



Decision No. 62/OFF/08/15

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by AD Liquor Limited for an OFF LICENCE pursuant the Act in respect of premises situated at 668 East Street ASHBURTON known as "Bottle-O East Street".

RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE

Chairperson: I J Burgess
Members: A Lawn
R Kilworth, (Mrs)

HEARING at the Masonic Centre, Havelock Street on August 28th 2015

APPEARANCES

Mr. Josh Taylor	For the applicant
Mr Amarjit Singh	Applicant
Mrs H. Faass	District Licensing Inspector / to assist
Sergeant M Hamilton	For the New Zealand Police / to assist
Mrs S Newton	For the Medical Officer of Health / to assist

There are no objections to this application from the reporting agencies

Objectors:

There are 21 objectors from the community, but only four have elected to appear

Mrs H Hands
Mrs M Binnie
Mr J Leak
Mrs C Schluter

1. Introduction

The application is for a new Off-Licence under Section 17 of the Sale and Supply of Alcohol Act 2012. The application relates to premises situated at 2/668 East Street, Ashburton, and intends to trade as Bottle-O, East Street. The site is situated within a new precinct developed by Robert Grice Properties Limited, the company that has granted the lease to A D Liquor Limited. Evidence was included in Mr A Singh's brief of evidence that the company has been granted a 3 years lease with 3 x 3 yearly rights of renewal.

2. A D Liquor Limited is a Private Company, the two Directors of which are Mr Amarjit Singh and Mr Ramandip Singh, who each own 50% of the shares in the company. The company was incorporated on May 12th 2015 and the principal purpose of the business is to be the Sale of Alcohol.

3. The application seeks hours of 10.00am to 10.00pm, seven days. Those hours are within those listed on the Resource Consent

4. The Management Structure is to be as follows:-

Amarjit Singh	Duty Manager
Parimal Patel	Duty Manager
Part Time	1 Person

5. There are a large number of submissions in opposition to this application. 21 in total, many claiming there are already enough, or too many Off Licences in Ashburton. The objections all came outside of the time allowed for objections, but because of an error on the part of the publication in which the public notices were published, and the second publication was listed as the first publication of the notice, it was decided to allow the submissions. The committee considered the objections and decided that while the objections were based upon a genuine concern, there was little in the evidence of the objectors that would offend against the object of the Act. While there is a residential area adjacent to this proposed development, none of the objections appear to be from immediate neighbours. Two of the objections referred to the proximity of the intended site to schools. The committee expressed disappointment that only four of the objectors had chosen to appear and be heard in support of their objections.

6. Sensitive Sites: The Ashburton Intermediate School is situated in the block immediately south east of the proposed premises and would be within 500 metres. The Ashburton College is situated 1.0 km from the proposed site. Neither of the schools, the Intermediate or the College mentioned in the objections chose to object to this application.

7. Mr Taylor introduced Mr Armarjit Singh who gave evidence in support of the application. Mr Singh confirmed that he has experience totalling 18 months managing a licensed restaurant which has an On licence and a BYO licence. Mr Ramandip Singh, the other director of the company also has experience working in a licensed restaurant between 2008 and 2011, while in the last 6 months of this period Mr Ramandip Singh worked in an Off Licence in Christchurch.

8. Mr Armarjit Singh further gave evidence of five years' experience working in a petrol station which involved the restricted sale of tobacco and cigarette lighters. Mr Singh further spoke of owning a franchised cleaning business in Christchurch for the previous 18 months.

9. The onus is on the applicant(s) to show the committee that they are suitable and possessed of the required attributes to comply with the object of the Act.

10. There has been no evidence that Mr Ramandip Singh the other director is to take an active part in the Ashburton operation.

11. The other Duty manager, Mr Parimal Patel is a director of PM Liquors Ltd which currently operates an Off Licence in Lincoln Road, Christchurch. Mr Patel is described in the brief of evidence as being 'an experienced business owner and manager, who has been involved in owning and operating liquor stores for "a long time"'.

12. Evidence was given as to the proximity of other off licences in the area within one kilometre and there is only one, the MSA Liquor Centre which is 950 metres from the proposed site. Listed is the Countdown Supermarket which is 500 metres away but is restricted to sales of wines, beer and cider. The applicants may have missed the Netherby Four Square which would be less than a kilometre from the site, but of course this licence too is confined to selling wines, beers, and cider.

13. Reporting Agencies

Mrs Faass questioned Mr Singh about external advertising. In his application Mr Singh had answered "yes" to a question asking if footpath advertising would be used. In reply Mr Singh agreed that one only advertising board would be used, and that would state the name of the business and the hours of operation. No other external advertising would be seen.

14. The Chair asked Mr Singh to confirm that the expected level of discount would be as stated 20%, as a previous application for a Bottle-O franchise by PM Liquors Ltd had stated discounts of 25% Mr Singh confirmed that the level of discount offered by his operation would be 20%.

15. Mr Singh was questioned on his experience, the art of saying 'no' to minors. Mr Singh reiterated his Host Responsibility policy which stated No ID no service, and explained that the cash register would prompt such questioning.

16. The applicant was questioned on subjects such as having no experience in an off licence, his Host Responsibility policy, knowledge of the Sale and supply of Alcohol Act, proposed training of staff and did the applicant have a manual for such training? Questions were also asked about security, identification, recognising intoxicated persons, and external advertising. Mr Singh replied that there is available a Bottle-O training manual, that CCTV camera would operate covering the car park, at the checkout and in the bottle cooler. A Host responsibility policy had been previously supplied. He admitted that he had not done a scan of the area.

17. Objectors.

Four of the 21 objectors elected to appear and be heard: They are:-

Mrs H Hands, Mrs M Binnie, Mr J Leak,

18. Mrs Hands in her original submission wrote that she believed that as the Manager of the Super Liquor Bottle Store at the Hotel Ashburton, she had a greater interest in the application than the public generally, and that in her opinion Ashburton was served by 'more than sufficient outlets currently'. In a typed hand-out Mrs Hands objected to being asked to submit on the application when the applicant was changed from that advertised in the Ashburton Courier. This came about because in the original application Mr Singh had applied using his name, and when it became obvious that the application was indeed from a company, Mr Singh was asked to change the application to the name of his company, A D Liquors Ltd. Mr Taylor told the witness the advertisement is not grounds for objection.

19. Mr J Leak, Retired, gave evidence that he believes there are too many off Licences in Ashburton and that young people "seem to get it at these premises". Mr Leak also states "they bring a bad factor to town. Again Mr Taylor reminded the witness these were not reasons for objection

20. Mrs M Binnie, in her written submission asked "Why ? and claimed that "drink causes enough misery already".

21. Mrs C M Schluter in her written submission gave evidence that in her opinion the site of the intended premises were unsuitable because of the proximity to the intermediate school and the Ashburton College. In her verbal testimony Mrs Schluter also spoke of density. Mr Taylor reminded the witness that the Intermediate School did not object to the application.

22. The Chair recognising the inordinate number of objections which in the main claimed that Ashburton already had too many, or enough bottle stores, told the hearing that since the supermarkets have won the right to sell wines and beers, four off licences in Ashburton have closed their doors. Three of those have closed for good and one, a more recent addition, has been closed for some time and that any resumption of trade in those premises is uncertain. In the light of this it would appear that the number of bottle stores in Ashburton is more or less constant.

23. Sergeant Hamilton representing the N Z Police was asked to take the stand and was questioned on matters such as drinking and movement patterns in this area, crime statistics, calls for service and patterns of disorder. Sergeant Hamilton testified that this area was considered a low to moderate crime area, and that there are no amenity or good order issues in the locality at present.

24. During summing up Mrs Faass spoke of Bottle-O advertising, the requirement for a training manual for staff, and that she considered the adjusted hours of operation in the application to be appropriate.

25. Mrs Newton for the Medical Officer of Health, reminded the hearing that while that Medical Officer of Health saw no reason to object to this application, he had added a note to the effect that when the proposed premises were complete and prior to opening, he or a representative would undertake a final inspection of those premises.

26. Mr Taylor on behalf of the applicant(s) summed up, and the hearing was then adjourned.

27. A site visit was undertaken in order to familiarise Mr Lawn with the proposed premises.

28. During deliberations at the conclusion of the hearing, concerns was raised about the relative inexperience of the applicant in the area of off-licence. It was decided that a minute be sent to Mr Taylor, the lawyer for the applicants, seeking the following information:-

- The Bottle-O franchise agreement,
- The Host Responsibility Policy re-worked
- An acceptable training manual
- An employment agreement with Mr Parimal Patel covering the 31 hours as stated and for a period of 12 months.
- An undertaking from Mr Singh that there would be no brand advertising on the front glass window or outside the premises. The only advertising outside the premises is to be a board with the Bottle-O name and the hours of operation as agreed with the Licensing Inspector.

29. The rationale behind the request for an employment agreement for Mr Parimal Patel is because the panel viewed the relative inexperience of Mr Singh as requiring some experienced support in the early months of this initiative.

30. Among the documents received was a Bottle-O training manual and the indications are that this manual will be used in the training of any future staff.

31. The documents were received via e-mail on Wednesday September 9th by the chair and immediately distributed to the other two members of the hearing panel. On Thursday September 10th discussion took place between members of the DLC, and it was unanimously agreed that the application should be granted for a period of 12 Months. The panel agreed that the requests for information had been met, and that the applicant met the criteria for suitability, and there was no evidence that the layout or the locality of the premises would contribute to alcohol related harm by more than a minor extent.

32. The committee has viewed the application in the light of the criteria of the Act as found in sections 105 and 106.

33. The applicant must comply with all conditions specified on the licence.

34. Compulsory Conditions – section 116 (2)

(a) No liquor may be sold or delivered on Good Friday, Easter Sunday, Christmas Day or before 1pm on ANZAC Da

(b) Liquor may only be sold or delivered on the following days and during the following hours.

Monday to Sunday: 10.00 am to 10.00 pm.

35. Discretionary Conditions – Section 116 (1)

- 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.
- 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 of sales to prohibited persons.
- The whole of the premises shall be supervised.

Other restrictions and requirements

Section 56 – Display of Signs

Section 57 – Display of Licences

Section 214 – Duty Manager to be available at all times and responsible for Compliance.

Dated at Ashburton this 22nd day of September 2015.



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I J Burgess
Chairperson

Ashburton District Licensing Committee

