



Hastings District Council

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DECISION – MANAGER’S CERTIFICATE

KELLY-LEE SHANNON CRESSWELL

HASTINGS DISTRICT LICENSING COMMITTEE

Meeting Date: **Thursday, 1 December 2016**

DECISION NO: HDC/MC/459/2016

IN THE MATTER of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER of an application by **Kelly-Lee Shannon Cresswell** for a manager's certificate pursuant to s.219 of the Act.

BEFORE THE HASTINGS DISTRICT LICENSING COMMITTEE AT A MEETING HELD IN THE LANDMARKS ROOM, GROUND FLOOR, CIVIC ADMINISTRATION BUILDING, LYNDON ROAD EAST, HASTINGS ON THURSDAY, 1 DECEMBER 2016 AT 10 .00AM

LICENSING COMMITTEE Chair: Councillor Kerr
Members: Messr Bradshaw and Fellows

Committee Secretary Mrs Carolyn Hunt

APPEARANCES:

Objectors: Licensing Inspector, Mr Tony Manunui
Senior Sergeant Raymond Keith Wylie
Constable Cameron Burn

Applicant: Kelly-Lee Shannon Cresswell
Applicant's Supporters Mr Steve Carey, Licensee of The Cru Bar
Ms Natasha Stuck, Operations & Finance Manager,
The Cru Bar
Ms Elisabeth Franks, Bar Manager, The Cru Bar

DECISION OF THE HASTINGS DISTRICT LICENSING COMMITTEE

1.0 INTRODUCTION

- 1.1 This is an application by Kelly-Lee Shannon Cresswell for a manager's certificate.
- 1.2 The applicant had been interviewed by the Licensing Inspector and showed a good understanding of the Sale and Supply of Alcohol Act as well as his responsibilities whilst managing licensed premises.

- 1.3 Mr Cresswell has disclosed 28 criminal convictions which have impacted on his suitability to hold a manager's certificate.
- 1.4 While most sentences were by way of fines and community work, the applicant had a term of imprisonment in 2009 and home detention in 2014.
- 1.5 It was noted that the convictions, even if only the last 5 years were taken into consideration, weighed heavily against him. The last 5 years showed serious convictions such as theft, burglary, cannabis, possession of an offensive weapon and disorder.
- 1.6 Since 2008 he had accrued 28 criminal convictions.
- 1.7 Mr Cresswell has been working at The Cru Bar since early 2015 where he had worked in most aspects of bar management.
- 1.8 The application was lodged on 7 September 2016 and was subsequently opposed by the Licensing Inspector and Police due to the number of convictions.

2.0 AT THE HEARING

- 2.1 The police statement and evidence listed the convictions of Mr Cresswell, and noted the last conviction was in 2015.
- 2.2 Sergeant Ray Wylie submitted that an application for a Manager's Certificate should not be considered before 2020.
- 2.3 The District Licensing Inspector, Mr Manunui read his evidence, noting in his interview with Mr Cresswell, that the criminal convictions "may well preclude him from obtaining his Manager's certificate".
- 2.4 Mr Manunui also noted that the applicant showed a good understanding of the Sale and Supply of Alcohol Act, as well as describing his responsibilities whilst managing licensed premises.
- 2.5 Mr Cresswell spoke to his application and explained his family background. He has spent the last 2 years rebuilding his life and wishes to continue to be a productive and good member of society.
- 2.6 The committee commended Mr Cresswell on the changes he has made.
- 2.7 Mr Cresswell was supported by Natasha Stuck, Operations & Finance Manager, The Cru Bar and Mr Steve Carey (employer and licensee of Cru Bar) who both gave background and character references for Mr Cresswell acknowledging his past offending but seeing the potential in him. Mr Cresswell has been "diligent" and "professional" and they see him as a valuable employee.

3.0 DELIBERATIONS BY THE COMMITTEE

- 3.1 In considering this application for a new manager's certificate the committee has used ARLA's decision (GL Osborne) as a guide to how long an applicant should be stood down after a conviction.

"Without fettering ourselves in this or other applications, it may be helpful if we indicate that we commonly look for a five year period free of any serious conviction or any conviction relating to or involving the abuse of alcohol or arising in the course of an applicant's duty on licensed premises.

Less serious convictions are also weighed. By way of an example is an isolated excess breath or blood alcohol conviction. In these and similar cases we frequently indicate that a minimum of two years from the date of conviction may result in subsequent favourable consideration."

- 3.2 The former authority amended its view in regards to when the time of stand-down period should start to run, and in Re Pompey LLA PH623/04, 6 September 2004, determined that *'the correct assessment of time is from the date of offending'*
- 3.3 The Authority has in the past reduced the stand down period required to take into account exceptional circumstances
- 3.4 The decision of GL Osborne LLA PH 2388/95 indicates an applicant should be five years free of a serious conviction. The Committee view the December 2013 burglary as a serious offence. The Committee did not see any "exceptional circumstances" that would warrant a reduction to the 5 year stand down period
- 3.5 The breaches of detention in 2015 were explained by Mr Cresswell and the Committee found the explanations given were plausible. In this case the committee has not included these breaches as part of the 5 year stand-down period.
- 3.6 The Committee admired and recognised the support and care given to Mr Cresswell by his employer and management. The Committee acknowledge Mr Cresswell's desire to alter his life, make better choices and also notes the significant and positive changes he has made to date, including repaying all fines and reparation.

4.0 DECISION AND REASONS

- 4.1 The Committee must have regard to the matters set out in s.222 of the act when considering any application for a Manager's Certificate. These are as follows:

- (a) *the applicant's suitability to be a manager.*
- (b) *any convictions recorded against the applicant.*
- (c) *any experience, in particular recent experience that the applicant has had in controlling any premises for which a licence was in force.*
- (d) *any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under section 218:*
- (e) *any matters dealt with in any report made under section 220*

- 4.2 The issue is the applicant's suitability in respect of 28 convictions recorded against him as well as the pattern and recent history of the offences.
- 4.3 The committee was satisfied with the experience, training and qualifications held by the applicant and did not have concerns with these matters.
- 4.4 The Committee has considered the matter before it and has accordingly **declined** the application for a Manager's Certificate.
- 4.5 The Committee recommend Mr Cresswell apply for a future Manager's Certificate after December 2018, being 5 years from the date of the last serious offence.

DATED at Hastings this 1st day of December 2016.



**CHAIRMAN
HASTINGS DISTRICT LICENSING COMMITTEE**