

064/ON/8/2013
064/OFF/5/2013

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Valley Brewing
Company (2009) Limited pursuant to
section 100 and 127 of the Act for the
renewal/variation of ON Licence
064/ON/8/2013, and OFF Licence
064/OFF/5/2013 in respect of the
premises situated at 3 Gualter Road,
Geraldine and known as the "Brewery
Café".

RESERVED DECISION OF THE TIMARU DISTRICT LICENCING COMMITTEE

Chairperson	Commissioner Sharyn Cain
Members	Peter Burt Sheila Paul
Present	Chris English, Secretary – District Licensing Committee Paul Cooper, Technical Advisor

HEARING ON THE PAPERS

Timaru District Licensing Committee meeting held in the District Licensing Committee Secretaries Office, Timaru District Council Building, 2 King George Place, Timaru on Monday 14 November 2016 at 7.00pm.

PROCEDURAL BACKGROUND

1. An application for renewal, with variation of hours, for both the On and Off licences was received by Timaru District Council from the applicant on 19 May 2016.
2. The application was held, pending the outcome of an application for minor changes to their Resource Consent.
3. Four objections were received within the statutory timeframe, following notification of the application.
4. Resource Consent, land use number 102.2016.92 was granted on 4 August 2016.
5. Applicant advised changes to hours on the above applications on 12 August 2016.

6. The four objectors were sent a letter advising of the outcome of the Resource Consent Application, and the subsequent change in hours, asking each objector if they wished to revisit their objection, and amend or withdraw.
7. No further correspondence was received from objectors.
8. The New Zealand Police reported on 25 May 2016 and did not oppose the applications.
9. The Medical Officer of Health reported on 1 June 2016 and did not oppose the applications.
10. The Chief Licencing Inspector reported on 1 September 2016 and did not oppose the applications.
11. At a meeting of the Timaru District Licencing Committee held on 15 September 2016 it was accepted that under Section 128 (1) and Section 120 (4) all 4 objectors had a greater interest in the application than the public generally, being residents of neighbouring properties.
12. Each objection was then reviewed, as per Section 131 (1) (a) as to whether it fell within the scope of Section 105 (1) (a) to (g), (j), and (k).
13. The Committee considered the criteria relating to renewal, and found that some relevant issues were raised by the objectors. As the renewal applications before the Committee were for a variation of hours to their current licences, it was deemed that aspects of each of the objections did fall within the scope of the Act.
14. After due consideration, the Committee agreed that the application would require a public hearing, and this was held at Timaru District Council, Monday 10 October 2016 commencing at 9.30am.
15. On Monday 10 October 2016, a Public Hearing was convened in front of Commissioner Sharyn Cain, Member Peter Burt, and Member David Jack. Due process was followed for the hearing, and the District Licencing Committee reserved its decision.
16. Prior to the decision being released by the Commissioner, a potential conflict of interest with member Dave Jack was identified, possibly either "actual" or "appearance of bias" as per section 192 of the Act.
17. The issue identified was that Mr Jack was the director and shareholder of a company, which although not operating, still had an off licence in its possession and was technically able to operate. Mr Jack has since resigned as director and holds no shares in the company, but this threw into some doubt the validity of any determination made by the District Licencing Committee in relation to Valley Brewing Company (2009) Limited.
18. Legal advice was sought by Council, which identified an "appearance of bias" and a re-hearing on the papers, including the transcript, before the District Licencing Committee, with an alternate member, was the suggested solution.
19. As every objector has a right to be heard at a hearing the solution would require consent in writing from the applicant, and each of the objectors, to go ahead with a hearing on the papers.
20. Written consent has been viewed by the District Licencing Committee as follows:

The Applicant, via Counsel, 10 November 2016
Ms Griffiths, via Counsel, 9 November 2016
Mr and Mrs Craigie 4 November 2016

Mr and Mrs Ward-Smith 3 November 2016

Mr Scott 3 November 2016

21. The District Licencing Committee convened on Monday 14 November 2016 to re hear the application on the papers, as agreed.

INTRODUCTION

22. This application is for the renewal, with variation of hours, of an On Licence 064/ON/8/2013 and an Off Licence 064/OFF/5/2013. The criterion found at section 131 of the Sale and Supply of Alcohol Act 2012 (the Act) applies to this application.
23. The applications relate to the premises at 3 Gualter Road, Geraldine, and known as Brewery Café.
24. After the applications were received, a new Resource Consent was granted, land use number 102.2016.92 on 4 August 2016.
25. The applicant seeks changes to the On Licence to increase the hours from:
- OLD** Monday - Sunday 11.00am - 9.00pm
NEW Monday - Sunday 9.00am - 10.30pm
26. The applicant seeks changes to the Off Licence to increase the hours from:
- OLD** Monday - Sunday 11.00am - 9.00pm
NEW Monday - Sunday 9.00am - 9.00pm
27. There have been no issues raised in regards to the Building Code, or the Resource Management Act.
28. The variation in hours sought is compliant with the Resource Consent for this property.
29. The applications were publicly advertised, and four objections were duly received within the statutory timeframe.

**Konrad and Lyn SCOTT
Phillip and Vicki WARD-SMITH
Delwyn and Stephen CRAIGIE
R and K GRIFFITHS**

30. New Zealand Police did not oppose these applications.
31. Medical Officer of Health did not oppose these applications.
32. The Chief Licencing Inspector did not oppose these applications.
33. A Private Company own the premises, with two shareholders/director's being
- Philip Olde-Olthof and
Raewyn Olde-Olthof**
34. A site visit was undertaken by Commissioner Cain on Saturday 8 October 2016

EVIDENCE AND SUBMISSIONS – IN SUMMARY

THE APPLICANT

35. The applicant, Mrs Raewyn Olde-Olthof, presented a thorough brief of evidence. This included information regarding previous applications and outcomes, as a background to this application.
36. The applicant stated that the changes in hours came because of enquiries they had about the possibility of evening dining from individuals and groups. For example, they regularly got requests from groups such as Rotary Club, Lions Club, Probus, farming organisations, school boards and various other community groups and businesses and work social clubs.
37. The applicant noted that their customers could generally be categorised as middle aged to elderly people whose main reason to visit is for a dining experience and not to consume alcohol.
38. It was also noted that the principal reason for establishing the café was to develop an outlet for the sale of the beers which Mr Olde-Olthof brews in the brewery, but it soon became clear that a significant number of people simply wanted a pleasant venue to come for lunch or an evening meal and to enjoy a beer or wine.
39. The applicant states that they do not advertise as a function centre, and refutes the suggestion that they are operating as a tavern.
40. The applicant noted that they are not allowed outside speakers or amplified music outside of the café / restaurant building. The noise must comply with the performance standards in the District Plan and vehicle traffic on the site's access way must be controlled to mitigate potential noise effects. They can only accommodate a maximum of 65 patrons.
41. The principal reason they are seeking an extension of the license hours is that they continue to receive requests for guests to be able to dine and have a drink later into the evening. Currently their evening customers have a two-hour window, approximately, for evening dining. Their average arrival time is between 6.30pm and 7.30pm. Mrs Olde-Olthof notes that this does not make for best practise in the hospitality industry. Being a destination for their customers, they want to make their stay with them memorable and relaxing, therefore the increase spacing of dining times would meet the expectation of their customers.
42. With the increase in arrivals to the region by overseas tourists and nationals, the applicant states it is common to experience 15-20 people travelling in a three-vehicle convoy wanting breakfast at 9.00am or an evening meal at 9.00pm especially during the summer months.
43. Many of their guests are from the surrounding rural area. Many farmers, particularly in the summer months, work through until 7.00pm or 8.00pm, and many tell them that they would like to be able to come in the late evening for a meal without having to vacate the premises by 9.00pm.
44. A copy of a letter from the New Zealand Transport Agency approving the changes to the resource consent, both in respect to hours of operation and increase in the number of guests, was supplied in evidence.
45. The applicant confirmed that since they have been operating they have received no complaints about noise or traffic.

46. They have been subjected to several controlled purchase operations, with no failures.
47. In all the time that they have been operating they have never had to call the Police to deal with a difficult customer and have never experienced any sort of antisocial behaviour.
48. The applicant has never had any concerns about people becoming seriously intoxicated at the premises.
49. There have been some people who have elected not to drive home but they have always had a sober driver.
50. They sell significant amounts of low-alcoholic beer and other non-alcoholic beverages. They also offer free non-alcoholic drinks to nominated sober drivers.
51. They have had a courtesy van available since opening the cafe and have signs advertising its availability.
52. To the applicant's knowledge there has never been a single complaint laid with the Police in relation to bad behaviour at the café, or with the Timaru District Council in relation to noise problems.
53. The applicants resource consent has noise control limits imposed. To their knowledge, the neighbours simply do not hear any noise emanating from our premises
54. A copy of a Noise Assessment report prepared by Marshall Day for the purposes of their Resource Consent Application Acoustics was provided as evidence
55. It can be noted from the report that it is predicted that at all four nearby dwellings, the maximum noise level will not exceed 40 dBL, which is well below the District plan performance standard of 70 dBL.
56. The applicant states that they can already operate the cafe up to 11.00pm, but not serve alcohol after 9.00pm currently, so any valid noise objections would need to be on the basis that the selling of liquor during extended hours, as opposed to just the sale of food, would increase noise levels.
57. The applicants have also obtained special licenses (2 per year) to accommodate functions running through until midnight. There have never been any complaints about noise, traffic, or customer behaviour in relation to any of these events.
58. The applicant also presented evidence of other similar rural establishments and their operating hours.

CROSS EXAMINATION OF APPLICANT

59. A previous hearing questioned the suitability of the applicants, but it was stated that the applicant has now had over four years experience with no issues.
60. On questioning regarding the two previous Resource Consents, the applicant stated that those two have been cancelled and they now work under just the one latest consent, since it was issued.
61. The applicant was questioned on the time of last food orders, with the response of probably half an hour before closing.

WITNESS FOR THE APPLICANT – KATHLEEN JUNE HUDSON

62. Mrs Hudson stated that her and her husband own and farm Ardleigh Farm, Gapes Valley, 157 Gualter Road. Their land shares a boundary with Philip and Raewyn Olde-Olthof and their home is approximately 1km up Gualter Road from the Valley Brewing Company.
63. Mr and Mrs Hudson are regular diners at the Brewery Café and wish they could dine later into the evening as it can often be hard to get there before closing time.
64. The witness stated that in all the times they have been at the Brewery Café with family and friends, they have never seen any intoxicated people.
65. The witness stated that she has seen Philip and Raewyn Olde-Olthof act as responsible hosts since she has known them and believes they run a well-respected business.

OBJECTOR – MR PHILLIP WARD-SMITH

66. Mr Ward-Smith states that in general by granting variation to current licence degrades the locality and increases risk of anti-social behaviour. The extended hours increases the likelihood of anti-social behaviour, as it is probable that alcohol will be served up to two hours beyond the time at which substantial food (full course meals) is available.
67. The objector believes that in effect the extended hours changes the nature of the current business from that of a café / restaurant to a tavern, being in a rural location.
68. The objector contends that as (allegedly) the current business allows for overnight stays of campervans and caravans the extended hours increases risk of persons being over the legal alcohol limit for driving from both late night, and early morning driving due to consumption of alcohol.
69. Mr Ward-Smith stated that they have noticed the increase in traffic noise.
70. Mr Ward-Smith stated that with the lower alcohol limit for driving, the providing of a courtesy van is very limited reduction on likelihood of persons driving over the alcohol limit.
71. The objector contends that as the premises are consented for 65 persons, if a function was held, on an average of three persons per car, this would require 21 sober drivers to be at that venue, or possibility of the applicants having to take 65 people home. The locality means no patrons would walk.
72. The objector doesn't believe that the operators of this business have, or will have, the ability to control and mitigate the behaviour of patrons both while on site and when those patrons leave the site given the extended hours, as above, changing the nature of the business from being a restaurant to that of a tavern in a rural location.
73. Mr Ward-Smith notes he has made a personal complaint two years ago, to Geraldine Police regarding Philip Olde-Olthof, over a matter of aggressive and over standing behaviour.

CROSS EXAMINATION OF MR WARD-SMITH

74. When questioned about the cause of the noise Mr Ward-Smith answered that it was from the road which they live on, but from the venue itself, there is no noise. The noise comes from those patrons leaving the venue and they notice already some extra road noise. They believe that this application allows drinking to a later time, so that will only get worse. Generally, the road goes quiet at 7.00pm-8.00pm at night. There is minimal noise from the operation itself, from within the premises.
75. The objector believes their boundary is 230m from the venue.

76. When asked whether he has any evidence, Mr Ward-Smith stated that he has witnessed cars turning in to the premises, and the main problem is the noise of the acceleration and deceleration of the vehicles.
77. Noted that the premises are on the Tourist Route, Geraldine-Tekapo.
78. Mr Ward-Smith stated that he has two children who have to get to sleep, he can understand noise until 9pm but 11pm is too late.
79. The objector conceded that it was unlikely that the business would have to take 65 patrons home.
80. Mr Ward-Smith states that there is a lack of police presence in the area.
81. Member Peter Burt queried the ages of Mr Ward-Smiths children. They are 13 and 15.

OBJECTOR – MRS DELWN CRAIGIE

82. Mrs Craigie stated that their concerns are related to Section 131 of the Sale and Supply of Alcohol Act 2012: the locality of the Brewery being in a rural area, the increase of late night traffic with drivers that have been drinking, the increase of noise going late into the night from traffic, and the possibility of vandalism of patrons leaving the premises late at night.
83. The objector believes that in a rural area they have the right to have limited hours of operation to provide safety for neighbours, patrons, and staff.
84. The objector questions the long-term plans of the applicants, as changes keep being sought.
85. Mrs Craigie contends that looking at the lighting plan submitted by the owners on 30 June 2016 they have concerns this is not accurate. The light on the south-east end of the building appears not to be included and appears to point out towards the road. There is also no indication of the strip lighting which runs around the extension on the building. They believe the extension was completed and lighting was installed prior to this plan. Further to this, the plan does not seem to include the lighting of the signage at the intersection of SH79 and Gualter Road.
86. Mrs Craigie questioned whether when the business is not operating should the lighting be turned off so as not to distract drivers during the night?

CROSS EXAMINATION OF MRS CRAIGIE

87. When questioned about noise from the premises, Mrs Craigie stated that the noise from the premises itself was minimal, but that the noise is from acceleration and extra road noise around 9pm. She noted that they live up the hill, across SH79, and on top of the terrace closer than 500m.
88. When questioned by member Peter Burt - have you seen, or noted, or have had evidence to the fact that there is some, or has been anti-social behaviour in that area directly related to this premises? Mrs Craigie replied, not exactly, no.
89. Further question from member Peter Burt - Again, in the same vain, do you know or understand or have been told if there has been any direct causation of drink driving in this vicinity because of this location? Mrs Craigie responded, I am not aware of any.

OBJECTOR – KONRAD AND LYN SCOTT

90. Mr and Mrs Scott were not present at the Public Hearing, but their written submission was taken as read and considered.
91. The objectors have concerns about the locality of the Brewery being in a rural area, and
92. The increase of late night traffic on rural roads by patrons who have been drinking, and
93. The possibility of noise from patrons due to extended hours, and
94. The possibility of more abuse by them operating outside their allowable opening times, and
95. The increase of service/supply vehicles to the Brewery that continually park and obstruct the road at the entrance to the Brewery due to insufficient room for them to park while opening the gate, and
96. The volatility and temperament of the patrons to be able to stay in control with increased hours, which could lead to further verbal abuse of neighbours and visitors to the area, and
97. The intentions of the applicants who are running a restaurant which now includes caravan and campervan overnight parking/camping facilities, and
98. An increase in public nuisance by their patrons using their driveway as a turnaround facility.

OBJECTOR – MS KATRINA GRIFFITHS

99. Ms Griffiths submitted a background to her concerns, and ongoing changes to the licencing of these premises.
100. The objector has concerns that it has become a dominant feature in the local rural landscape and general intensification of their business operation has negatively changed the rural amenity values.
101. Ms Griffiths contends that the extension of liquor license trading hours is inappropriate in this rural locality, and that an extension appears contrary to the council's policy around reduction of alcohol related harm in the community.
102. The objector states that the signs, that were approved, are a distraction and not in keeping with the amenity and good order of the rural locality. They are not pleasant or agreeable and can be distracting to drivers, especially those unfamiliar with our roads.
103. Lighting - There are substantial spotlights on the barn in question and these are left on at night.
104. Ms Griffiths gave evidence that in regards to the Brewery Café, persons arriving from Geraldine and turning left into Gualter Road have overshoot and ended up on the right hand side of Gualter Road. She has on two occasions met 'tourists' who have come around the corner too fast and she has almost collided with them. Ms Griffiths has also noticed cars travelling from Fairlie stop immediately after Gualter and attempt to do 'U' turns in order to go back to the Brewery premises. She has seen this on three separate occasions.
105. Traffic coming out of the Brewery Café have ended up on the wrong side of the road, and Ms Griffiths has contacted the Council roading team to ask for a white line to be painted on at the intersection of the state highway and Gualter Road. This she is pleased to say has been done, and has helped this issue.

106. Ms Griffiths believes that reverse sensitivity was not considered and recent chance meetings with campers overnighing at the Brewery has reinforced her concerns about the costly issues around spread of sheep measles by dogs defecating. Prior to the Brewery accommodating overnight campers, 'grey nomads' and other tourists, all dogs were controlled, local and farm related, this did not happen previously.
107. Ms Griffiths also states that there is no rubbish collection from the roadsides and rubbish or bottles left on the road side can cause serious problems for any stock being moved along or when grazing behind a hotwire. Increased traffic movements can also add to stock grazing problems.

CROSS EXAMINATION OF MS GRIFFITHS

108. Under questioning Ms Griffiths stated that her concern is about the future considerations, as much as the present, for antisocial behaviour, nuisance value, and vandalism. She was uncertain whether there has been antisocial behaviour and vandalism, or not.
109. Ms Griffiths noted that she had not really discussed the traffic noise specifically, their concern is related to dust generated, especially with the two dry summers they have recently had. Ms Griffiths did note that as a crow flies, noise and sound also travels, and so the nature of the valley. They have been surprised, depending on the atmospheric conditions, how much they can hear a conversation. Ms Griffiths further notes the noise report was conducted in the day time, not in the night time. It is a very different background ambience in the evening.

CHIEF LICENCING INSPECTOR – SHARON HOOGENRAAD

110. The Inspector noted no objections to the applications, and received no questions under cross examination.

NEW ZEALAND POLICE – SERGEANT MYLEN HAMILTON

111. Sergeant Hamilton reiterated that the Police had no objection to the applications.
112. Sergeant Hamilton, upon questioning, stated that to his knowledge there had been no drunk drivers or traffic accidents related to patrons leaving or going to Valley Brewing.
113. Sergeant Hamilton stated that hooning wouldn't relate to the Brewery itself.
114. Sergeant Hamilton stated that the extra hour and a half could possibly cause an increase in the likelihood of violence or alcohol related issues, but he believed not.
115. At Christmas 2015 the Police conducted a check point between the Brewery and Geraldine and did not get any drink drivers.

MEDICAL OFFICER OF HEALTH – SHAYNE BROUGHTON

116. Mr Broughton reiterated that Health had no objections to the applications. Cross examination was not required.

SITE VISIT – COMMISSIONER CAIN

117. On Saturday 8 October 2016 the Commissioner conducted a site visit to the Brewery Café. On the road into the premises I noted appropriate signage to allow patrons to slow their speed before entering the site. I arrived at the premises at 10.40am and was appropriately told by staff that they could not serve me any alcohol until 11.00am. I noted that there are 2 large parking areas, and that the angle in to the driveway should prevent anyone travelling at speed. All areas were well maintained, clean, tidy, and had all the appropriate signage up on the walls. There was a good supply of food available, and the staff member talked me through their range of non-alcoholic drinks, before I ordered a cup of tea. The ambience appeared to be of suitable café/restaurant style. On leaving the Brewery Café, I visited each of the objectors addresses to gain a perspective of distance, landscape, traffic, and noise. Although admittedly my visit was in the morning, there was significant distance, and in most cases sound buffering foliage, between the objectors' properties and the premises. I did not note any caravans or campervans on site.

SECTION 131 and 105

Criteria for Renewal

- 1) In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:
 - a) the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1)
 - b) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence
 - c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129
 - d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.
- 2) The authority or committee must not take into account any prejudicial effect that the renewal of the licence may have on the business conducted pursuant to any other licence.

Criteria for Issue of Licences

- 1) In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:
 - a) the object of this Act
 - b) the suitability of the applicant
 - c) any relevant local alcohol policy
 - d) the days on which and the hours during which the applicant proposes to sell alcohol
 - e) the design and layout of any proposed premises

- f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods
- g) whether the applicant is engaged 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
- h) whether the applicant has appropriate systems, staff, and training to comply with the law
- i) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.

RELEVANT MATTERS ADRESSED

118. **Suitability of applicant** – None of the reporting agencies raised any issues as to the suitability of the applicant. One of the objectors, Mr Scott, stated he had concerns about the volatility and temperament of the patron to be able to stay in control with increased hours, which could lead to further verbal abuse of neighbours and visitors to the area. No evidence has been provided to the committee to corroborate these concerns. Although the objectors raised some concerns as to suitability in the context of amenity and good order, we are aware of the Authority's approach in British Isles Inn Limited² where it stated:

"Although the onus is on the company to establish its suitability, there is a reasonably high threshold to be met by the objectors in order to displace the absence of concerns by the reporting agencies. We are on the record as stating that in the absence of unfavourable comments from the reporting agencies, we are unlikely to be persuaded that an applicant is unsuitable"

In summary, there is nothing to suggest to us that the applicant is unsuitable.

119. **Any relevant local alcohol policy** – The Timaru District Licensing Committee has regard to the joint Local Alcohol Policy of the Timaru, Waimate, and Mackenzie District Councils. In summary, no matters have been identified that conflict with the Local Alcohol Policy.
120. **Days and hours** – The application has requested a variation in the hours of both the On Licence Monday-Sunday 9.00am-10.30pm, and the Off Licence Monday-Sunday 9.00am-9.00pm. The committee notes that there was no objection to the increase in hours by the reporting agencies, and the times requested are within the applicants Resource Consent, and the Local Alcohol Policy requirements. Whilst each of the objectors has voiced concern regarding the increase in hours, the committee has not been presented with any evidence that the amenity and good order would improve to a more than minor extent if the renewal was refused.
121. **The design and layout of the premises** - The Inspector raised no issues as to the design and layout of the premises, neither did any of the objectors.
122. **Other goods or services** – Some of the objectors raised concerns about the nature of caravans and campervans staying on site over night at the premises. The objectors believed that this was potentially in conflict with this section of the Act. No evidence has been provided to the committee that this is a commercial operation, and allowing vehicles to remain parked on their own land, for an extended duration, falls outside the regulatory powers of the District Licensing Committee.

123. **Systems, staff, and training to comply with the law** - The Committee is satisfied that the Applicant has sufficient systems, staff, and training to comply with the law.
124. **Any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103** - None of the reporting agencies opposed these applications, or raised any matters under section 103.
125. **Amenity and good order – Would it improve to a more than minor extent if the renewal was refused?** - Amenity and good order was the principal focus in the hearing. In terms of 131(1)(b), the expression “amenity and good order” is defined in the Act (s.5) as meaning: “the extent to which, and ways in which, the locality in which the premises concerned are situated is... pleasant and agreeable.” No matters of objection were raised by the reporting agencies, under this section of the Act. The objectors raised a number of concerns which the committee will report back on individually, as follows:
- a) Potential for increase in drink driving – no evidence was presented that supported this possibility. Police reported that there have been no cases of drink driving identified in connection with this premise.
 - b) Potential for an increase in vandalism and anti-social behaviour – neither the Police or the Timaru District Council have received complaints in connection with this premise.
 - c) Lighting – this is outside the scope of the Act, and is managed through the Resource Consent conditions.
 - d) Noise – Three of the objectors stated that they were concerned about the increase in noise. All three concluded that the noise from the actual premises was minimal, and that it was the acceleration/deceleration of traffic on the road that was the main issue. Two of the objectors noted that they had observed noisy traffic entering and leaving the applicants premises. The committee notes that, under their Resource Consent, the applicant can serve food until 11.00pm, and that the additional hour and a half requested falls within that time frame. The committee considered whether the availability of alcohol for this time period would have an impact on the road noise, over and above the patrons who are there to dine, and could find no evidence to support that argument. No noise complaints have been received by Police or the Timaru District Council in connection with this premise.
- We therefore find that the amenity and good order of the locality would not be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence.
126. **Reporting agencies** - The reporting agencies' positions and content of their reports have been discussed above.
127. **Past conduct of the Licensee (the manner in which the applicant has sold, displayed, advertised, or promoted alcohol)** - The committee notes that the Applicant has not been subject to any enforcement action. There was no evidence presented to suggest that the Applicant had breached s.237 by displaying, promoting or advertising alcohol in an irresponsible manner for these premises.

CONCLUSIONS

128. We have considered the matters provided for in s.131, s.105 (including s.106(2)) and we consider that those matters have been satisfied by the Applicant in this case.
129. Having reviewed all of the evidence before us we are mindful that we should stand back and consider that in light of the Act's object, as contained in s.4, which states that: "(a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and (b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised" (with "harm" being defined widely and incorporating the harm (direct or indirect) caused by the excessive or inappropriate consumption of alcohol).
130. On all the documentation before us, we consider there is no evidence demonstrating a link between this premises, its past conduct in selling alcohol, and alcohol-related harm. We are also not convinced that the refusal to grant this off-licence renewal would improve the amenity and good order of the locality to a more than minor extent.
131. Overall, we are satisfied as to the matters to which we must have regard in s. 131 and 105 of the Act, and we are satisfied that this renewal application meets the purpose and object of the Act. Accordingly, we consider that the renewal, with variation to hours, should be granted pursuant to s.131 of the Act.
132. We grant the renewal of both the On Licence and Off Licence for a period of three years.
133. We are satisfied as to the matters to which we must have regard in s.105 and 131 of the Act, and we are satisfied that this application meets the purpose and object of the Act.
134. We refer any party who wishes to appeal this decision or part of this decision to sections 154 through to 158 of the Act. This decision does not have any effect until 12 working days from the date of the decision.

DATED at Timaru, this 24th day of November 2016.



Sharyn Cain
Commissioner
Timaru District Licensing Committee