

Decision No. **52/ON/033/2016**
Record No. **16180494**

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Limavady Roe Limited for an on licence pursuant to s.100 of the Act in respect of premises situated at 21 Wellington Street, Picton, Marlborough District known as "Seumus Irish Bar"

BEFORE THE MARLBOROUGH DISTRICT LICENSING COMMITTEE

Chairman: John Leggett
Member(s): Graeme Barsanti, Hamish Beard

HEARING at Blenheim on Friday 9 September 2016

Appearances

Simon Gaines (Counsel for the applicant)

Vanessa Evans and Garth Willis (two of the four Company Directors and operators of the business)

Karen Winter; Rachel Mercer, (Licensing Inspectors) to assist

Peter Payne (Police Licensing Senior Sergeant) to assist

Objectors:

Trish Hourigan (General Manager of the Picton Yacht Club Hotel)

Fred Wilson (Chairman of the Art Deco Apartments)

Juliearna Kavanagh (Owner/Operator of Escape to Picton)

Warren Lewis (Owner/Operator of The Gables B & B)

In attendance

Mike Porter- Secretary District Licensing Committee; Lynette Newport- Alcohol Licensing Administrator

RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE (DLC)

This is an application by Limavady Roe Limited for an on licence in respect of premises situated at 21 Wellington Street, Picton, Marlborough District known as "Seumus Irish Bar".

The general nature of the business conducted from the premises is a bar/restaurant (tavern).

The applicant is currently operating under a temporary authority with the following restriction on the hours for the garden bar- Monday to Sunday - *Alcohol may not be sold or consumed in the garden bar area after 11.00 pm.*

The licence hours applied for in the new application are Monday to Sunday 12.00 midday to 1.00 am the following day for the whole premise.

The application was duly advertised and 5 public objections were received. These objections were in regard to noise from inside and outside the bar, concerns about patrons on the street and intoxicated behaviour and noise issues in the garden bar area.

There was no opposition from Police, Public Health or the Licensing Inspector.

The applicant submitted on 26 August 2016 a drawing of a proposed update to the current garden bar area with planned ways of dealing with the propagation of noise from this area. This includes overhead sound baffles, new fence design using sound absorbing shape, rubber ground tiles and sound defending art work. A copy of this plan was send to the objectors at this time.

Location of the Premise-

The premises at 21 Wellington Street, Picton is located in the Town Commercial Zone and is surrounded by other commercial premises and in close vicinity to other licensing premises. It is not in close proximity to sensitive sites such as schools or churches. The premise is located in close proximity to the Picton foreshore and marina area and within the Liquor Ban area as described in the Marlborough District Council Liquor Ban Bylaw 2011.

The applicant has been operating from this premises since 20 April 2016. There have been 3 complaints regarding noise received about this premises since the applicant has been operating. These complaints were received at 11.31 pm, 10.19 pm and 11.09 pm on different dates. The noise at the time of these complaints, when assessed by Council's Noise Control Officers, was not regarded as excessive.

Objectors

Five public objections were received from the following persons:

- Trish Hourigan- Picton Yacht Club Hotel- 17 Waikawa Road, (corner of Wellington Street and Waikawa Road)
- Fred Wilson- Art Deco Apartments- 11 to 19 Wellington Street
- Warren Lewis- The Gables B & B- 20 Waikawa Road
- Juliearna Kavanagh- Escape to Picton- 33 Wellington Street
- Darrel & Karen Martin- Gateway Motel- 32 High Street (over the back from the carpark and garden bar area of Seumus's.

Darrel & Karen Martin (Owners of Gateway Motel) did not appear at the hearing, however it was stated by Ms Kavanagh that they had given permission for the others to appear on their behalf.

Hearing

It was agreed in reviewing the criteria under Section 105 of the Sale and Supply of Alcohol Act 2012, the main area of issue was s 105 (1) (h) and (i) Amenity and Good Order. In particular it was the noise nuisance from the premise which drew the objections from the public.

Evidence was presented by way of written material from:

- Simon Gaines- Legal Submissions on behalf of the applicant
- Vanessa Evans- Evidence as business owner/operator

A number of questions from the Committee were answered by Mr Gaines and Ms Evans. The objectors were given the opportunity to ask questions but proceeded to give their evidence instead.

All objectors noted that late night noise was an issue in Picton, as was general disorders in the streets once the licensed premises closed.

All objectors agreed that it was unacceptable to allow drinking in the garden bar after 11.00 pm in the form the garden bar is currently presented.

The reporting agencies, (Police and Licensing Inspectors) were given the opportunity to question the applicant and objectors.

Mr Gaines and Ms Evans presented a concept plan of work they intend to carry out on the garden bar as soon as practicable. The intended work aims to mitigate noise escape and update the garden bar so that late night dining/drinking would be acceptable to neighbours.

The committee then reserved its decision.

District Licensing Committee's Decision

The on licence for Limavady Roe Limited be issued with the following hours:

- (i) Monday to Sunday 12.00 noon to 1.00 am the following day: EXCEPT THAT on the Thursday before Good Friday; and on Easter Saturday; and on Christmas Eve; and on the day before Anzac Day, alcohol may only be sold between 12.00 noon and 12.00 midnight.
- (ii) In the back garden bar- Monday to Sunday 12.00 noon to 11.00 pm - alcohol may not be sold or consumed in the garden bar area after 11.00 pm until such time as the garden bar has undergone redesign and noise mitigation measures as outlined in the applicants submission (para 43)
 - (a) *Entertainment speakers*; the current location of the garden bar speakers is on the side of the main building, which has the effect of projecting the noise outwards. We will relocate the speakers to the New Fence Decign; *refer Plan*. This will mean the speakers are re-directed back towards the main building, which should contain the sound.
 - (b) *Rubber ground tiles*; currently the area is pave in concrete, which has the effect of creating an echo; ie noise tends to bounce off the surface. We will overlay the surface with rubber ground tiles that are purpose designed to absorb soundwaves and so, minimise noise emissions.
 - (c) *Overhead sound baffle*: this describes an overhanging structure that is "clipped on" to the main building. Its purpose is to reduce the strength of airborne sound and reverberation.
 - (d) *Sound absorbing artwork*: the installation of artwork will modernise the garden bar and, provides a "good look", while at the same time, providing a means in minimising re-bounding of sound waves.
 - (e) *New Fence*: the current thatched fence does not absorb sound. We will construct a new fence. It will be taller – yet compliant with the planning height restrictions. This should provide a margin more of visual barrier. The fence will be constructed of thicker panels – with the design purpose of intercepting, and reducing, noise emissions.

Once the re-design work has been completed and consented (where necessary) the applicant is to advise the District Licensing Committee. The District Licensing Committee will undertake a site visit and provided the work detailed above is completed to a standard as outlined above to the satisfaction of the District Licensing Committee, the hours of the garden bar will be extended to 1.00 am.

DATED at Blenheim this 29th day of September 2016



Secretary

Marlborough District Licensing Committee

