] Mr Singh brought a further incident to the attention of the Committee which was written up in the material provided by him at the beginning of the hearing. The incident occurred on 23 April 2023. Mr Singh was invited to read the statement. The incident was a fight between Mr Singh and a patron and resulted in his (Mr Singh) car windscreen being smashed, which was parked outside the premises. He reported no initial Police response. He later connected with Police and then spoke to them at a police station (where he was too stressed to make a statement that night). Later that night the same individual smashed the rear windscreen of his car. The Police arrived and a statement was provided the next day. Mr Singh claims a Police report included a false allegation that he was intoxicated while on duty, “this allegation is deeply upsetting”. He reported feeling targeted and unsupported by Police and possibly a victim of “racial bias”. [**Police later confirmed**, after making enquiry there is no recall of the incident by the Police officer concerned]. By way of background - During a Tri-Agency meeting with Mr Singh a number of incidents were raised including the one of 22 April which concerned Mr Singh with respect to alleged intoxication. When Police attended the Mad’z windscreen incident, at 1.00am, Mr Singh was reported as being intoxicated and did not want to make a statement but was issued with an incident number to follow up complaint. Constable Bensley had reached out to the Officer concerned, but they cannot recall the incident due to the passage of time. Police therefore did not specifically include this in the list of significant events provided to the Committee. Police state no negative inference should be taken and no prejudice to Mr Singh. It is noted Mr Singh raised this matter, not the Police.

THE INSPECTOR

[37] The Inspector, Ms Anneke Lavery, relied on her report which was taken as read and the Committee took the opportunity to ask a number of questions based on her evidence provided, and her professional knowledge.

[38] Ms Lavery was asked to restate why Mr Singh was not seen as a suitable person to hold an On-Licence. She referred to a meeting on 17 February 2025 which raised more concerns than answers, on how the premises were run, security payments not going through books, and CAA status was lost by the engaged security guard. Ms Lavery said rostering, and staff pay should be able to be explained. Further, the incidents of violence raised by Police make Mr Singh unsuitable.

[39] Ms Lavery stated the food offering was of major concern. In her view the fat fryer needs to be on constantly to provide food at short notice. She further said an expectation existed by the Agencies that a quality food offering was present, and noted this would be difficult from such a small kitchen with one

staff member. Further, staff need to provide a safe social environment for customers which is not the case at these premises. Ms Lavery reported being treated with respect and courtesy on her visits.

[40] Ms Lavery was asked about Mr Singh responses to questions and stated, “if he is intent on promoting a higher standard, why has he not done so before now”.

[41] The money owed by the applicant was also of concern including debt over the premises, personal car, and a loan held in Auckland. In response to Committee questioning, Ms Lavery said if an applicant is financially struggling, they may cut costs in operation of the business. It was also confirmed by Ms Lavery that rent arrears of \$40,000 were owed dating back to January 2025. It is noted in this regard that in response to a question Mr Singh had stated that rent had not been paid since the fire on 11 May 2025.

[42] Ms Lavery stated the cause of fire at the premises was determined as electrical, and not suspicious in nature. Police were able to assist, a specialist investigator has ruled out no suspicious circumstances existed. The fire started in a space between two levels in an area not readily accessible.

[43] Ms Lavery indicated Mr Singh had been seeking to sell the business. She had received a telephone enquiry from a solicitor with respect to a potential sale. No update on licence renewal was available and it was indicated the client would not be interested in proceeding (October 2024).

[44] Tipsy Training in the view of Ms Lavery is a generalised method of training and unlikely to address the issues at Mr Singhs premises.

[45] Ms Lavery was asked about the trading hours at the premises, she noted Police concerns were around 11.00pm and 2.00am: “I believe concerns arise after other premises in area close and patrons end up at Mad’z Drink n Dine”. Staff training and systems also concerns Ms Lavery: “no roster in place for security which is unusual in the industry”.

THE MEDICAL OFFICER OF HEALTH

[46] Ms Louisa Bromley appeared as the representative for the Medical Officer of Health (‘**MOH**’) opposing the renewal application. She supported the concerns raised by the Police and Inspector.

[47] The Committee asked Ms Bromley a series of questions relating to her report and professional knowledge.

[48] With respect to amenity and good order Ms Bromley shared her view: a mix of commercial and residential, amenity and good order is diminished by the premises as reflected in video evidence cited by the Committee which was “not very nice”. Ms Bromley’s position is unchanged as a result of anything heard at the hearing.

[49] Ms Bromley identified the kitchen as tiny, the freezer as dirty, with deep fried food only. In her judgement the facilities were suitable for bar food only.

[50] In terms of rubbish identified outside of the premises, Ms Bromley noted while not a reasonable expectation that the area is regularly cleaned up, a good neighbour would clean up to support the local community.

THE POLICE

[51] Sergeant Dave Robertson appeared on behalf of the New Zealand Police. Sgt Robertson clarified the process leading up to the hearing from the perspective of Police. Mr Singh stated he only became aware of hearing on 20th May 2025. Sgt Robertson referred to the original email, in the possession of Police, which shows the applicant copied into the hearing notice, instructions, and confirmed documents were attached. He noted “it is difficult to understand how Mr Singh did not receive the same attachments as other parties”.

[52] The Sergeant indicated Mr Singh slipped under radar, as he effectively paid off shares owned by his brother, and therefore became a licensee by proxy. The Committee were advised the normal assessment and inquiries by the agencies were not made. The Tauranga decision was not known to Police. He stated the violence at or near premises is a significant concern to Police, and not acceptable to ARLA.

[53] The dairy owner Mr Regan Austin no longer operates the business, but has been assisting Police with enquiries and produced a letter supplied by Mr Singh which he refused to sign.

[54] The Committee agreed to accept Police rebuttal evidence on matters raised by Mr Singh earlier in the day. This was allowed due to the late or same-day delivery of Mr Singh’s evidence.

[55] Signed written statements provided by Police officers who dealt with two separate incidents were accepted by the Committee: **Statement Matthew Clements (20/08/2024)** and **Statement Blake Henderson (07/03/2023)**. The first statement clearly indicates an offender was intoxicated (proper assessment employing the SCAB tool) and the second statement refers to another similar matter and includes a Police decision to arrest a male for detox (for his personal safety and that of the public). It was noted by Sgt Robertson that Mr Singh had previously told the Committee persons were not intoxicated and it is the Police position that this goes to suitability of the applicant.

[56] Constable Bensley confirmed for the Committee that Mr Regan Austin, dairy owner, although not having signed a brief of evidence has been assisting Police with their enquires. However, he was not available to attend the hearing.

[57] Sgt Robertson drew the following documents to Constable Bensley attention for comment: email communication with ARLA, and **ExhOB02** which provided: List of Significant (Police) Events.

[58] Sgt Robertson stated Mr Singh gave an alternative version of events to those in the two statements of police officers. The incident reported on 3 December 2022 involved a male singing (karaoke) who

dropped the microphone then was a party to an altercation. Mr Singh reported the customer only purchased one drink. Constable Bensley however confirmed, based on new Police statements, with respect to 3 December 2022 event, at para 15 of the Henderson statement, the male singer was too intoxicated to answer questions. Police at the time conducted a SCAB assessment: slurring of words, unsteady on feet were observed. Para 18 of the Henderson statement reiterates the situation. Sgt Robertson asserts this evidence directly contradicts Mr Singh's evidence.

[59] With respect to the second incident of 28th April 2024, Constable Bensley referred to the Clements statement relating to an incident at the premises. Attention of the Committee was drawn from para 10 where the offender was reported with slurred speech, and unsteady on their feet, the SCAB tool was also employed, and the male was put into detox. Police state this was contrary to the evidence of Mr Singh who said the person was not intoxicated. Sgt Robertson said this supports Police allegations and Constable Bensley evidence.

[60] Sgt Robertson asked Constable Bensley to lead the Committee through the chronological video evidence. The first clip follows from para 28 of the police statement. On 29th May 2021, **ExhOB03**, Mr Singh and a male offender were shown in an altercation on the premises. Constable Bensley noted that reasonable force was allowed to be used to remove an offender from premises. She then described both parties exchanging punches and Mr Singh having got the better of offender. Sgt Robertson asked Constable Bensley if she recalled the response provided by Mr Singh to the Committee earlier, "I didn't assault him, I went to kick him but missed": yes.

[61] On 3 December 2022 an assault was recorded which occurred at the bar, **ExhOB04**. Constable Bensley explained the video clip, where the real estate agent-singer dropped the microphone and a consequential altercation between Mr Singh and other patrons occurred. The Police view was Mr Singh was entitled to remove the offender from the premises, the issue was the offender was allowed to become intoxicated on the premises prior to the incident. Violence by a number of patrons was also shown on the video clip spilling out onto Papanui Road/Main North Road. One victim was shown as unconscious in the middle of the road. Police consider this event completely unacceptable.

[62] A further assault was captured by video on 28 April 2024, **ExhOB06**, two patrons involved in a fight. One offender was described by the Police as heavily intoxicated. Constable Bensley explained the context, a night of a Hip Hop Event, one of the offenders was a performer on the night. A customer, Alice, who was transgender (Nb, police felt this should be noted as it may have been the basis of the assault), was shown as being pushed over outside of the premises without provocation. Several people were also identified drinking from bottles outside the premises and in the middle of the main road.

[63] An incident on 22 September 2024, **ExhOB07**, showed a brawl inside premises with the video footage showing no staff intervening. Around 10 to 15 patrons were involved in this event.

[64] Sgt Robertson asked Constable Bensley to confirm the eight incidents cited by the Committee in the video exhibits were from 2020 to December 2024, this was confirmed.

[65] Constable Bensley referred to the Papanui Alcohol ban area which the premises are within and an ACF data report. Reference was made to paras 67 and 68, where a comparison with other areas was made. Constable Bensley accepted the volume of incidents was not as high as other areas, page 7, of the ACF report shows Papanui as 7 to 8 in deprivation but with some wealth areas heading to the South towards Merivale.

[66] Constable Bensley reported a local business owner (Night and Day) provided photographs from behind the premises, **ExhOB010**, which showed evidence of urination and vomit.

[67] In response to a question put by Sgt Robertson, Constable Bensley stated she has been in her current role for one year and has not seen similar direct evidence, as cited in the CCTV footage, of “significant violence”.

[68] The Committee took the opportunity to ask Constable Bensley a range of questions on the evidence provided and drew on her professional knowledge.

[69] Constable Bensley was asked about the social media posting on the brawl at the event on 28 April 2024, **ExhOB06**. She was asked to describe from a police perspective the events of 22 September 2024, **ExhOB07**, “I am going by the Police report it was a gang members wake - chaos and dangerous, 14-year-old girl in corner of room witnessing events”.

[70] The Committee asked about the reputation of the premises, Constable Bensley stated “evidence of violence I collected suggests treat the premises with caution”. Further, she proffered the name of the place isn’t reflective of the practice, with respect to the food offering, and based on her observations.

[71] Constable Bensley responded to a question that when visiting the premises she has been treated with courtesy and respect exhibited but not openness.

CLOSING Submissions

Police

[72] Sgt Robertson stated this decision will be straight forward for the Committee to make, to decline the application. He referred to Mr Singh’s denial around receiving the notice of hearing, then referred to his seeking a delay in hearing which suggests he is not organised. Initially Mr Singh sought a new hearing

date due to illness, this was declined by the Committee, then he instructed a lawyer, and once their similar request was also declined by the Committee, Mr Singh dismissed the lawyer.

[73] Mr Singh's assertion that no one was intoxicated in two key incidents contradicts the Police view. Sgt Robertson noted in both cases a SCAB assessment was undertaken by Police, and an experienced officer was involved in the second incident.

[74] The issue of unpaid rent heightened the risk and could lead to non-compliance of the Act according to Police. Further, no meaningful food offering was evidenced. The presence of urine and vomit around premises directly affected the order and amenity of the surrounds, also people drinking outside, people loitering on the road and down the alleyway were all collectively compelling for the Committee to decline the licence.

[75] Sgt Robertson then asserted the matter of violence, "CCTV footage doesn't lie", a brawl in the premise with no intervention from staff, several assaults inside, an unprovoked assault outside, a transgendered person pushed over, and a brawl spreading down road. However, the most significant incident was that of the punch and missed kick according to Sgt Robertson. Mr Singh claimed in response to a Committee question, "I didn't assault the person I punched him and tried to kick him, but I missed". Police contend that there are no circumstances where a Committee can issue a licence to a licensee who has engaged in direct violence against an individual on licenced premises.

The Inspector

[76] Ms Lavery referred the Committee to evidence provide by the Tri-Agencies who all raise the matter of suitability. She noted the experience of Mr Singh from holding a manager's certificate but noted the standard of an owner is at a higher level than the holder of a manager's certificate.

[77] Section 105(1)(k) of Act was referred to by Ms Lavery which relates to systems and training. Mr Singh suggested the training practices provided by him are to a good standard and the Committee heard he trains staff on what they should do at the end of an evening to handle aggressive customers. The Inspector stated a licensee should not allow customers exhibiting an aggressive nature into his premises. She posed the question and provided an answer: what type of customers does he attract and why? "He attracts gang members and people arriving from other licenced premises at the end of the evening who are intoxicated" with a propensity to fight with other customers.

[78] Ms Lavery stated there is no adequate food offering. She noted her view was customers were not there to eat food, and no food offering appeared to be encouraged, as they continue drinking and playing the pokies. A meeting held with the applicant raised many concerns for the Inspector including the method of payment for the security guard. Ms Lavery said suitability is not established in a vacuum but in a context of each particular case. She cited case law indicating a liquor licence is a privilege not a right.

She reiterated the evidence fails to show the applicant is suitable to hold a licence and therefore the application should be declined by the Committee.

The Medical Officer of Health

[79] Ms Bromley said the Committee has heard the applicant, who has an answer for every question. She has seen no signs of any lasting improvement. In terms of amenity and good order the impacts “are serious and on-going”. She stands by her report presented to the Committee and recommendation the application should be declined.

The Applicant – Mr Singh

[80] Mr Singh stated that he had never received any warning by the Agencies or any enforcement action. He said, “I explained all of the incidents to the best of my knowledge”.

[81] Mr Singh talked of his work in hospitality, for the last six years and he endeavoured to provide the best possible service. He said mistakes “once made can only be corrected once brought into the light”. He also apologised to the Committee if there has been any short coming on his part: “I believe everyone deserves a fair opportunity to learn and grow, and to improve themselves”.

[82] Mr Singh reiterated he has never received any warning and suggested the Committee grant the licence “even with conditions”. He seeks the opportunity to “demonstrate his commitment and compliance and improve himself”. Mr Singh stated he will take every possible step that there are no concerns for the future. He referred to his hope for a fair and considered decision from the Committee.

EVALUATION AND FINDINGS

[83] Having considered the Application together with Agency Reports placed before it, and the oral evidence and submissions received at the hearing, the Committee must now stand back and determine whether the application for a new licence should be granted.

[84] The High Court (Clark J) in *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Limited* (“*Lion Liquor*”) in 2018 stated that, “[t]here is no presumption that an application for a licence will be granted ...”.²

[85] Indeed, the changes implemented in the 2012 Act were intended to create a robust regime under which “*licences will be harder to get and easier to lose.*”³ The grant of any licence is a privilege, not a right.

[83] The Committee highlights a number of concerns and deficiencies in the application, which it has taken into account, as follows:

² *Medical Officer of Health (Wellington Region) v. Lion Liquor Retail Limited* [2018] NZHC 1123 at [46], citing *Christchurch Medical Officer of Health v. J & G Vaudrey Ltd* [2015] NZHC 2749 at [54].

³ *Miklos v. Shen* [2015] NZARLA 284, quoting Hon. Simon Power (2010 668 NZPD 15251).

- (a) The pattern of incidents of violence reported at the premises, these have occurred over several years and it is clear intoxication is an underlying factor;
- (b) The clear assault by Mr Singh on a customer on 03 December 2022 was unacceptable. The customer was punched by Mr Singh who also intended to kick the customer but missed. These actions go well beyond the reasonable force which is allowed in removing a customer from premises.
- (c) The inability of Mr Singh when confronted by Police evidence, over a variety of incidents, to acknowledge the intoxication of customers is a matter of concern for the Committee. There is no recognition or acknowledgement that there is a journey to intoxication and Mr Singh and his staff are clearly involved in this journey.
- (d) The food offering provided by Mr Singh is inadequate, a limited range of food is available to patrons and is poorly promoted or demanded. The kitchen is reported as small, and operated by one staff member while either working solely in charge of the entire premises or in conjunction with another staff member, dependent on the day. The deep fryer is reported as been turned off and only turned on when required. An indication to the inadequate or absence of a meaningful food offering is an offer by a local business to provide food to the premises patrons;
- (e) The high level of Mr Singh's personal and business debt is a concern as it could be a driver to risky business practice to cut costs;
- (f) There are inadequate systems and training in place as evidenced from a longstanding inability of staff to identify intoxication of customers, a lack of rosters, and a regular pattern of cash payments occurring. Staff training appears to be focused now on a recently introduced application: Topsy. Further the Committee has concerns around the skills and experience of Mr Singh as a duty manager and his ability to act as leader and trainer for his staff;
- (g) Amenity and good order is a concern for the Committee. Mr Singh has minimal engagement with the local business community, as customer of coffee and incidentals, and the reports assisting with the breaking down of cardboard boxes. He was unable to gather any support from the local business community for his application, despite one known attempt to do so. Evidence shows rubbish, urine and vomit outside the premises on a regular basis. Ms Bromley noted she has seen no signs of any lasting improvement. The impacts "are serious and on-going". Further, there is a pattern of evidence involving fights and brawls occurring outside of the premises; on one occasion a victim appeared unconscious in the middle of Main North Road. On multiple occasions the Committee sighted people outside the premises watching

violent events while drinking from bottles. The Committee finds the external surrounds of the premises of concern and patterns of violent behaviour outside the premises very disturbing.

- (h) Mr Singh's responses to questions put to him by the Committee, were at times inconsistent, and were in direct conflict with Police evidence. The Committee notes an apology was offered by Mr Singh "if there has been any short coming on his part", but no other reflection or insight was provided other than his intent to withdraw from hostile situations and remain calm in the future.

Suitability

[86] The Committee agrees that matters in relation to suitability apply to this application.

[87] The concept of suitability has been discussed by the Authority and the High Court on a number of occasions. In *Nishchay's Enterprises Limited*, the Authority said:⁴

"[53] The applicant sought to establish its suitability by adopting a narrow assessment of the meaning of that term. This approach was criticised in New Zealand Police v Casino Bar No 3 Ltd (CIV 2012-485-1491; [2013] NZHC 44). The High Court rejected the proposition that it was the manner in which the business would be operated as the determinate factor. Rather, suitability is a broad concept and the assessment of it includes the character and reputation of the applicant, its previous operation of premises, its proposals as to how the premises will operate, its honesty, its previous convictions, and other matters. It also includes matters raised 58 Re: Sheard [1996] 1 NZLR 751 at 758 59 Nishchays' Enterprises Limited [2013] NZARLA PH 387 at [53] – [54] in reports filed under s 33 of the Act and those reports may raise issues pertaining to the object of the Act as set out in s 4. Thus, whether or not the grant of the licence will result in the reduction or an increase in liquor abuse is a relevant issue.

[54] Casino Bar No 3 Ltd did not specifically refer to the test for suitability contained in Sheard [1996] 1 NZLR 751 where Holland J said at 758: "The real test is whether the character of the applicant has been shown to be such that he is not likely to carry out properly the responsibilities that go with the holding of a licence." However, the judgement inferred that the test applied when the learned Judge referred with approval to Holland J's statement in Sheard: "Suitability is a relatively broad concept and, in the context of an assessment of an application under s 13 of the Act, it relates to the suitability of the applicant to be granted the privilege of an on-licence to dispense liquor". Traditionally, that test has been interpreted as meaning whether or not an applicant will comply with the penal provisions of the Act. In fact, the test is much wider. To carry out the responsibilities that go with the holding of a licence includes whether or not liquor abuse issues are likely to arise. Thus, it includes the object of the Act as set out in s 4. The Sheard test is not simply about how a business is likely to operate in the future. It is dependent on an assessment of the more generalised factors referred to in the previous paragraph. It includes how a licensee will deal with liquor abuse issues that may arise from the establishment of the business. The usefulness of the Sheard test is that it gives a focus to the wider exercise contemplated in the Casino Bar No 3 Ltd decision by reminding one of the reason for the exercise."

⁴ *Nishchays' Enterprises Limited* [2013] NZARLA PH 387 at [53] – [54]

[88] We now make assessments as to suitability based on the evidence before us and the various reports received.

[89] The Committee, together with the Tri-Agencies, had significant concerns as to the Applicant's judgment and operating of a premises where a key feature is longitudinal violence. Mr Singh has also engaged in a direct assault of a customer.

[90] Further the Committee, together with the Tri-Agencies question Mr Singh's knowledge of the community surrounding the premises, and his lack of engagement. The amenity and good order of the area is impacted by the premises.

[91] Mr Singh offers an inadequate food offering,

[92] Mr Singh could not bring himself to acknowledge any failings or errors in judgment when confronted with clear evidence over multiple occasions of intoxication of his customers.

[93] Mr Singh told the Committee that any mistakes he may have made can be learnt from, and he wants this opportunity. He suggested this was appropriate as no agencies had ever raised any concerns before this application was lodged. There is a clear expectation any licence holder adhere to high standards and good practice without being told or warned to do so by any Agency. Further the holding of a licence does not provide a learning opportunity for ongoing development. Customs are entitled to consume alcohol in a safe environment managed by well trained staff, supported by robust systems, these features are absent from the current application.

[94] Confronted by a pattern of clear evidence, over a considerable time period, the Committee concludes that the Applicant is not a suitable entity to hold a Licence.

▪ ***The Object of the Act***

[95] The Object of the Act is set out in sections 4(1) and (2) of the Act. We keep those at the forefront of our minds in considering the application.

[96] There are two arms to the Object of the Act and both must be met. In terms of the first arm, we need to be satisfied that the sale and supply of alcohol by the Applicant should be undertaken safely and responsibly. The second arm requires that harm caused by excessive or inappropriate consumption of alcohol should be minimised. '*Minimised*' means reduced to the smallest amount, extent or degree. It does not mean eliminate altogether.⁵ In the *Lion Liquor* case, Clark J held that "*the legislative framework enacted by the 2012 Act was intended to restrict rather than relax drinking laws. The legislative measure*

⁵ See Shorter Oxford Dictionary; *Re Peony Spirits Limited* [2014] NZARLA 696 at [19]; *Linwood Food Bar Ltd v Davison* [2014] NZHC 2980 at [18] and *Auckland Medical Officer of Health v Birthcare Auckland Limited* [2015] NZHC 2689 at [115].⁷

proceeded on the basis of clear evidence showing a link between availability of alcohol and alcohol-related harm."

[97] Our role is an evaluative one, and we need to have regard to the extent to which granting a licence with conditions should minimise alcohol-related harm.⁶

[98] The changes implemented by the 2012 Act were intended to create a robust regime under which "licences will be harder to get and easier to lose"⁷ "While there is no onus of proof on an applicant, it does have an evidential burden and that is for an applicant to put its best foot forward if it expects a DLC to favour the application over opposition which is itself supported by evidence".⁸

▪ ***Any relevant local alcohol policy***

[99] There is currently no local alcohol policy active in Christchurch, although Council is currently undertaking an exercise to introduce one and is currently consulting with residents.

DECISION

[100] Having regard to the matters set out above, and the submissions of the Applicant and the Agencies, the Committee finds the Applicant is not a suitable entity to hold a Licence and renewal of the On-Licence is declined.

[101] The Committee hopes Mr Singh will learn from this decision as he continues his journey of work.

DATED at CHRISTCHURCH this 16th day of June 2025



D. IVORY

Chairperson

Christchurch District Licensing Committee

⁶ Alcohol related harm is defined in s5 to mirror that in s4(2) of the Act.

⁷ Miklos v. Shen [2015] NZARLA 284, quoting Honourable Simon Power (2010 668 NZPD 15251)

⁸ Patels Superette 2000 Ltd v Muir [2019] NZARLA 75 at 228