

Decision No: 52/ON/030/2017  
Record number: 17226309

**IN THE MATTER**

of the Sale and Supply of Alcohol Act  
2012.

**AND**

**IN THE MATTER**

of an application by the partnership of  
Theresa Linda Joy Horton and Thomas  
Bruce Horton pursuant to s.127 of the Act  
for renewal of an on licence in respect of  
premises situated at 9 Mills Street  
Seddon, Marlborough District known as  
"Cosy Corner"

**HEARING BEFORE THE MARLBOROUGH DISTRICT LICENSING COMMITTEE**

**Chairman:** Graeme Barsanti (appointed as Commissioner)

**Members:** Elizabeth (Liz) Hawthorne and Hamish Beard

Held on Friday 1 December 2017 at 11.00 am

**Attendees:** Theresa Linda Joy Horton and Thomas Bruce Horton (the licensee) – Applicant  
Karen Winter and Alice Boyce - Licensing Inspectors – to assist  
Mike Porter - Secretary District Licensing Committee  
Lynette Newport - Licensing Administrator

**RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE**

This is an application by the partnership of Theresa Linda Joy Horton and Thomas Bruce Horton for renewal of an on licence in respect of premises situated at 9 Mills Street Seddon, Marlborough District known as "Cosy Corner".

The general nature of the business conducted from the premises is a tavern and no change to the existing conditions have been sought.

The licence hours are Monday to Sunday 8.00 am to 1.00 am the following day.

There was no opposition from Police or Public Health.

The public notice attracted an objection from a neighbour, Mr Luke Deane. The objector failed to appear at the hearing. Mr Deane's objection was on the grounds of refuse being discarded on nearby properties from patrons of this establishment. Mr Deane also advised that there is loud and inappropriate language originating from the outside area of Cosy Corner. The objector felt that the premises was requesting longer hours than currently held however the hours requested under this renewal are the same as being held for a number of years. Mr Deane's property boundary is 66m from the proposed licensed area at its nearest point (as per the licensing inspectors report).

Mrs Linda Horton advised that her immediate next door neighbour, Ms Patsy Green, who was to attend the hearing in support (but could not at the last minute) does not have any noise issues with the Cosy Corner. Mrs Horton advised there is not much she can do about the bad language. The outdoor area is fenced on three sides however the side facing Richmond Street, has since the last renewal, had most of the hedging removed. Mr Bruce Horton advised at the hearing that he intended to erect a fence (where the hedging had been removed) over the Christmas break and advised that he has already measured up for an iron fence to be erected. The licence hours up to 1.00 am are infrequently used; normally only on special occasions like New Year's Eve.

Mrs Horton referred to the litter in the photos provided by the objector and advised that the red beer cans are of a brand not sold by the Cosy Corner. Mrs Horton advised that she does pick up rubbish

often and notes that these are mainly stubbies of the kind that she does not sell from her establishment.

Ms Karen Winter (Licensing Inspector) who reported on this application referred to the 2014 Guidelines for Crime Prevention through Environmental Design produced by the Health Promotion Agency and New Zealand Police which gives guidelines on how to establish and maintain a safe and secure environment for licensed premises. The guidelines advise that the interface of outdoor drinking areas with the immediate surrounding environment should be properly managed by providing clearly defined boundaries with interconnecting adjacent spaces.

Ms Winter advised that if this outdoor area is to be included in the licence, a solid fence is immediately erected along this northern boundary to stop the creep of patrons into an unlicensed area. Mr Horton indicated earlier in the hearing that he would be erecting an iron fence during the Christmas break. Ms Winter indicated that a wooden fence would be preferable, Mr Horton agreed and undertook to change the design from iron to wood.

The designation of this premises is currently supervised however the applicant has verbally requested that an area outside is undesignated as they wish to hold youth sport prize-givings on occasion and sometimes those attending will do so without their parents/guardians.

**DECISION**

The statute and case law are specific as to the role of objectors. If objectors fail to appear it is likely that their objection will have less weight. However Mr Deane's objections were discussed and it was considered that the objection in regard to refuse being discarded on neighbouring properties would be mitigated by the erection of a wooden fence on the northern boundary of the property. Being a wooden fence would also have the benefit of mitigating some noise issues across boundaries as well.

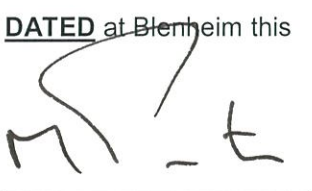
As this is a key part of the decision in this case the Committee directed that the issue of the licence is subject to the Secretary of the District Licensing Committee being satisfied that the fence has been erected in accordance with the undertaking at the hearing.

It was noted that there is an issue with removing the designation of the outdoor area permanently. The toilets are located inside the building and cannot be accessed by persons under the age of 18 (without their parent) without breaching the licence conditions. Therefore it was agreed that the licensed area be entirely undesignated until 9.00 pm at which point the entire premises becomes supervised designation.

The licence will then be renewed with the following:

- Monday to Sunday 8.00 am to 1.00 am the following day.
- The licence premises will be undesignated from 8.00 am to 9.00 pm, after 9.00 pm the whole premise (including the outdoor area) will be designated as a supervised area.

**DATED** at Blenheim this 18<sup>th</sup> day of December 2017



**Secretary  
Marlborough District Licensing Committee**

