

Decision for Off-licence

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

AND

IN THE MATTER of an application by **Cromwell Liquor Limited** for an off-licence pursuant to Section 100 of the Act in respect of premises situated at 9 Elspeth Street, Cromwell known as Henry's Liquor Cromwell.

BEFORE THE CENTRAL OTAGO DISTRICT LICENSING COMMITTEE

Mr Robert B McNeil (Chairman)
Dr Michael MacAvoy
Ms Tanya Surrey

In Attendance

Ms Louise van der Voort – Committee Secretary

Appearances

Applicant

Mr Philip Ryan – representing the applicant company
Mr Malcolm Couling – Counsel for the applicant company

Objectors

Mr Hessel van Wieren
Ms Christine Hansen – representing Session Members of the Cromwell and Districts Presbyterian Church

Reporting Agencies

Mr Ray Applegarth – Licensing Inspector CODC – to assist the committee
Ms Lynn Grace – On behalf of the Medical Officer of Health – Late submission

DECISION

Background

This is an application by Cromwell Liquor Limited for an off-licence in respect of premises situated at 9 Elspeth Street, Cromwell, and known as Henry's Cromwell. The proposed bottle store would be part of a wider retail development for the site, which includes a storage facility and a separate retail area.

The application is in respect of premises yet to be constructed as a stand-alone bottle store in which the principal business is the sale of alcohol.

Objections

The application was duly advertised and two objections were received.

- Mr van Wieren of Cromwell has objected on the basis that he believes there is an adequate number of alcohol outlets in Cromwell and notes a link between harm caused by alcohol and the availability of alcohol.

- Session Members of the Cromwell and Districts Presbyterian Church have objected on the basis that they believe the amenity and good order of the locality would likely be reduced to more than minor extent by the effects resulting from the issue of the licence.

No opposition to granting of the application has been received from the Police, or the Licensing Inspector.

Applicants Submission

Counsel for the applicant, Mr Couling sought a ruling from the committee regarding the standing of Mr van Wieren's objection, as due to the location of Mr van Wieren's residential property he failed to demonstrate a greater interest in the application than the public generally. In the interest of providing the committee with a wider understanding of the community concerns, the committee allowed the objection to stand.

Mr Ryan, who is the sole director of Cromwell Liquor limited, outlined his experience in the industry and the business model which would operate as Henry's Beer, Wine and Spirits – Cromwell (Henry's Cromwell). The building would be of a modern design with minimal signage in keeping with the nationwide policy.

In addressing the amenity and good order concerns raised by the objectors, he tabled plans depicting the location of CCTV cameras, external security lighting and the proposed landscaping. He advised that, "In addition, security staff will be engaged to drive by the premises at the weekends, and after closing to make sure that no one remains in the car park."

Mr Ryan did not believe there was evidence to support the concern of the session members that once the rest home is built there would be a significantly greater likelihood of elderly folk being harassed and/or rest home buildings being damaged by intoxicated individuals. He noted that the proposed rest home would be located about 200m away in the opposite direction from which pedestrian customers would most likely come, being the residential areas of Cromwell.

Mr Ryan did not support the argument of both the session members and Mr van Wieren that Cromwell did not need another alcohol store. He noted that there were very limited numbers of bottle stores in Cromwell and Super Liquor was the only equivalent operation to Henry's Cromwell. The range of products sold in the nearby Cromwell New World was limited to beer, wine and mead.

Mr van Wieren

Mr van Wieren in his role as a member/trustee of the Local Youth Trust said he is aware of the problems associated with the availability of alcohol in this region and the harm it has caused.

The basis for him objecting was on the grounds that the Government's intention of directing Local Councils to develop a Local Alcohol Policy is based primarily on "alcohol related harm reduction". He also supported tighter restrictions on the number of outlets in a given area and believed Cromwell did not need more alcohol outlets.

Session Members of the Cromwell and Districts Presbyterian Church

The session members opposed the application on the grounds that the amenity and good order of the locality would be likely be reduced, to more than minor extent by the effects resulting from the issue of the licence.

The church which is located directly across the road from the proposed bottle store is often frequented by elderly and otherwise vulnerable folk seeking assistance and/or counselling. The session members believe the presence of an alcohol retailer so close to the church could be intimidating.

Their objection notes the close proximity of a petrol station which they consider will subvert the efforts of police to reduce the instances of drunk driving.

The members' objection noted that there were already 5 other liquor outlets in the area, and they therefore had difficulty conceiving how opening another outlet would not have a positive impact on the community in terms of domestic violence, road safety and the general well-being of young people.

Licensing Inspector

Mr Applegarth's report covered the matters set out in section 105 of the Act and he confirmed that he raised no matters in opposition to the application.

His report noted that the bottle store would be located in an area which is predominantly commercial in nature and the impact of an off-licence is likely to have a minimal effect on the amenity of the area.

In respect to the suitability of the applicant, Mr Applegarth reported that no matters had been raised as to the suitability of either Mr Ryan or the other proposed manager of the premises.

The Medical Officer of Health

The Medical Officer of Health filed a report on the application noting they raised no matters in opposition. On receiving a copy of the objections they became aware that they had overlooked the issue of a nearby church and sought approval from the committee to address the implications of that by way of a submission at the hearing.

The committee agreed to receive a submission from Ms Grace, who had delegated functions of the Medical Officer of Health.

Ms Grace said Health Care South believe that the close proximity of the Community Church is an issue. She added, a place of religious gathering or assembly is identified in many Local Alcohol Policies (LAP) as a 'sensitive premises'.

Without progression of the draft LAP for Central Otago, Ms Grace said they believe this leaves the community vulnerable to the saturation, density and extended hours of alcohol availability and the harms that come with that.

Discussion

The committee noted that the application was incomplete in that certificates of compliance from the Territorial Authority had not been submitted with the application. In explanation Mr Couling noted that the certificates could not be issued until such time as the building was complete. The committee agreed to grant a waiver for this omission.

Ms Grace asked about rubbish collection and whether staff would be collecting rubbish from outside other businesses. Mr Ryan responded that staff would collect rubbish from around his property and on the adjacent road.

Mrs Hansen acknowledged that the applicant had a very good business plan but lacked responsibility for outcomes resulting from the sale of alcohol. Mr Ryan commented that once the purchase had been made in a legal and responsible manner, it was difficult for his staff to ensure the alcohol was consumed in a responsible manner.

Reasons for decision

Should any matter arise relating to amenity and good order during the first 12 months of operation they can be considered when application is made for renewal of the licence.

Mr van Wieren's concerns about the Council not having a finalised LAP are noted, however the matter of reducing alcohol related harm is addressed through the provisions of the Act.

The committee considered the design of the premises and the New World operational model would satisfactorily meet the requirements of the Act. They also considered that Mr Ryan is a

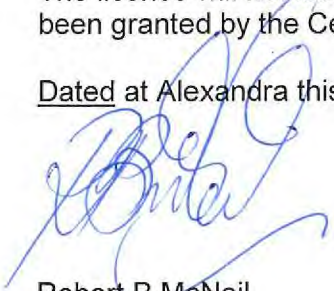
responsible and good corporate citizen and member of the community and he would fulfil his duties under the Act in a responsible manner.

Decision and conditions

The committee is satisfied as to the matters to which it must have regard as set out in section 105 of the Act and grant the applicant an off-licence. A copy of the licence setting out the conditions to which it is subject is attached to this decision.

The licence will not issue until all relevant clearances for the construction of the building have been granted by the Central Otago District Council.

Dated at Alexandra this 27th day of July 2016.



Robert B. McNeil
Chairman
Central Otago District Licensing Committee



Off-licence

Sections 17 to 20 and 64, Sale and Supply of Alcohol Act 2012

67/OFF/20/2016

Pursuant to the Sale and Supply of Alcohol Act 2012, **Cromwell Liquor Limited**, is authorised to sell alcohol on the premises situated at 9 Elspeth Street, Cromwell and known as Henry's Liquor Cromwell, to any person for consumption off the premises and to supply alcohol free, as a sample, for consumption on the premises.

As this licence is endorsed under section 40 of the Act, the licensee is also entitled to sell alcohol on or from the premises and deliver it to somewhere else.

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Subpart 7 of Part 2 of the Act.

CONDITIONS

This licence is subject to the following conditions:

- a) No alcohol is to be sold or delivered on Good Friday, Easter Sunday, Christmas Day or before 1.00pm on Anzac Day.
- b) Alcohol may be sold or delivered only on the following days and during the following hours:

Monday to Sunday 8.00am to 11.00pm

- c) Alcohol may only be delivered Monday to Sunday between the hours of 6.00am and 11.00pm.
- d) Each of the following parts of the premises is designated as a supervised area: whole premises
- e) The licensee must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed and must display 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.
- f) A copy of this licence must be displayed at the principal entrance to the premises.

DURATION

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force-

Until the close of the period of one year from the date of issue of this licence,

or

If an application for the renewal of the licence is duly made before the licence would otherwise expire until the close of the period 3 years after the period for which it was last renewed.

Expiry date being ***** unless renewed for a further period.

Dated at Alexandra on the *****day of *****

L A van der Voort
For the Secretary
Central Otago District Licensing Committee

A handwritten signature in blue ink, appearing to be "L.A. van der Voort".