



# *Hastings District Council*

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## **DECISION – OFF LICENCE FLAXMERE (2008) LIQUOR LIMITED**

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# **HASTINGS DISTRICT LICENSING COMMITTEE**

Meeting Date: **Wednesday, 16 December 2015**

**DECISION NO: HDC/OFF/471/2015**

**IN THE MATTER** of the Sale and Supply of Alcohol Act 2012 (the Act)

**AND**

**IN THE MATTER** of an application by Flaxmere (2008) Liquor Limited for a renewal of an Off Licence pursuant to s.127 of the Act in respect of premises situated at **Shop 23, Flaxmere Shopping Centre, Swansea Road, Flaxmere, Hastings** known as "Flaxmere Liquor".

**BEFORE THE HASTINGS DISTRICT LICENSING COMMITTEE AT A MEETING HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION BUILDING, LYNDON ROAD EAST, HASTINGS ON WEDNESDAY, 16 DECEMBER 2015 AT 9.40AM**

**LICENSING COMMITTEE** Chair: Councillor Kerr  
Members: Mr W Bradshaw and Mr D Fellows

**Committee Secretary:** Mrs Carolyn Hunt

**APPEARANCES:**

Agent for the Applicant: Wesley ah Chan, WA Consulting  
Applicant: Chamkaur Singh and Sukhpal (Sunny) Singh  
Landlord: Philip Sung, Vancor Group, Gisborne

Objector: Traci Tumasieve, (Chair) Flaxmere Planning Committee  
Ana Apatu, U Turn Trust, supporting Flaxmere Planning Committee

Licensing Inspector: Mr John Lovatt  
Hawke's Bay Health Board: Teresa Te Whaiti on behalf of the Medical Officer of Health

**DECISION OF THE HASTINGS DISTRICT LICENSING COMMITTEE**

**1.0 INTRODUCTION**

1.1 This was an application for a renewal of an off-licence **029/OF/007/2008 expiry date 25 September 2015** made by **Flaxmere (2008) Liquor Limited** in respect of premises situated at Shop 23, Flaxmere Shopping Centre, Swansea Road, Flaxmere known as "Flaxmere Liquor".

1.2 The Police and the Medical Officer of Health did not oppose the application.

- 1.3 Public Notices attracted one individual objection within the required timeframe, being Mr Traci Tumasieve, Chair, Flaxmere Planning Committee. Mr Tumasieve was an advocate on behalf of the following groups represented on the Committee:
  - Purena Koha Rehua Services and the Way Church
  - Trust House
  - Flaxmere Community Patrol
  - Hawke's Bay DHB Flaxmere Community Health
  - U Turn Trust, Te Aranga Marae
- 1.4 Mr Tumasieve also represented the following concerned groups situated less than 1 kilometre from Flaxmere Liquor:
  - The Church of Jesus Christ of Latter Day Saints
  - Te Taiwhenua o Heretaunga Kaumatua Home
  - Age Concern, Flaxmere.
- 1.5 In his evidence the Licensing Inspector, Mr Lovatt advised that the issue for him revolved around the design and appearance of the bottle store. He believed that the building was an eye-sore, and that the design and appearance of the building was out of keeping with a modern business at the entrance to Flaxmere Village.
- 1.6 It was Mr Lovatt's opinion that the amenity and good order of the locality, as defined by Sale and Supply of Alcohol Act 2012, s. 5 (see para. 3.9.1) would be likely to be increased, to more than a minor extent, by the effects of a refusal to renew the licence [Sale and Supply of Alcohol Act 2012, s. 131(1)(b)].
- 1.7 The Applicant had been advised by letter in August 2013 that under the Sale and Supply of Alcohol Act 2012 there were new criteria for assessing licensed premises and that the Flaxmere Liquor Store did not contribute to the locality of being pleasant and agreeable.
- 1.8 The Committee heard from the Objector, Mr Tumasieve that his evidence was opinion based only concerning the amenity and good order of the Flaxmere Shopping Centre.
- 1.9 The front of the grounds were overgrown and not kept in a tidy state nor was the exterior of the Store well maintained combined with an adverse effect of the traffic flow entering and exiting the Flaxmere Village creation congestion.
- 1.10 The Committee heard from Mr Wesley ah Chan, Agent for the Applicant (Flaxmere (2008) Liquor Limited) who confirmed that the Applicant had agreed to undertake renovation to change the front of the store in order to comply with the Crime Prevention Through Environmental Design (CPTED) and the Sale and Supply of Alcohol Act 2012 and to erect signage promoting traffic courtesy.
- 1.11 Mr ah Chan requested that the off license renewal be approved in order for the Applicant to complete the renovation work within two years and that they would work with the Flaxmere Planning Committee.

## 2.0 CONSIDERATION

2.1 In considering an application for an off licence the Committee is directed by section 105(1) of the Act to have regard to the following criteria:

a) The object of the Act

- (1) *The object of this Act is 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”.*
- (2) *For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—*
  - (a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and*
  - (b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a)*

### 2.2 Suitability of Applicant

The applicant had not come to the attention of the Licensing Inspector for any misconduct, bad management or any other matters seen as influencing the running of the premises contrary to the requirements of the Sale and Supply of Alcohol Act.

The applicant had held this licence since 2008, and the Licensing Inspector considered that the applicant was suitable to hold an off-licence.

### 2.3 Local Alcohol Policy

There was no Local Alcohol Policy at present.

### 2.4 Days & Hours Applied For:

The premises trading hours were Monday to Sunday 8.00am to 11.00pm. These hours were in accordance with the Hastings District Council's Liquor Licensing Policy 2003, and with Sale and Supply of Alcohol Act 2012, s. 43 (Default national maximum trading hours).

### 2.5 The design and layout of the premises

The premises are a bottle store which was small in size, comprising a sales area, and chiller as the licensed area, and a staff room off the sales area which is unlicensed. Customers enter the premises from the car park, via a foyer full of advertising. There are no windows in the licensed area, and no view inside the store from people passing outside.

### 2.6 Whether 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

The Sale and Supply of Alcohol Act 2012, section 5 defines “amenity and good order of the locality” as:

*“in relation to an application for or for the renewal of a licence, means the extent to which, and ways in which, the locality in which the premises concerned is situated is (or, in the case of a conveyance, the localities where the conveyance is likely to travel are) pleasant and agreeable.”*

The premises are situated on the edge of the Flaxmere Shopping Centre, close to the entrance to the shopping centre, in what was formerly the sales shed of a garden centre. After the garden centre had stopped operating, in 2006 the sales shed became a bottle store known as Flaxmere Liquor.

Sale and Supply of Alcohol Act 2012, section 106 (Considering effects of issue or renewal of licence on amenity and good order of locality) states at paragraph 2:

*In forming for the purposes of section 131(1)(b) an opinion of whether the amenity and good order of a locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew a licence, the licensing authority or a licensing committee must have regard to the following matters (as they relate to the locality):*

*(a) current, and possible future, noise levels:*

*(b) current, and possible future, levels of nuisance and vandalism.*

**2.7 Whether the applicant has appropriate systems, staff, and training to comply with the law:**

The applicant has appropriate systems, staff, and training to comply with the law. Chamkaur Singh (029/GM/137/2008) and Manjit Kaur (29/CERT/055/15) manage the premises.

**3.0 CONCLUSION**

3.1 The only objections to the issue of the renewal of the licence were concerning matters in respect of S105 (e) the design and layout of the premises, and S105(i) amenity and good order.

3.2 Both the Liquor Licensing Inspector and Mr Tuimaseve were of the strong opinion that the premises were an eyesore, and the Inspector was of the view that the optional requirement of the Crime Prevention Through Environmental Design (CPTED) guidelines should be adhered to.

3.3 During his evidence, Mr Chamkaur Singh, Company Director confirmed he would be improving the external appearance of the premises. In summing up under oath, Mr ah Chan confirmed that WA Consulting Group, had been contracted as project managers to upgrade the premises, to better align with the CPTED, to discuss their plans with the Flaxmere Planning Committee, and to complete the improvements within 18 to 24 months.

3.4 We are not of a mind that such proposals should be included in the condition of a renewed licence, however, we are conscious that these proposals were made under oath and that failure to meet the proposal would bring into consideration the integrity of the applicant, questioning his suitability, which would seriously jeopardise future liquor licence applications.

- 3.5 We further recommend that it would be beneficial if plans of the proposals could be made available to the Committee through the Liquor Licensing Inspector within 6 months.
- 3.6 After considering the application, as lodged and evidence provided on behalf of the Applicant and by the objectors the Committee is satisfied that the statutory criteria which the Committee is bound to consider can be met and the application is hereby **granted**, subject to the conditions set out below.

#### **4.0 CONDITIONS**

**This licence is issued subject to the following conditions:**

- (a) **No alcohol is to be sold or delivered on Good Friday, Christmas Day or before 1.00 pm on Anzac Day**
- (b) **No alcohol is to be sold or delivered on Easter Sunday unless the alcohol is grape wine or fruit or vegetable wine made –**
- (i) **on the premises; or**
- (ii) **from grapes or fruit harvested from land on which the premises are situated.**
- (c) **Liquor may be sold only on the following days and during the following hours:**
- **Monday to Sunday            8.00am to 11.00pm**
- (d) **The licensee must ensure that the provisions of the Act relating to the sale and supply of liquor to prohibited persons are observed and must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of liquor to minors and the complete prohibition on sales to intoxicated persons.**
- (e) **Drinking water is to be freely available and free of charge to customers at the following location while alcohol is being supplied free as a sample on the premises: At the counter when free alcohol samples are provided.**

DATED at Hastings this 18th day of December 2015



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**CHAIRMAN**  
**HASTINGS DISTRICT LICENSING COMMITTEE**