

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012 ("the Act")

A N D

IN THE MATTER

of an application from **The George
Café 2018 Limited** pursuant to s100 of
the Act for a new On-Licence
Decision 132/2019

BEFORE THE HOROWHENUA DISTRICT LICENSING COMMITTEE

Chairperson: Cr Ross Brannigan
Members: Mr Philip Comber
Mr Roger Perring

HEARING at Levin on 7 June 2019.

APPEARANCES

- (a) Mr Wayne Bishop – Applicant
- (b) Ms Prentis Te Rito – Applicant
- (c) Mr Bharat Mekkanagadde, Liquor Licensing Inspector
- (d) Senior Constable Simon Carter, NZ Police
- (e) Sergeant Ian Piggot, NZ Police

DECISION OF THE DISTRICT LICENSING COMMITTEE

Introduction

This decision relates to an application made by The George Café 2018 Limited for an on-licence in respect of the premises proposed to trade as The George Café at 70 Kimberley Road, Levin.

The application was filed on 30 January 2019, with the hearing held on 7 June 2019

The application was on hold until May 2019 due to the premises failure to have an approved evacuation scheme in place, and the applicant not having any staff employed with a current Managers Certificate. Both matters were resolved prior to the hearing date.

An on-licence is sought for seven (7) days a week from 9.00 am to 1.00am the next day.

Reporting agencies

NZ Police opposed the application due to concerns relating to Police powers of entry into the premises in accordance with Section 267 of The Sale and Supply of Alcohol Act 2012; specifically the matter of the locked gate at the road entrance to the facility creating cause for unreasonable delay.

There was no opposition from the Medical Officer of Health.

Fire and Emergency New Zealand initially opposed the application as the premises did not have an approved fire evacuation scheme. This matter was resolved prior to the hearing.

Background

The George Café 2018 Limited was incorporated on 17 August 2018, with a capital of 100 shares and sole Director Wayne Euan Ross Bishop.

The applicant proposes to operate an on-licence premises called "The George Café located within a retirement village at 70 Kimberley Road Levin, known as Speldhurst Estate.

The proposed premises is situated within a communal building on the site known as 'The George', which also accommodates a resident's lounge, social spaces and fitness facilities.

There are gates situated at the entry to Speldhurst Estate that are locked each evening at 8.00pm and reopened at 6am. Entry during the hours of 8.00pm and 6.00am is by pin-code only which is changed infrequently by the managers of the retirement village.

There were no public objections to the grant of this licence received.

Evidence

1. Mr Wayne Bishop introduced himself as director and shareholder of The George Café 2018 Limited and introduced Ms Prentis Te Rito as operator of the The George Café.
2. Mr Bishop explained to the Committee his vision for The George Café as being a restaurant open to all members of the community to have meals and evening meals; and informed the proposed premises was not going to be a bar.
3. Mr Bishop outlined that he and the village management had a good working relationship with Community Patrol who had recently visited the village after 8pm using their pin-code to conduct community patrols.
4. Mr Bishop informed the Committee that the retirement village is currently under development with plans for the estate to reach 600 residencies; also advising the Committee that the retirement village is designed to industry standards.
5. Mr Bishop and Ms Te Rito provided clarification to the Committee on the area within the Community facility called "The George" to be licensed as the "The George Café".
6. Senior Constable Simon Carter spoke at length in support of the Police written objection and specifically his concerns around access to Speldhurst Estate after the closing of the gates. Senior Constable Simon Carter was supported by Sergeant Piggot who was equally concerned and expressed his concern particularly for if things go wrong.

Legal framework

7. The criteria the Committee must use in considering whether to issue this licence are set out in section 105 of the Act. It is also noted that when forming an opinion in respect of effects on amenity and good order the committee must also consider section 106.

Committee's decision

Section 105 matters

8. *Object of the Act – s105(1)(a)*

The Committee has considered the object of the Act in reaching its decision on the application but did not have any concerns regarding the safe and responsible sale, supply

and consumption of alcohol or in relation to minimising excessive or inappropriate alcohol consumption.

9. *Suitability – s105(1)(b)*

The Committee noted that the application had a number of deficiencies when first submitted including the absence of suitably qualified staff, however were satisfied the operator of 'The George Café' has the requisite experience, knowledge and willingness to carry out the duties required of an On-Licensed premises.

10. *Any relevant local alcohol policy – s105(1)(c)*

There is no Local Alcohol Policy in force for the area, however the DLC are aware that a provisional policy has been adopted and is currently being publicly notified. Due to the Local Alcohol Policy being in the provisional stage it has not had an effect on the decision.

11. *The days upon which the Applicant proposes to open – s105(1)(d)*

The hours proposed by the applicant are within the national maximum opening hours as set out in Act, as well as the guidelines within the Horowhenua District Council's Sale of Liquor Policy 2006, and are consistent with the hours proposed in the Provisional Local Alcohol Policy.

However, due to the closing hours of the gates at the entry to Speldhurst Estate being prior to the closing of the proposed licensed premises, the Committee had some concern the hours requested may unintentionally lead to an unreasonable delay.

It is therefore the decision of this Committee to place conditions on the issuance of the licence whereby the opening and closing of the premises are to be within the opening and closing times of the gates at the entry to Speldhurst Estate.

12. *The design and layout of the premises – s105(1)(e)*

Following clarification from the applicants, the Committee have no concerns relating to the design and layout of the proposed premises.

13. *Sale of goods and services other than those relating to alcohol and food – s105(1)(f) & (g)*

The committee have no concerns with regards to this.

14. *Amenity and good order – s105(1) (h) & (i)*

The question the Committee must answer is whether the amenity and good order of the area would be likely to be reduced to more than a minor extent by the effects of the issue of the licence. Consideration must also be given to section 106(1)(a) & (b).

The Committee did not have any concerns in relation to current or possible future noise levels associated with the activity.

15. *Appropriate systems, staff and training – s 105(1)(j)*

From the evidence presented the Committee considered that the applicant would have appropriate systems and training in place; and noted of particular mention the operator's experience.

16. *Reporting agencies – s105(1)(k)*

The application was opposed by Senior Constable Simon Carter as noted in paragraph 6.

The application was originally opposed by Fire and Emergency New Zealand however their objection was withdrawn prior to the hearing due to the premises satisfying their requirement to have an approved evacuation scheme.

There was no objection from the Licensing Inspector or Medical Officer of Health.

17. *Manner of sale*

There are no issues associated with this matter.

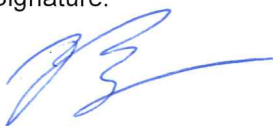
Decision

18. The decision of this committee is to grant the issuing of the On-Licence for The George Café 2018 Limited with the following conditions:
- (a) Alcohol may be sold only on the following days and during the following hours: Sunday to Saturday 11.00am to 9.00pm
 - (b) Alcohol may only be sold during times at which the gate located at the entrance to Speldhurst Estate is open and access not restricted by pin-code.
 - (c) No alcohol is to be sold during the hours the gate located at the entrance to Speldhurst Estate is locked and access restricted by pin-code.
19. In coming to this decision the Committee has considered all aspects of Section 105 and 106 of the Sale and Supply of Alcohol Act 2012.

DATED at LEVIN this 19th day of July 2019.

Name: R.J. Brannigan

Signature:



Date:

19/7/19

R J Brannigan
Chairperson

