



DECISION

64/DLC DEC/2/2021

**District Licensing Committee Meeting
Monday, 22 March 2021**

Ref: 1411200

IN THE MATTER

Of the Sale and Supply of Alcohol Act 2012
(hereinafter referred to as "the Act")

AND**IN THE MATTER**

Of an application by Singh Trading (2016) Limited pursuant to section 105 and 106 of the Act for a NEW Bottle Store style OFF licence in respect of the premises situated at 57 Main Road, Pleasant Point and proposed to trade as Bottle O Pleasant Point

BEFORE THE TIMARU DISTRICT LICENSING COMMITTEE

Commissioner Sharyn Cain
Member Cr Peter Burt
Member Cr Gavin Oliver

BY WAY OF PUBLIC HEARING

Timaru District Licensing Committee hearing was held at Pleasant Point Town Hall, 5 Halstead Road, Pleasant Point on Monday 22 March 2021 commencing at 9.30am.

APPEARANCES

Mr Mandeep Singh – Applicant
Mr Andrew Riches – Representative for the Applicant
Robin and Gillian Ross – in opposition
Mark Creba and Rowan Rabbidge, Pleasant Point Primary School – in opposition
Christine Dalgety – in opposition
Wendy Brighthouse-Sword – in opposition
Aroha Stewart, St Joseph's Primary School Board of Trustees – in opposition
Philip Moore – in opposition
Olivia Ensor - Alcohol Licensing Officer, Community and Public Health, Canterbury District Health Board - on behalf of Medical Officer of Health via delegation under s151 – in opposition
Helen Barber - Representative for Community and Public Health, Canterbury District Health Board - on behalf of Medical Officer of Health via delegation under s151 – in opposition
Mrs Sharon Hoogenraad, Chief Licensing Inspector, Timaru District Council
Sergeant Sam Winchester – Alcohol Harm Reduction Officer, New Zealand Police

In attendance:

Debbie Fortuin – District Licensing Committee Secretary
Amber Foden – Minute Secretary

RESERVED DECISION OF THE TIMARU DISTRICT LICENSING COMMITTEE**Introduction**

1. This application is for a NEW bottle store style Off Licence, and was received by the Timaru District Licensing Committee on 22 October 2020. The criterion found at section 105 and 106 of the Sale and Supply of Alcohol Act 2012 (the Act) applies to this application.
2. The applicant is a private company: Singh Trading (2016) Limited (hereinafter referred to as "the applicant"), which was incorporated under the Companies Act 1993 on 22 June 2016. The Sole Director and Shareholder of the company is Mandeep Singh, 12 Wai-iti Road, Timaru.

3. The application is in respect of the premises situated at 57 Main Road, Pleasant Point and is proposed to trade as Bottle O Pleasant Point. The building is currently vacant and is sited within Commercial 1 zone (Pleasant Point) of the Timaru District Plan, with an Off Licence being deemed a discretionary activity.
4. The applicant seeks hours of Monday to Sunday, 10.00am - 9.00pm. These hours are within the default national trading hours for off-licences as set out at s.43(1)(b) of the Act, and also adhere to the Local Alcohol Policy.
5. The application was publicly notified on the Timaru Council website on 27 October 2020, and resulted in twelve objections being received within the statutory reporting timeframe.
 - a. Objector A – Peter Clarkson, 64 Te Ngawai Road, Pleasant Point
 - b. Objector B – Wendy Brighthouse-Sword, 51 Main Road, Pleasant Point
 - c. Objector C – Rachel Harding, 53 Main Road, Pleasant Point
 - d. Objector D – Christine Dalgety, 55 Main Road, Pleasant Point
 - e. Objector E – Jeanette and Keith Goss, 62 Te Ngawai Road, Pleasant Point
 - f. Objector F – Aroha Stewart on behalf of St Joseph's Primary School Board of Trustees, 29 Afghan Street, Pleasant Point
 - g. Objector G – Philip Moore, 95 Te Ngawai Road, Pleasant Point *This objection contained a petition signed by 18 residents of Te Ngawai Road, Pleasant Point
 - h. Objector H – Jenny Oliver, 959 Pleasant Point Highway, Pleasant Point
 - i. Objector I – Sue Wills, 59 Oliver Road, RD 4 Timaru
 - j. Objector J – Catherine Blogg, Secretary, Opihi Catholic Parish, 30 Wilkin Street, Temuka
 - k. Objector K – Robin and Gillian Ross, 26 Matai Street, Pleasant Point
 - l. Objector L – Rowan Rabbidge, Board of Trustees Chairperson, Pleasant Point Primary School
6. At a meeting of the Timaru District Licensing Committee held on 26 February 2021, the Committee considered the Licensing Inspector's Report dated 25 February 2021, which did not oppose the application.
7. The Committee noted that the New Zealand Police reported on 28 October 2020, and did not oppose the application.
8. The Committee further noted that the Medical Officer of Health reported on 1 December 2020, and opposed the application, with opposition focused primarily on (a) the object of the Act, (b) the suitability of the applicant, (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence.
9. The Committee reviewed the objections received within the statutory timeframe, being from twelve members of the public, and opposition from the Medical Officer of Health.
10. After due consideration, the committee agreed that the application would require a public hearing to determine the outcome of the application.

THE HEARING EVIDENCE AND SUBMISSIONS – IN SUMMARY

Representative for the Applicant – Andrew Riches

11. Mr Riches thanked everyone for their effort, and advised that Mr Singh was very nervous about being at the hearing today.

12. He stated that Mr Singh has been in the alcohol industry for a number of years, he moved to Timaru and opened the Seaview Bottle-O store. Further, that Mr Singh has a family and intends to reside on site at the Pleasant Point premises, and wants to be a part of community.
13. Mr Riches further stated that the store would provide some 'upmarket' products for a niche market, and that Mr Singh believes his store would be a positive addition to the town.

The Applicant – Mandeep Singh (Director/Shareholder)

14. Mr Riches read the Brief of Evidence provided in the disclosure document on behalf of Mr Singh. Mr Singh confirmed that what was read out was true and correct.
15. Mr Singh stated that he is the sole Director and Shareholder of the Applicant company Singh Trading (2016) Limited. The company currently operates the Bottle-O Seaview from premises at The Landings on Elizabeth Street in Timaru, and wishes to open a second off licence at 57 Main Road, Pleasant Point. The premises is currently a stand-alone shop front on the main road of Pleasant Point which has previously traded as a café.
16. Mr Singh stated that he previously owned and operated the Bottle-O Hillcrest for two years, and has owned and operated the Bottle-O Seaview for nearly two years. Mr Singh submitted that his current premises have a large number of customers from Pleasant Point and that they have often remarked to him that they do not have a liquor store in their township and so are forced to travel to Timaru.
17. Mr Singh obtained his Managers Certificate on 24 May 2012, and has been continually operating as an Off Licence Duty Manager since this time. He advised that the intension is to employ one local person to manage the store and that his Timaru staff will cover days off. Mr Singh stated he also intends to be living behind the store so could be on call.
18. Mr Singh stated that he takes his obligations under the Sale and Supply of Alcohol Act 2012 seriously and particularly has a strong focus on the objectives of the Act. He believes that alcohol is something which should be enjoyed socially and infrequently as well as in moderation and recognises that it is his obligation as a Duty Manager and licence holder to do everything within his powers to minimise harm to other persons as a result of alcohol. This includes but is not limited to ensuring they do not sell alcohol to intoxicated persons and those who appear to have alcohol dependence issues or those who they believe are likely to drink and drive.
19. Mr Singh acknowledged that he failed a Controlled Purchase Operation (hereinafter referred to as a CPO) in 2018, and states he has made appropriate changes to prevent a recurrence such as a working age check prompt. He states that he has learnt from his mistake and referred also to having paid for his mistake via a store closure and a suspension of his Managers Certificate.
20. Mr Singh submitted that they will not be selling any single cans or bottles of beer, under a value of \$6 per unit, and RTDs or other products that would be favoured by pedestrians or those looking to consume alcohol immediately or in the nearby vicinity.
21. Mr Singh stated that their target demographic, he believes, will largely be consuming beer, wines and spirits, and that while there will likely be some limited market for RTDs in the area, these would be positioned at the back of the store in the rear refrigerator and would not form part of the shop frontage. Mr Singh further stated that advertising would be kept unobtrusive and that they will not have any particular advertisements on the front of the store or products or prices. Advertising would be limited to signage on the front of the shop. A mock-up was referred to but was not made available.
22. Mr Singh submitted that the store has limited passing foot traffic and they believe they would be focussing mainly on traffic passing through town and those travelling by vehicle. He stated that there is plenty of parking, and although there is seating across the road they will have cameras placed so as to

observe the reserve, and he believes this would be a significant deterrent for anyone seeking to enjoy alcohol in that area.

23. Mr Singh stated that he has chosen the location as it is on the main thoroughfare of Pleasant Point, and part of the main township and retail precinct of the town. He further stated that customers in his Timaru store had stated they would use a bottle store in Pleasant Point. At the time of application the Pleasant Point Hotel was closed, and Mr Singh submits that since it has opened he supplies alcohol to the Hotel from his store. Mr Singh believes the Hotel is not currently utilising their OFF Licence.
24. Mr Singh believes the area is a suitable area for the placement of an off licence given it has good road frontage, across the road is a large open and visible public area with the railway line running through the centre, and either side of the line are wide grassed areas with picnic tables and rubbish bins. There are very few trees and the entire area is easily observed from the premises as well as the rest of town. He thinks this is important because people who use the area know they can be seen and this should reduce anti-social behaviour.
25. Mr Singh submitted that they have designed the layout of the store to comply with Crime Prevention Through Environmental Design principles. The person at the point of sale will be able to see inside the store and outside the store, and they won't have advertising of alcohol on the front of the store so the windows will allow for oversight of the open area and people approaching the store.
26. Mr Singh thinks it is better to have a business operating in the premises than have it empty, as he states it will bring ownership and oversight to the area.
27. Mr Singh further explained his vision for the store by stating that they won't display Ready to Drink (RTDs) in the main store, only in the fridge, and that they do not intend to sell any products other than alcohol and incidental products such as snacks and non-alcoholic drinks.
28. Mr Singh stated that they have applied for the opening hours of Monday to Sunday 10am to 9pm, as he does not want to open too early in the morning but does hope to allow for customers in the evening who may work late. He noted that the hours comply with the Local Alcohol Policy, hereinafter referred to as LAP.
29. Mr Singh submitted that as part of his due diligence he visited the area on a number of occasions to consider an appropriate area and what would be an appropriate store. He was also looking for a home for his family, which this premise allowed for.
30. Mr Singh referenced some statistics from the last Census.
31. Mr Singh stated that he is aware there are two other OFF licences nearby, but believes that his store will offer a wider service and choice for customers.
32. Mr Singh referred to a statement made in the objection from Aroha Stewart that commented that the LAP does not allow off-licences to be located within 100m of a school. He submits that having read the LAP he notes that this excludes businesses located in a business zone, which this premises is.
33. Mr Singh submitted that he has spent time in the township, particularly around 3-4pm to gain an idea of foot traffic given the concerns for many objectors. He noted that there is a bus stop on the main street which is near the Four Square and the other shops, approximately 250 metres from the proposed store, and he believes this bus is part of the Aoraki School transport network. Mr Singh submits that he did not observe any unsupervised children walking near the proposed premises.
34. Mr Singh referred to his current store location at Seaview in Timaru, and stated that although neighbouring businesses attract young people they do not appear to be interested in his store.
35. As part of Mr Singh's observations he stated that the surrounding area was very clean and tidy and he did not observe any empty cans despite two other off licences being on this main street in front of the Railway Reserve. He further noted some observations regarding the children's walking routes.
36. Mr Singh submitted that the town has a very limited population of young people of drinking age and consists of families and older people. The township has a high proportion of home ownership compared

to the rest of Canterbury and New Zealand. It does not appear to have any homeless people and he is not aware of any issues with the existing two off licences facing any issues with intoxicated persons or alcohol dependent persons attempting to purchase alcohol.

37. Mr Singh proposes to trade under the Bottle-O franchise as he is familiar with their staff training manual, host responsibility policy, and has a good and active working relationship with Bottle-O which he intends to continue.
38. Mr Singh concluded his submission by reiterating the points raised above, with particular note of his time in the industry, the proposed premises being part of a commercial area, the area having excellent visibility and low foot traffic, no antisocial behaviour witnessed, and his products and range catering to an older demographic.

Cross examination

39. Mr Singh was asked if he had actual figures of Pleasant Point customers attending his Seaview store, to which he responded that he had no actual figures but possibly 15-20 repeat customers.
40. When questioned whether Mr Singh is aware of the high school buses that stop outside the proposed site between 4pm and 4:45pm approximately, Mr Singh stated that he had observed the area between the times of 3pm – 4pm only.
41. Medical Officer of Health questioned Mr Singh as to what it is about Pleasant Point that made him choose the town. He responded that he wanted to buy a house in Pleasant Point, and the premise has a house attached, he has a family so is attracted to the small safe community.
42. Medical Officer of Health asked if Mr Singh spoke to anyone in the community. He spoke to a few customers from Pleasant Point in his Seaview store, but did not come out to the town and talk with people. He came out and observed the buses, and agreed that the area is pleasant and agreeable.
43. Mr Singh was questioned as to how much the consultancy group assisted with his application and would they provide ongoing support, or would he receive any other support from an outside agency. Mr Singh stated that they wrote most of the application but that he would not be receiving any further support, nor was he aware of any other support available.
44. Medical Officer of Health queried how Mr Singh plans to target passing traffic, and what advertisements he may use, he advised there will only be the Bottle-O name on the outside of the store.
45. Medical Officer of Health asked if Mr Singh would continue to work at the Seaview store, Mr Singh advised yes he would but planned to hire a local person to work at the Pleasant Point store along with his wife.
46. Mr Singh advised there was a software system for ID checking at the time he failed a CPO however it failed, and he has now been using a new system for two years with no issues.
47. Mr Singh confirmed that the only single sales will be of craft beers and broken boxes can be sold as 6 packs.
48. Mr Singh confirmed that the policy regarding groups of young people is to check ID of all in the group.
49. Mr Singh was asked if the store would have a school uniform policy. He stated that if they have ID, they can be served. Commissioner Cain asked Mr Singh to clarify this as it contradicts the Brief of Evidence stating that there would be no service for anyone in school uniform. Mr Singh confirmed that is the policy at the Seaview store and would be for new store. Commissioner Cain asked if this is clearly stated in the staff training, Mr Singh confirmed it is.
50. Sergeant Winchester enquired about any policy regarding serving intoxicated people. Mr Singh confirmed the policy is to not serve intoxicated people. Sergeant Winchester asked how do you spot an intoxicated person, to which Mr Singh responded that they can't speak properly etc.

51. Commissioner Cain asked for clarification on the claim that there are no issues around the other off licences, and queried whether staff or management have been asked. Mr Singh confirmed he checked around and asked while delivering to the hotel, but had not directly asked that question.
52. Chief Licencing Inspector questioned that the opening hours stated in the recourse consent are 9am – 9pm, what prompted the change to amend your application to 10am. Mr Singh confirmed that he will not change to 9am in the future and stated that 9am is too early for everyone.
53. Chief Licencing Inspector asked for clarification on Point 8 from the brief of evidence regarding not selling single can and RTD's. Mr Singh clarified that RTD's will be sold, but not in single serve bottles or cans.
54. Sergeant Winchester queried what action Mr Singh may take if he believes or was concerned a person is suffering from alcohol dependency. Mr Singh responded that the person would not be served, and would offer said person advice on where to get help. Sergeant Winchester then asked what action would be taken for suspecting drink driving. Mr Singh answered the person would not be served and the police would be called.
55. Commissioner Cain asked Mr Singh to run through what he would do differently after the failed CPO if a group or a young person enters the store. Mr Singh responded that no one in the group would be served without ID, and ID will always be checked at the counter for single young customers or groups. The age prompt system works when anything is scanned, a pop up comes up on system to check ID every time. No concerns with new software. Staff are asked at interviews how they can recognise someone who may be underage, and they are considering a mystery shopper in the future to ensure staff are adhering to policies. Currently Mr Singh shadows staff and checks cameras. There will be no signage outside the store of sales/specials. Mr Singh is aware of the distance from the store to the playground and school. No further steps/measure are being taken to minimise the exposure of alcohol to local children. Mr Singh advised he did not talk to the school or neighbours as he was bit nervous and scared. Mr Singh plans to advertise a position in the newspaper and try to employ someone locally. The current Seaview store is actively using the Bottle-O systems and training. Mr Singh advised he would go to his solicitor for further advice and support if he was granted the licence.

Objectors not appearing

56. The Committee advised that 6 public objectors would not be making an appearance and that an appropriate weighting would be given, when under consideration, due to the inability of the panel, applicant, and other parties to question the content of said objections.

Objector – Gillian Ross

57. The objector read her written statement which noted the following concerns.
58. The location is near a school, opposite a very popular tourist attraction, better served by a café rather than an alcohol outlet
59. It is only a 20 minute drive to Timaru or Temuka to liquor outlets that sell anything not already available in Pleasant Point
60. The location is surrounded by residential housing, and the opening hours means residents will be subjected to increased noise, activity, and possibility of security threats

Cross examination

61. Mr Riches asked if the main cause for the objection is the desire to have a café in the premises, Mrs Ross agreed. Mrs Ross has no objection to the other licences in Pleasant Point.
62. Commissioner Cain asked Mrs Ross to clarify where the noise nuisance may come from, Mrs Ross advised from fridges and deliveries. Mrs Ross was advised that the premises is the commercial zone which she was not aware of.

63. Mrs Ross accepts that some in the community would like to purchase alcohol locally, but also states that there are towns nearby via car to purchase from, and a community car available for those who don't own a vehicle. Mrs Ross does not accept that it would be onerous to travel without a vehicle due to the community car, and that online purchasing via the internet was also an option.
64. Mrs Ross explained that a lot has changed and Pleasant Point has developed a lot since she moved there in 1975. Pleasant Point is a sociable town that missed the local hotel when it was closed long term. Main concern of impact of bottle store is taking away a premise that a café could go in to. Mrs Ross did not object to the granting of the Pleasant Point Hotel off licence.
65. Sergeant Winchester asked Mrs Ross if she was looking to open a café and she confirmed she was not and did not know of anyone who was. Mrs Ross also confirmed she did not undertake any surveys around the town as to whether people wanted a bottle store, and confirmed she would not object to a different type of business going in to the location.

Objector – Rowan Rabbidge and Mark Creba

66. The objector read the written statement which noted the following concerns.
67. Pleasant Point already has 2 off licence premises, and a third will make it more accessible to buy alcohol than it would be to buy bread and milk, hence they are concerned about example this sets the community
68. Particular concern around a business whose sole purpose is selling alcohol and related products
69. The proposed location of the premises as High School buses use the carpark opposite as a daily pick up and drop off for secondary school students, and it is also opposite one of the two primary schools in the community.

Cross examination

70. Ms Rabbidge explained that a survey was sent out to the school community asking if they wished for an objection to be lodged by the Board of Trustees, hereinafter referred to as BOT. They have a role of 140 families and they received 58 responses over a two day period. Of the 58 responses, 72.4% requested an objection, and 26.6% didn't see the need. She noted that the students were not consulted. They did not object to the other two off licence applications in Pleasant Point, and do not believe those ones have an impact on the community or school community. When asked about the 'amenity and good order' they advised they see the effects of alcohol dependency on the school community now. The BOT is concerned about how the location may look if the store closes down and is empty after being a bottle store. They responded that they are further concerned over proximity to the doctor, fish and chip shop, and families with children. Ms Rabbidge did not believe there is any issues or incidents from exposure of children to the other off licences as they do not sell only alcohol. It was pointed out to Ms Rabbidge that there are different types of off licences and that children cannot wander around a bottle store as they can with supermarkets.
71. Mr Riches queried the objection being based on already having two existing off licences, even though the hotel is currently not selling off licence (unconfirmed) he asked Ms Rabbidge to clarify what the concerns are, whether that be children seeing people purchasing alcohol, or seeing alcohol in general. Ms Rabbidge clarified the concern is more around the families buying the alcohol and children being able to see it at home. Ms Rabbidge does not accept that children will not be able to see the alcohol for sale through the tinted window of store, even with no advertising outside. There was some discussion around buses stopping opposite the premises, and it was noted that it is not an official bus stop and the bus pulls in wherever it is convenient.
72. Medical Officer of Health asked Ms Rabbidge if there were any other concerns for the amenity and good order of the area, Ms Rabbidge responded that the town already has two places to purchase alcohol, it is a small town and a good community, and they are concerned about the messaging of having a third off

licence. She further responded that the concern was it will purely be selling alcohol rather than in the context of a wider life experience.

73. Cr Burt asked Ms Rabbidge what the question was asked in the survey sent out. Ms Rabbidge answered it was 'Would you like to see the BOT make an objection', they're unsure if the 27.6% who did not see the need to make an objection cannot be confirmed as being 'for' or 'against' it. She further confirmed that survey respondents did not view the objection before it was sent in.

Objector – Christine Dalgety

74. The objector read her written statement which noted the following concerns.
75. That there is no need for a third off licence in a place the size of Pleasant Point, when two others are on the Main Road.
76. She is the closest next door neighbour and believes it will affect her peace and quiet, and lower the resale value of her property.
77. Concern re the location being across from a school, and where children walk.

Cross examination

78. Commissioner Cain asked Ms Dalgety what it was like living next to the premises when it was open as a café/restaurant, Ms Dalgety explained that it felt safe, there was minimal noise, but the odd empty bottle was found in her garden. She is disappointed that there will not be another café in the premises, and is concerned by takeaway liquor. Ms Dalgety is concerned for her safety if, for example, an intoxicated person is kicked out of the store, they may come up her driveway. She is also concerned with noise levels from deliveries, and that it may devalue her property, however she has not had an official advice to confirm that.
79. Mr Riches asked Ms Dalgety to confirm when she moved in there, she responded nine years ago, and the premises was the 'Steam on Inn' at that time. She accepted she knew the premises may become another business in the future, and that it was zoned in the commercial area. When queried regarding no objection to the off licence at the supermarket she stated that the alcohol area was not in your face.

Objector – Wendy Brighthouse-Sword

80. The objector read her written statement which noted the following concerns.
81. Already two licensed premises on the Main Road and don't believe Pleasant Point needs another
82. Primary School across the road, bottle store in full view is not a good idea
83. Not a good feeling to have a bottle store 3 doors down, right in their midst

Cross examination

84. Commissioner Cain asked Mrs Brighthouse-Sword if she has an issues with the two current off licences, she confirmed she does not. She is uncomfortable with the close proximity of the new store to schools and residential housing, but is aware the premises is zoned commercial. Mrs Brighthouse-Sword had no issues when the 'Steamer' was there as it was family friendly, a bottle store does not give her a 'good feeling', with alcohol becoming a big issue, and people coming and going.
85. Mr Riches asked Mrs Brighthouse-Sword if she was aware one of the current off licences is not operating, she confirmed yes she is, but that does not change her mind. She does not believe the measures to minimise exposure to children of no advertising outside and tinted windows are enough to help. She does not believe the hotel causes harm as that is a very different concept. She accepts it could be hard for some people to travel to Timaru, but points out that there are other options available.
86. Cr Oliver asked if Mrs Brighthouse-Sword believes this store will cause public disorder, she responded that is not quite her thoughts, more that it will be too visible to children, she does not know about increasing criminal activity.

Objector – Aroha Stewart

87. The objector read her written statement which noted the following concerns.
88. LAP provision is that the façade of a premise cannot be within 100 metres of a sensitive site and the Primary School is only 66.02 m from façade to playground.
89. The proposed premises is in the line of sight of children.
90. Half the school pupils walk past the location before and after school, and an alcohol retailer so close to school could be intimidating.
91. She believes the school grounds will become a new park-like place with people going through to drink, and stated that they have had occasional broken bottles on school grounds in the past.
92. A new licensed premise would add to the existing noise, vandalism, and disturbance they currently experience.
93. Focus is on wellbeing of students and wider school community and so the bottle store would not have a positive impact on the community in terms of domestic violence, road safety, and the general wellbeing of young people.
94. Pupils walk past the premise to attend Kiwi Sport at the local Domain.
95. The proposed premises proximity to their Church of approximately 71.67metres, and this could be intimidating.
96. Saturation, extended hours of alcohol availability, and the harm that comes with that.

Cross examination

97. Commissioner Cain questioned how numbers of children walking past the premises were obtained. Ms Stewart responded that there are 16 students that walk or cycle that way. The school finds the occasional bottle on the grounds, sometimes broken, but they are not sure where they have come from. When there is vandalism on the grounds, there is usually alcohol bottles found. The school has not advised the police as it has only happened a handful of times in the last 18 months, which she clarified as being three times. Ms Stewart is concerned that when people buy takeaway alcohol they may choose to drink it nearby or on school grounds.
98. Mr Riches handed out a GIS map of the area and stated that children who live on the south side don't need to walk past bottle store, Ms Stewart responded no but they may be going to grandparents or alternative venues on north side, Commissioner Cain stopped this line of questioning as it is up to families where children choose to walk. Mr Riches asked if the incidents of bottles on the ground in the last 18 months coincided with the hotel reopening, Ms Stewart responded no, it started prior to that, and she has no way of knowing where the alcohol was purchased.
99. Medical Officer of Health asked Ms Stewart if she thinks Mr Singh has provided evidence that he will mitigate the risk of litter and vandalism at the school, she responded no.

Objector – Philip Moore

100. The objector read his written statement, which included a petition signed by 18 residents of Te Ngawai Road, and noted the following concerns.
101. Proliferation – two OFF licenses provides an ample opportunity to buy liquor already.
102. To decline would not deprive Mr Singh of an income.
103. A café is more needed than another liquor outlet.
104. Bottle O franchisees have a record of poor employment practices.

Cross examination

105. Commissioner Cain asked if Mr Moore is aware of any incidents or effects on the community that the two current off licences have contributed to, Mr Moore responded no. Mr Moore confirmed he is not

aware of anyone actually wanting to start a café in the premises, but pointed out that once fitted out as a bottle store it would be much harder to convert back to a café. Mr Moore clarified that he was referring to the poor employment record of the Bottle-O franchise not Mr Singh personally, he is not aware of any issues with Mr Singh or his current store employment record.

106. Mr Riches asked about the point Mr Moore made about the town being well serviced with two off licences, but only one is currently selling, Mr Moore responded that the hotel does have an off licence and will be selling as he asked them, however when Cr. Burt asked Mr Moore who the representative was of the hotel that he asked, he did not know. Mr Moore accepts that there are a number of people in Pleasant Point that don't have vehicles, but that they could purchase alcohol online if need be. Mr Moore did agree it helps that Mr Singh wishes to employ someone local.

107. Mr Moore believes that Pleasant Point is a pleasant and agreeable area.

108. Sergeant Winchester asked for clarification of how long it would take when ordering liquor online, Mr Moore clarified it took three days.

Medical Officer of Health, hereinafter referred to as MOH – Olivia Ensor (acting under designation)

109. Ms Ensor read her report in opposition, which identified (a) the object of the Act, (b) the suitability of the applicant, (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence as the main areas of concern

Cross examination

110. Ms Ensor advised she cannot speak to why MOH did not oppose the Pleasant Point Hotel licence, but that they did oppose this one.

111. Commissioner Cain asked how is 'significant harm' defined, Ms Ensor responded by indirect result, eg. litter, graffiti, due to alcohol being more accessible. However she acknowledged that there is no current evidence of this in the area, and no data or evidence from around bottle store style off licences in other South Canterbury towns. MOH is of that view due to what they have seen from other off licences around the country, but has no statistics or evidence. MOH have no information from the other agencies to suggest disorder.

112. Ms Ensor clarified to Mr Riches that in MOH's opinion the availability of alcohol in the area would have more than a minor affect. The Commissioner clarified that there is no evidence of agreement with the hotel not utilising their off licence, so that information cannot be considered by the licensing committee. MOH concern with Mr Singh as a suitable applicant, other than the failed CPO, is that he may stretch himself too thin with two stores and long hours. Ms Ensor confirmed MOH have not visited the area at specific times, but have visited on numerous occasions at different times and find the area to be pleasant and agreeable.

113. Ms Ensor advised she cannot speak as to why the previous officer did not oppose the other off licence/s but an error was made.

Chief Licensing Inspector – Sharon Hoogenraad

114. The Inspector noted no objection to the application, and read her report for the record.

Cross examination

115. Ms Hoogenraad confirmed she has no written or verbal advice from the hotel that their off licence is not in use, or won't be used.

116. Ms Hoogenraad has no concerns with this application.

117. MOH asked Ms Hoogenraad if the hours applied for are reasonable, she responded yes, but the hours could be changed in a years' time with an application for a variation.

118. Sergeant Winchester asked if there had ever been any noise complaints received regarding bottle store refrigeration units, Ms Hoogenraad confirmed that there has not.

New Zealand Police – Sergeant Sam Winchester

119. Sergeant Winchester noted no opposition to the application.

Cross examination

120. Commissioner Cain asked Sergeant Winchester if in his opinion and experience has there been any incidents or situations due to the two current off licences, he confirmed there has not. Sergeant Winchester stated that there are no statistics directly related to off licences available, and that the amenity and good order is good in Pleasant Point. There are not higher call outs to this rural area for alcohol related incidents, and only one drink driving incident has been recorded in the last six months. No evidence that a standalone bottle store in the area would cause more issues.

121. Mark Creba asked Sergeant Winchester if there could be any correlation to lower number of premises and lower crime rate, he responded that could be, potentially.

CLOSING SUBMISSIONS – IN SUMMARY

Representative for the Applicant – Andrew Riches

122. Mr Riches provided closing submissions in writing, and reiterated points from the applicants submission

Aroha Stewart and Mark Creba

123. Provided closing submissions verbally as follows:

124. They have serious and significant concerns about this and they would have submitted evidence if they knew it was needed. The town has two licences already and they have real concern for a town with a population of 970 having three off licences. There is united, significant concern from the community. The building has been empty for 18 months, and it is difficult to say why no one has picked up the opportunity to start a café. They are passionate about the communities future, and a bottle store is not in the communities best interest. This is a really good community, and they strongly request the committee hear their voice.

Representative for Medical Officer of Health – Helen Barber

125. Ms Barber provided closing submissions in writing, and reiterated points of concern regarding the application.

SALE AND SUPPLY OF ALCOHOL ACT 2012

SECTION 105 and 106 (1) [a] [b]

Criteria for issue of licences

126. (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 (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:
 - i) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—
 - i. they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
 - ii. it is nevertheless desirable not to issue any further licences:
 - j) whether the applicant has appropriate systems, staff, and training to comply with the law:
 - k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.
127. (2) The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

Considering effects of issue or renewal of licence on amenity and good order of locality

128. (1) In forming for the purposes of section 105(1)(h) an opinion on whether the amenity and good order of a locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of a licence, the licensing authority or a licensing committee must have regard to—
- a) the following matters (as they relate to the locality):
 - i. current, and possible future, noise levels:
 - ii. current, and possible future, levels of nuisance and vandalism:
 - iii. the number of premises for which licences of the kind concerned are already held; and
 - b) the extent to which the following purposes are compatible:
 - i. the purposes for which land near the premises concerned is used:
 - ii. the purposes for which those premises will be used if the licence is issued.

RELEVANT SECTIONS 105 AND 106 ADDRESSED

129. **The Object of the Act** – given the lack of local evidence to suggest or prove that the object of the Act would not be met, the committee is satisfied that the application will give effect to the Object of the Act.
130. **Suitability of Applicant** – The Ministry of Health opposed the application, on the grounds of the suitability of the applicant, due to a failed controlled Purchase Operation in 2018 and the belief that a second store would put the applicant under too much pressure from which mistakes could occur. Neither of the other reporting agencies or objectors raised any issues as to the suitability of the applicant. The committee is satisfied that the applicant has made changes to their business practice, including a suitable point of access identification prompt, to mitigate concerns following the failed CPO. The committee further notes that the Police undertook a further CPO in 2020 and no sale was made to the minor. With regard to the pressure of owning and operating a second store, the committee is satisfied that the applicant has had thought with regard to this and has provided for a local to be employed, alongside his wife, and with the option to use staff from the Seaview store, which will enable adequate coverage of the opening hours applied for. The committee is satisfied with the suitability of the applicant.
131. **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. One of the public objectors raised concern regarding the location of the proposed premises distance from a sensitive site, as defined in the LAP, however this was clarified with the exception being for premises located within Commercial 1 zone (Pleasant Point) of the Timaru District Plan, with an Off Licence being deemed a discretionary activity. In summary, no matters have been identified that conflict with the Local Alcohol Policy. The committee is satisfied that the application adheres to the Local Alcohol Policy.

132. **Days and Hours** – The applicant has requested hours of Monday-Sunday 10.00am-9.00pm. The times requested are within the applicants Resource Consent, and the Local Alcohol Policy requirements. The committee is satisfied that the days and hours requested are suitable.
133. **The design and layout of the proposed premises** – None of the reporting agencies or objectors raised any issues as to the design and layout of the premises. The committee is satisfied with the design and layout of the proposed premises as per the floor plan dated 14 October 2020.
134. **Other goods** – The applicant does not intend to sell any other goods. None of the reporting agencies or objectors raised any issues under this provision. The committee is satisfied that this provision has been suitably addressed.
135. **Other services** – The applicant does not intend to provide any other services. None of the reporting agencies or objectors raised any issues under this provision. The committee is satisfied that this provision has been suitably addressed.
136. **Amenity and Good Order – Whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence –**
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.”
137. The Ministry of Health and public objectors raised a number of concerns under this section of The Act, and so we will address each of the concerns individually.
138. Potential for an increase in anti-social behaviour such as nuisance and vandalism – neither the Police, nor the Timaru District Council have received complaints or reports of anti-social behaviour (i.e. loitering or graffiti) in connection with this applicant, or the locality of the proposed premises. No evidence has been provided to indicate that this may change if the application were to be granted. The applicant has submitted that CCTV cameras will be installed, including one that will cover the outside of the premises, as a deterrent.
139. Potential for an increase in drink driving – neither the Police nor the objectors provided local evidence to support this possibility, with the Police submitting that there has been one recorded incident of drink driving in the past six month period
140. Potential for noise from refrigeration units and/or delivery vehicles - No noise complaints have been received by either the Police or Timaru District Council regarding the proposed location, and the applicant has provided reasonable measures to mitigate it becoming an issue in future. Further, as part of the applicants Resource Consent, there is a condition that states

“Noise generated from the activity, when measured at the notional boundary of any residential dwelling shall not exceed the following levels 7am to 10pm 50 dBA L₁₀”

141. Increased visibility and signage – The applicant has submitted that he intends for there to be no advertising on the windows or frontage of the premise other than the Bottle O branding, he further intends to have tinted front windows, and not display ready to drink beverages in the front part of the store as these are popular with young people.
142. No local evidence or expert testimony has been provided to substantiate the concern regarding increased alcohol related harm.
143. The perceived proliferation of licenced premises within Pleasant Point was a concern of a number of objectors, and the reporting agency in opposition.
144. In the decision of *Hari Om (2013) Limited* NZARLA [2014] PH 000309 the Authority stated;
[27] Whether or not this application should be granted revolves around a consideration of s.105(1)(h) and s.105(1)(a) of the Sale and Supply of Alcohol Act 2012. The issue as to whether the amenity and good order

of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence is one of the new criteria introduced by the Sale and Supply of Alcohol Act 2012. Section 106(1)(a)(iii) requires the Authority to have regard to the number of premises for which similar off-licences are already held. Thus, whilst under the Sale of Liquor Act 1989 the proliferation of liquor licenses was not relevant, it now becomes very relevant.

145. The site is zoned Commercial Zone 1 (Pleasant Point) in the Timaru District Plan. Commercial Activity, including the sale of liquor, is a discretionary activity in the zone.
146. The Licensing Inspectors report commented that the premise is located in an area that is surrounded by predominately residential properties, which is confirmed by the committee members site visit of the location.
147. There are currently 2 other OFF licences within 500m of the proposed location. These consist of:
- a. Pleasant Point Four Square (Supermarket)
 - b. Pleasant Point Hotel (On and Off)
148. There are no Early Childhood Centres, Primary Schools, or Secondary Schools within 100 metres of the proposed premises, as prescribed in the Local Alcohol Policy. The discretionary condition policy within the LAP regarding the aforementioned education facilities does not apply to premises that are located in a commercial zone 1 (Pleasant Point) of the Timaru District Plan.
149. Whilst the committee acknowledges that there are a number of nearby premises, there has been no local evidence or statistics provided to show that there has been any increase in alcohol related harm.
150. The Committee considers that there has been little relevant evidence or expert testimonial supplied by the objectors with regard to proliferation, in this particular area. The committee also notes that there was no objection received from the Licensing Inspector or New Zealand Police with regard to this matter. The committee is satisfied that the amenity and good order of the locality would be unlikely to be reduced, to more than a minor extent, by the effects of the issue of the licence.

Amenity and Good Order – Whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that

151. (i) They would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
(ii) It is nevertheless desirable not to issue any further licences
152. The Committee is satisfied that the amenity and good order of the locality would be unlikely to be reduced, to more than a minor extent, by the effects of the issue of the licence.

Systems, staff, and training to comply with the law –

153. The applicant provided information pertaining to staff training, induction processes, on-going training and observations, and also customised store policies such as not serving alcohol to anyone in a school uniform. No reports in opposition, or public objections, were received that referenced this criteria.
154. The Committee is satisfied that the Applicant has sufficient systems, staff, and training to comply with the law.

Any matters dealt with in any report from the Police, an Inspector, or a Medical Officer of Health made under section 103 -

155. The Medical Officer of Health submitted a report in opposition and the majority of those matters have been addressed under the criteria in s105 and s106 (1) [a] [b]. The New Zealand Police and the Chief Licensing Inspector did not reference any matters of concern in their reports. The Committee is satisfied that any matters raised by the Reporting Agencies have been addressed.

OBJECTIONS NOT HEARD

156. The committee reviewed the objections received from the following public objectors:
Sue Willis, Jenny Oliver, Catherine Blogg, Jeanette and Keith Goss, Rachel Harding, and Peter Clarkson.
157. The Committee found that the objections were of a similar tone as the other public objections, and although a lower weighting can be placed on these objections due to the unavailability of cross examination, the committee is satisfied that the concerns raised have been addressed throughout this decision.

SITE VISIT

158. The members of the panel undertook individual site visits to the proposed location and surrounds on the day of the hearing. Observations were made regarding matters raised during the hearing, particularly the amenity and good order, and proximity and visibility to young and vulnerable persons.

DECISION OF COMMITTEE

159. The Committee would like to thank all those involved in the hearing for providing their submissions and briefs of evidence in sufficient time prior to the hearing to allow all parties to review the documentation. We also appreciate the time taken to attend the hearing and provide further commentary and answer questions to allow the committee to make an informed decision. It is a credit to the community of Pleasant Point that locals are willing to be part of a process that determines some of the business landscape of their area.
160. The Committee have considered the matters provided for in s.105, including s.106 (1)[a] and [b], and we consider that those matters have been satisfied by the Applicant in this case.
161. Having reviewed all of the evidence before us we are mindful that we should stand back and consider 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).
162. Based on all the documentation before us, we consider there is no evidence demonstrating a link between the proposed premises, and alcohol-related harm. We are also not convinced that to grant this off-licence would likely reduce the amenity and good order of the locality to a more than minor extent.
163. We remind parties that there is the opportunity to submit, regarding proliferation and any other areas of concern, to any review of the current Local Alcohol Policy.
164. The committee also reminds parties that a NEW licence is only granted for a period of twelve months, and the renewal process provides an opportunity for any issues or concerns to be addressed.
165. Overall, we are satisfied as to the matters to which we must have regard in s.105 and s.106 of the Act, and we are satisfied that this application meets the purpose and object of the Act. Accordingly, we consider that the application should be granted pursuant to s.105 of the Act.
166. We grant the Off Licence for a period of 12 months from the date the licence is issued, with the whole premises to be designated as SUPERVISED.
167. The days and times of the Licence being Monday to Sunday 10.00am to 9.00pm.
168. 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 10 working days from the date of the decision.

Dated at Waimate, on this 9th day of April, 2021


Sharyn Cain
Commissioner

Timaru District Licensing Committee

