

Licensing Board of Tasmania: Decision

Application

Applicant: Mr William Priestly

Type of Application: Special Licence (Section 11 *Liquor Licensing Act 1990*).

The application was heard in Hobart on 15 May 2014.

Decision: 26 May 2014

Background

The applicant is the owner of The Standard, an alleyway space in Liverpool Street, Hobart offering eat-in and take-away “American style street food” – basically burgers, chips and thick shakes. He seeks a special licence with the condition of being able to offer customers the opportunity to consume liquor to accompany their meal if eating on site.

The Board interviewed the applicant via telephone on 15 May 2014 and visited the site on the same day during the busy lunch period.

The Standard is situated in an outdoor alleyway, a former loading bay, between two buildings in Liverpool Street, Hobart. The back wall is a wire fence/gate separating The Standard from the exterior perimeter of a multi-story car park. Customers enter the alleyway which inclines down a concrete ramp to the back about 15 metres away. The alley is approximately 3.5 metres wide.

On the left in a small L-shaped area at the end of the ramp is an undercover counter from where the food is purchased. Orders are taken and filled in the kitchen of Pilgrim Coffee next door which the applicant also operates. The orders are delivered down external stairs in a paper bag with the docket attached, with purchasers’ names being called out.

Seating – for approximately 10-15 - is in the form of one bank of bleacher style benches providing two tiers of seating; planks are also placed on disused crates to provide further benches for seating. There are no tables available and no stations for condiments, cutlery, napkins or the like.

Reasons for Decision

The Licensing Board of Tasmania is called upon to determine this application for a Special Licence (Section 11) authorizing the sale of liquor for consumption on the premises.

The principal test for the granting of any licence is if it is in the best interests of the community to do so.

In considering an application for a liquor licence, the Commissioner or the Board must make a decision which, in the opinion of the Commissioner or the Board, is in the best interests of the community (24(A) (1)).

The issue that has challenged the Board with this application is what constitutes the “premises” for this establishment.

The Standard is basically an outdoor space with limited, rudimentary seating in a 20 square metre alleyway between two city buildings. It could not be described as a restaurant, a café or even a shop; it is an alleyway burger counter in a loading bay.

It has no tables and chairs for food consumption but limited seating on planks resting on crates; the counter contains a till and displays of tinned soft drinks – it is a point of sale only; kitchen facilities are shared with another venue; the food – including that to eat on the premises - is served in a paper bag with a docket pinned to it and delivered to the hand of the purchaser.

There is no appearance of or attendant ambiance usually associated with licensed premises.

While the specific circumstances of a previous decision of the Board (Port Sorrell Snack Bar 2011) are somewhat different from those in this case, the sentiments expressed by the Board at that time in relation to community expectations are germane.

Not every café is appropriate for licensing. It is clearly appropriate when the premises as a whole can be termed a “coffeehouse, restaurant or bar, serving as a predominant focus, a broad range of food and refreshments”. But it is not when the café is simply a minor adjunct to the principal purpose of selling foodstuffs and consumables, and selling takeaway food of the nature of deep fried fish and chips.

Additionally, at The Standard, it is unclear what would constitute the licensed premise area making effective control of the site difficult. It is not possible for the counter staff (one person at lunchtime on 15 May 2014) to see around the corner and up the alleyway where customers would be exiting the alley, potentially with open alcoholic beverages in their possession. While the licensed premises area could be delineated to that directly within the sight line of the counter staff to ensure that the conditions of the licence were being complied with – namely liquor for consumption by persons having a meal – this does not overcome the potential for customers to exit this space and spill out onto Liverpool Street.

The Board has no doubt that The Standard is an innovative, welcome addition to the Hobart eating scene with special appeal to young people. We commend the applicant for this. We do not believe, however, that it is an appropriate space in which alcohol should be offered for sale. The Board does not think that it is in the best interests of the community to extend liquor licences to outdoor spaces with few of the trappings traditionally associated with “eat-in” licensed premises.

Decision

The Board directs the Commissioner to reject the application of Mr William Priestly as applied for.

Jenny Cranston (Chairperson)

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David Logie (Member)

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Ann Cunningham (Member)

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26 May 2014