

Decision No.

19/043/2016

IN THE MATTER
AND

of the Sale and Supply of Alcohol Act 2012

IN THE MATTER

of an application by Waitomo Caves Store Limited pursuant to s127 of the Act for the renewal of an On-Licence in respect of premises situated at Waitomo Village known as "Waitomo Caves Store Limited".

BEFORE THE WAITOMO DISTRICT LICENSING COMMITTEE

COMMISSIONERS: Mrs Diane Sharpe (Chair)
Dr Michael Cameron
Mr Ross Murphy

MEETING AT: Waitomo District Council Chambers, Queen Street, Te Kuiti

ON THIS: 15th day of July 2016

APPEARANCES: Lindsay Norris Licensing Inspector

John Anderson Applicant
Rhonda Pitcorn For the applicant

Nick Andreef Objector 1
Bruce Tobeck Objector 2
Colin Beeston Objector 3

Nicole Petersen Medical Officer of Health Representative

Jim Kernohan Police

IN ATTENDANCE: Elsa du Toit DLC Secretary

THE APPLICATION

1. This is an application by Waitomo Caves Store Limited for the renewal of an On-Licence in respect of premises situated at 15 Waitomo Village Road, known as "Waitomo Caves Store Limited".
2. The application was required to be notified in accordance with s.127(3) of the Act. Three public objections have been received under s.128 of the Act and a Public Hearing was held on 15 July 2016.
3. The application was on time and the public notices are correct.
4. Reports from the Police and Medical Officer of Health did not raise any matters in opposition to the application but the Licensing Inspector was opposed to a variation to later hours and suitability based on some recent noise issues. Accordingly the application was therefore determined by a Public Hearing.
5. The hours of the current licence are 9.00 am to 11.00 pm. The applicant sought to vary the hours to a later close of 1.00 am the following day and this variation was the primary reason for the opposition and objections.

6. A late night function was brought to the inspector's attention so the general purpose of the business was questioned. It was a café restaurant that appeared to be trading more as a function centre
7. At the start of the hearing we were advised that the variation to the hours was withdrawn therefore were happy to retain the existing hours so all the objectors were satisfied with the new proposed hours of operation. After hearing further evidence and having the opportunity to examine the applicants director, Mr John Anderson, the Licensing Inspector was also satisfied that noise related incidents will present no further issues due to the new proposed hours of operation.
8. **The Sale and Supply of Alcohol Act 2012**
9. ***The purpose of the Act*** is to put in place a new system of control over the sale and supply of alcohol (s3). ***The object of the Act*** is that the sale, supply and consumption of alcohol should be undertaken safely and responsibly, and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised (s4).
10. ***In deciding whether to issue the renewal the District Licensing Committee must have regard to the criteria in s.105 and 131 of the Act. Therefore this committee must consider the following questions within the framework of the purposes and object of the Act:***
11. ***Is the object of the Act met or likely to be met?***
 - *Is the applicant suitable?*
 - *Are the requirements of any relevant local alcohol policy met?*
 - *Are the days on which and the hours during which the applicant proposes to sell alcohol reasonable?*
 - *Is the design and layout of the premises suitable?*
 - *Does the applicant engage in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services?*
 - *Is the amenity and good order of the locality likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence?*
 - *Does the applicant have appropriate systems, staff and training to comply with the law?*
 - *Is the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol appropriate?*
 - *Have the Police, the Medical Officer of Health or an Inspector raised any relevant considerations?*

THE DECISION AND REASONS


12. **Is the applicant suitable?**
The licensing committee is satisfied that Waitomo Caves Store Limited is a suitable entity to hold an on-licence. The directors are of good character and have demonstrated their ability that they can comply with the Sale and Supply of Alcohol Act 2012.
13. **Are the requirements of any relevant local alcohol policy met?**
The licensing committee is satisfied there are no matters contrary to the Waitomo District local alcohol policy.
14. **Are the days on which and the hours during which the applicant proposes to sell alcohol reasonable?**
The applicant proposes to change the hours from Monday to Sunday 9.00am to 11.00pm, which are reasonable.

15. **Is the design and layout of the premises suitable?**
The licensing committee is satisfied that Waitomo Store Limited has a suitable design and layout to meet the requirements of the Act. It is well appointed and able to be monitored by the staff on duty.
- The entire premises is undesignated.
- The premises are located on the site at 15 Waitomo Village Road, Waitomo Caves. The premises comprise informal indoor and outdoor dining areas with a counter/servery incorporating a small bar area.
16. **Does the applicant engage in, (or proposes on the premises to engage in), the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services?**
Waitomo Caves Store Limited engage in the selling of general convenience grocery items and souvenirs' as well as those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food
17. **Is the amenity and good order of the locality likely to improve if we refuse to renew the licence?**
Within the Waitomo Village location of the applicant's premises there are five other on-licensed premises and one club licensed premises. One of the on-licensed premises also holds an off-licence. All the premises are within 160 metres of the applicants premises except the Waitomo Glow Worm Caves Restaurant which is over 500 metres distant, therefore the amenity and good order of the locality will not improve if the licence renewal is refused.
18. **Does the applicant have appropriate systems, staff and training to comply with the law?**
The licencing committee is satisfied that Waitomo Caves Store Limited has an appropriate Host Responsibility Policy. For training of staff, all staff attend regular training. The applicant proposes that there will be four managers appointed the applications of which have been filed and granted in conjunctions with this licence.
19. **Is the manner in which the applicant sold, supplied, displayed, advertised and promoted alcohol been appropriate?**
The licensing committee is satisfied that there have been no issues regarding compliance. There have been no promotions or advertising of alcohol that contravene section 237. All displays have been appropriate.
20. **Have the Police, the Medical Officer of Health or an Inspector raised any relevant considerations?**
The Police and MOH have raised no issues regarding any of the above criteria but the Licensing Inspector was opposed to the renewal of the On licence with the extension of hours applied for on the likely basis that noise disturbance will occur when events are held at the applicant's premises. He did however not oppose retaining the existing hours of 9:00am to 11:00pm. A condition has been added to make the applicant aware that noise could be of concern to the neighbours.
21. The nature of the operation was subject to some examination. It was made clear to the applicant, and well understood that they did not have approval to operate as a function centre. The applicant accepted this and the licence renewal will be endorsed more clearly.
22. **The Licensing Committee is satisfied as to the matters to which must be regarded as set out in the Act and grant the renewal application with the following amendments or additions to the existing licence and conditions:**
- a) Alcohol may only be sold or supplied while always trading as a café / restaurant.
 - b) Alcohol may be sold only on the following days and during the following hours:
Monday to Sunday 9.00 am to 11.00 pm.

- c) No alcohol may be sold 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.
- d) The area where alcohol is to be sold and consumed is described in the plan date stamped as received by the District Licensing Committee on 26 February 2016 and no alcohol is to be taken out of this area.
- e) The entire premises are undesignated.
- f) The holder of a manager's certificate or a properly notified manager shall be on duty and on the premises at all times alcohol is sold.
- g) A manager's register (as required by s.232 of the Act) is to be maintained and available on site and there must be a minimum of **two** properly appointed managers on that register and available to the licensee at all times.
- h) A Host Responsibility Policy must be maintained and displayed at all points of sale and the Licensee must ensure all staff receive training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012.
- i) There must be no sale or supply of alcohol to minors or intoxicated persons and there must be displayed at every point of sale appropriate signs detailing these restrictions.
- j) Drinking water must be freely available and this must be clear to customers, while the premises are open for the sale and supply of alcohol.
- k) Food must be available for consumption on the premises at all times when open for the sale of alcohol in accordance with the restaurant menu submitted with the application for this licence, or variations of a similar range and standard.
- l) A range of low-alcohol and non-alcoholic drinks must be available at all times when the premises are open for the sale of alcohol.
- m) A telephone must be freely available for customers to call for transport and staff must assist if required. Telephone numbers for alternative forms of transport from the premises must be displayed.
- n) The applicant shall ensure that noise from the premises does not exceed a reasonable level, or disturb the peace, comfort or convenience of nearby residents and must follow the mitigation measures contained in the noise management plan for the premises.
- o) The Licensee must ensure the following are displayed:
 - i) A sign to be seen from outside the principle entrance stating the ordinary hours of business during which the premises will be open for the sale of alcohol.
 - ii) A copy of the original licence with all the conditions, just inside the principle entrance so persons entering can read it.
 - iii) A sign in a prominent place identifying the duty manager.

The licence must not be issued until all annual fees are satisfied.

DATED at Cambridge this 29th day of July 2016


 Diane Sharpe
 Commissioner
 Waitomo District Licensing Committee

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 Waitomo District
licensing committee