

ON-LICENCE
(for premises)

Sections 14 to 16 and 64, Sale and Supply of Alcohol Act 2012

PURSUANT to the Sale and Supply of Alcohol Act 2012 (The Act), **The Quiet Man Limited** is authorised to sell and supply liquor on the premises situated at **33 Main Street, Greytown** and known as "**The Greytown Hotel**", to any person for consumption on the premises and to let people consume alcohol there.

The general nature of the business conducted under the licence is a **hotel, tavern and restaurant**

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with subpart 7 of part 2 of the Act.

CONDITIONS

This licence is subject to the following conditions:

- (a) No alcohol is to be sold on Good Friday, Easter Sunday, Christmas Day or before 1pm on Anzac Day to any person who is not—
 - residing or lodging on the premises; or
 - present on the premises to dine
- (b) Alcohol may only be available for sale, supply or consumption on the following days and during the following hours:
Monday to Sunday between 8:00 am to 1:00 am the following day
- (c) Drinking water is to be provided to patrons free of charge from a water supply prominently situated on the premises at all times that alcohol is available for sale, supply or consumption.
- (d) Food must be available for consumption on the premises at all times the premises are open for the sale, supply and consumption of alcohol, in accordance with the menu supplied with the application for this licence or menu variations of a similar range and standard. Menus must be visible, and food should be actively promoted.
- (e) The following steps must be taken to promote the responsible consumption of alcohol:
 - Implement and maintain the host responsibility policy submitted with the application for the licence.
 - At all times when the premises are open for the sale, supply or consumption of alcohol, a reasonable range of non-alcoholic refreshments and low-alcohol options are available
 - The licensee must ensure that signs are prominently displayed within the licensed premises detailing the availability of assistance and information regarding alternative forms of transport from the premises.
 - The licensee must implement and maintain steps proposed in the application for the licence aimed at promoting the responsible consumption of alcohol.
- (f) the following steps must be taken to ensure that the provisions of the Act relating to the sale, supply and consumption of alcohol to prohibited persons are observed:
 - A restriction of sale or supply of alcohol to persons under the age of 18 years of age
 - Display of appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons
- (g) The licensee must ensure that at all times a copy of the licence, together with a statement of all conditions subject to which it is issued, is displayed at each principal entrance so as to be easily read by people using the premises.
- (h) The holder of a manager's certificate or a properly notified manager shall be on duty and on the premises at all times alcohol is available for sale, supply or consumption.
- (i) A telephone must be freely available for customers to call for transport & staff must assist if required. Telephone numbers for alternative forms of transport from the premises must be displayed.
- (j) A fit for purpose Noise Management Plan is to be lodged with South Wairarapa District Council by 21 May 2024 as per the District Licensing Committee decision dated 22 August 2023

THE LICENCED PREMISES

The premises, situated at **33 Main Street, Greytown**, are more precisely identified as outlined in a plan received by the South Wairarapa District Licensing Committee on **15th June 2022**.

DISPLAY OF LICENCE AND PRINCIPAL ENTRANCE/S

A copy of this licence must be displayed at the principal entrance to the premises. The entrance from **33 Main Street, Greytown** is designated as the principal entrance.

DURATION

Subject to the requirements of the Act relating to the payment of fees, and to the provision of the Act relating to the suspension and cancellation of licences, this licence continues in force –

(a) Either –

- i. Until the close of the period for which it was last renewed; or
- ii. If it has never been renewed, until the close of the period of 12 months after the day it was issued; but

(b) If an application for the renewal of the licence is duly made before the licence would otherwise expire, either –

- i. Until the close of the period of 3 years after the period for which it was last renewed; or

If it has never been renewed, until the close of the period of 4 years after the day it was issued.

DATED at Martinborough this **20th day of September 2023**


Paul Gardner
Secretary – Acting under Delegation
South Wairarapa District Licensing Committee



Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, the licence expires on:

21 May 2024

Replaces 44/ON/007/2019

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **The Quiet Man Limited**

for a renewal of an On-Licence pursuant to s 127 of the Sale and Supply of Alcohol Act 2012 in respect of premises situated at 33 Main Street Greytown, known as Greytown Hotel and as the Top Pub.

BEFORE THE SOUTH WAIRARAPA DISTRICT LICENSING COMMITTEE

Chair: Ms A Yeoman

Members: Mr F Mailman

Mr C Bowyer

HEARING at MARTINBOROUGH on 29 June 2023

APPEARANCES

Mrs U Murphy – representing The Quiet Man Limited – applicant.

Mr R Mead – Chief Licensing Inspector, South Wairarapa District Council – in opposition of the renewal.

Ms G Jones – objector (appearing for herself and Mr M Fleming).

Mr H Maskell – supporter of applicant.

Mr D Ross – supporter of applicant.

Ms D Dry – supporter of applicant.

Ms A Boston - Medical Officer of Health – did not oppose the renewal. Appeared to assist if required, but this was not required.

OTHER:

The New Zealand Police - did not oppose the application and did not appear.

RESERVED DECISION OF THE COMMITTEE

Introduction

1. The applicant The Quiet Man Limited seeks a renewal of on-licence in respect of premises situated at 33 Main Street, Greytown to be known as "Greytown Hotel." The renewal is sought on the same terms and conditions as the licence currently in force at the premises (44/ON/007/2019), due to expire on 15 July 2022. The general nature of the business is that of a hotel, tavern, and restaurant. The applicant is also the holder of an off-licence at

the premises. The premises are located within a residential zone.

2. The applicant leases the land and buildings from QM Property Holdings Limited. The sole director of QM Property Holdings Limited is Mrs Ursula Murphy, who is also the sole director and shareholder of the applicant company The Quiet Man Limited. The Quiet Man Limited has held both an on-licence and an off-licence in South Wairarapa since 2015.
3. Greytown Hotel is in Greytown’s historic precinct, listed as number HS079 in the Wairarapa Combined District Plan, which means that any proposed alterations to the building must comply with the Greytown Heritage Precinct style guidelines for materials, style, and siting. Greytown Hotel is not listed with Heritage New Zealand as a heritage site. Greytown Hotel’s website notes that:

“The hotel was constructed in 1860, upgraded in 1898, and then completely renovated in 2009. Trust House Ltd spent \$1.1 million on full restoration of the buildings and land. The south extension of the restaurant and conference room was added, a new kitchen installed, gaming room relocated to back of the building, new foyer bar created, stucco removed from building exterior, and car park sealed.”

4. The area of the Greytown Hotel that is the subject of this inquiry is the main bar, the garden bar, and the double doors linking the two. This area sits to the North of the property.
5. Between the main bar/garden bar and:
 - a. Neighbours to the North of the premises, hedging and fencing provide a noise buffer.
 - b. Neighbours to the East of the premises (behind), hedging and fencing, together with areas of the premises such as the kitchen and toilets, act as noise buffers.
 - c. Neighbours to the South of the premises, hedging and fencing, together with areas of the premises such as the large foyer, gaming room, and restaurant dining rooms, act as noise buffers.
 - d. Neighbours to the West of the premises (across the street), there is little in the way of a noise buffer.
6. Greytown Hotel sells alcohol and offers meals, accommodation, pool tables, live bands, solo performances, and music via a sound system. About six public live music events are held at The Greytown Hotel a year. Several private events are also hosted each year.
7. The inspector and applicant have met several times to discuss various noise mitigation options.
8. The number of noise complaints received about The Greytown Hotel has been:
 - a. 2016 to 2019: eight.
 - b. July 2019 to July 2022: twelve, four of which resulted in an abatement notice.
 - c. July 2022 to February 2023: six, two of which resulted in an abatement notice.
9. South Wairarapa District Council is a party to the Combined District Plan which outlines noise limits for a residential zone:

Daytime	7:00am – 7:00pm	55dBA L10
Nighttime	7:00pm – 7:00am	45dBA L10

10. Council officers (licensing inspectors and/or environmental health officers) carried out inspections of The Greytown Hotel on 30 July 2021, 25 June 2022, 15 July 2022, and 30 July 2022, and breaches of noise limits were found.
11. The inspector surveyed 20 households within 150m radius of the Greytown Hotel on 7 July 2022, with follow-up visits conducted on 11 and 13 July 2022, to record their experiences with noise, litter and nuisance relating to the premises.
 - a. No respondent felt the noise was of a level requiring noise control attendance.
 - b. 14 respondents had not experienced issues with litter on or adjacent to their property. Of the six who had experienced alcohol-related litter on or adjacent to their property, five noted that it had been removed by the next time they left or returned home.

Criteria

12. The Committee, in considering the application for renewal of an on-licence, must, in making its decision, take into account the criteria noted below, in the Sale and Supply of Alcohol Act 2012 (the Act).

s131 Criteria for renewal

- (1) In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:
 - (a) the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1):
 - (b) whether (in its opinion) 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:
 - (c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:
 - (d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.

s105 Criteria for issue of licences

- (1) In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:
 - (a) the object of this Act:
 - (b) the suitability of the applicant:
 - (c) any relevant local alcohol policy:
 - (d) the days on which and the hours during which the applicant proposes to sell alcohol:
 - (e) the design and layout of any proposed premises:
 - (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:
 - (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:

[(h) and (i) are not relevant in this case (refer s131(1)(a))]

 - (j) whether the applicant has appropriate systems, staff, and training to comply with the law:
 - (k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.

s106 Considering effects of issue or renewal of licence on amenity and good order of locality

- (2) In forming for the purposes of section 131(1)(b) an opinion on 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.

The Application

13. Sixteen letters of support for the Greytown Hotel were provided to the Committee by the applicant. These came from neighbours, patrons, and local community groups.
14. Eight supporters sought leave to speak at the hearing. Three were granted standing and therefore leave to speak, under s204(3) of the Act, after satisfying the Committee they had an interest in the proceedings in addition to any general public interest.
15. The general suitability of the applicant is not in question. The Committee was convinced by the submissions and evidence from, and in support of, the applicant that the Greytown Hotel:
- a. Acts as a meeting place and social hub for locals in the community, thereby contributing to community cohesion and wellbeing.
 - b. Gives back to the community in which it operates: it supports local sports teams, makes its meeting room available to community groups without charge, offers apprenticeships, and provides on-site NCEA training for NCEA credits.
 - c. Is run by a publican (the applicant's husband Mr T Murphy) with more than 30 years' experience managing pubs in Ireland and New Zealand.
16. Under questioning by the inspector, the applicant:
- a. Agreed to the matters noted in paragraphs 7 to 10 of this decision relating to noise complaints and interactions with the council.
 - b. Agreed the most recent Noise Management Plan (NMP) for the Greytown Hotel is dated 2019.

Page 1 of the applicant's **2019 NMP** states that several "actions for the control of noise from the premises" will be adopted including:

- (i) "The location, orientation and design of noise emitting events on the premises with an emphasis on reducing or minimising noise emissions.
- (ii) Monitoring noise throughout the premises with particular emphasis on areas closest to neighbouring premises.
- (iii) The specification, selection, and operation of noise emitting equipment with an emphasis on selecting low noise emitting equipment wherever possible.
- (iv) Barriers to control or reduce noise emissions including insulation and acoustic baffles.
- (v) Training (including retraining as necessary) all managers and staff in the use of noise monitoring and this Plan.
- (vi) A detailed complaints resolution policy as part of this Plan."

17. Under questioning by the inspector about page two of the NMP, relating to actions the applicant undertakes to take to mitigate noise-related risks, the applicant noted that with regards to:
- a. *"Frequent monitoring of sound equipment"*: new speakers have been installed with less bass.
 - b. *"Stage and speaker placement"*: the speakers have been relocated to face into the pub rather than out towards the door.
 - c. *"Frequency of live events"*: the number of live events has been reduced from twelve to six a year.
 - d. *"Frequent monitoring of external areas"*: from time to time, the publican walks around and tests the volume of sound by ear.
 - e. *"Insulation"*: curtains have been placed around the back of the stage where live events play, to the East side of the main bar.
 - f. *"Double glazing"*: no double glazing has been installed because the applicant believes the Greytown Heritage Precinct style guidelines would not permit this. No evidence for this was produced. The premises does, however, have two layers of glass in some places where stained glass windows have been backed by modern glass.
18. The applicant also noted that:
- a. They once had a DJ at the Greytown Hotel but realised that the DJ was too loud. In the spirit of continuous learning, DJs will not be asked to the premises again.
 - b. In a similar vein, the hotel no longer lets out the premises for private functions, although it does continue to host private functions.
 - c. They aim to keep the maximum number of people in the bar below one hundred.
19. Under questioning by the Committee, the applicant agreed she had no evidence (and no witnesses were called) to support the applicant's belief that:
- a. The erection of a fence at the boundary between the garden bar and the pavement to the West of the premises (of a height sufficient to contain the noise) would be denied resource consent by the council.
 - b. A clear plastic marquee-like arrangement around the West and North of the garden bar would be a fire hazard.
 - c. Any of the above measures would be denied approval due to the heritage nature of the building.
20. Under questioning by the Committee, the applicant advised that:
- a. The only barriers in place to *"control or reduce noise emissions including insulation and acoustic baffles"* (refer to paragraph 16(b)(iv), above) are the curtains behind the area where the live band plays.
 - b. The hotel's *"detailed complaints resolution policy"* (refer to paragraph 16(b)(vi), above) comprises dealing with complaints in an ad hoc manner if and when they arise.

21. The applicant and some of the applicant's supporters submitted that the publican exercises his host responsibility role diligently, cleaning up after patrons from the night before.
22. The applicant queried the accuracy of the Inspector's Report at paragraph 14.1(g) relating to current licence designations. The Committee noted that designations attached to the licence renewed in 2019 remained valid until the Committee's decision from this hearing becomes available.
23. The applicant observed that parties to the hearing, including herself, had not been provided the objector's submission prior to the hearing. The Committee noted the applicant's concern.

The Licensing Inspector

24. The inspector opposes the on-licence renewal application on the basis of good order and amenity, under s105(h) of the Act.
25. The inspector submitted that the applicant had been on notice regarding issues with noise at their premises since 2020. Evidence relating to matters in paragraphs 7 to 10 (above) was provided.
26. The Committee noted that the council's Environmental Noise Survey Report, based on inspections involving a sound level meter on 15 and 30 July 2022, also referred to a prior assessment on 25 June 2022. That assessment included walking down Main Street towards number 30 Main Street, which is diagonally opposite the hotel:

"... where the music became prominently louder. It was also noted that people noise exacerbated the live music and [the inspector] concluded that the noise level was excessive."
27. Under questioning from the Committee, the inspector agreed that:
 - a. The noise from the main bar, the garden bar and connecting doors appears to be highly directional in nature. On the same side of the street as the hotel (going North) the noise is less prominent. The noise is buffered to the North, East and South, but not to the West. The noise is channeled West, slightly diagonally across the road, towards the home of the public objector.
 - b. Following discussions with the applicant about possible noise buffers (noted in section 9.10 of the Inspector's Report), the inspector had expected the applicant to take action to address the noise issues. The inspectorate had no expectation of being involved further in the matter.

The Objectors

28. The objectors live diagonally opposite the hotel. They have grown a hedge to 3 metres tall to act as a noise buffer. They have also installed thick, lined blinds in addition to curtains.
29. Appearing on behalf of the objectors (herself and her partner), Ms Jones noted her qualifications and experience in the building industry as an architect and, over time, her role as chair or president of numerous building and architectural associations. She has trained in architecture for heritage sites, and worked on several hospitality and other projects where noise control is an important aspect. For the former owner of the Greytown Hotel, the objector designed alterations which received building consent.

30. The objector submitted that:

- a. She and her partner have no desire to see the Greytown Hotel lose its licence.
- b. The fact that she and her partner are the only neighbours objecting to the noise from the hotel might indicate that the noise issues are very directional and could be simple to resolve.
- c. Neither the council nor the applicant are taking responsibility for the issue.
- d. She and her partner initially attempted to call the hotel with their complaints about the noise, but the hotel's phone was not answered.
- e. She and her partner have tried to complain many more times than has been noted in the material for this inquiry. Being on hold for up to an hour and then being cut off was a common occurrence. The objector noted this has improved.
- f. The Greytown Hotel's Noise Control Plan is inadequate, lacks specifics, and does not appear to have been monitored for compliance.
- g. The Greytown Hotel could, with correct professional advice, remedy the noise problems.

31. While the main concern of the objection relates to noise from music (both live and from sound systems) and from people, a secondary concern is the amount of litter, bottles, cans, glasses, and vomit that can be found in the objector's hedge, garden, up their driveway, and on the nearby public footpath. Under questioning from the Committee, the objector submitted the litter "sometimes remains there for several days".

The Committee's Decision and Reasons

32. Section 131 of the Act requires the Committee to have regard to:

- a. Matters set out in s105(1) of the Act, paragraphs (a) to (g), (j) and (k).
- b. The inspector's report.
- c. 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.

33. In considering whether the amenity and good order of a locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of a licence, the committee must have regard to (as required by sections 106(2) and 131(1)(b) of the Act):

- a. Current, and possible future, noise levels.
- b. Current, and possible future, levels of nuisance and vandalism.

34. The Committee is of the view that the applicant's general suitability for a renewal of the on-licence is not in question.

35. However, the Committee has considered all the information, including from the Inspector's Report, and has formed the opinion that the applicant falls below thresholds expected in ss 105(1), 106(2) and 131(1) of the Act. The Committee is of the opinion:

- a. The applicant has not addressed issues of directional noise that directly relate to the design and layout of the premises (s105(1)(e); s106(2)(a)).

- b. The applicant's Noise Management Plan is not fit-for-purpose and the implementation of the applicant's Host Responsibility Policy regarding the clean-up of litter and so forth is insufficient (ss105(1)(j) & (k); ss106(2); s131(1)(b)).
36. The Committee is of the view that directional noise from the Greytown Hotel and the litter across the road from the Greytown Hotel appear to both be issues that might easily be addressed with cooperation from all parties involved: the applicant, the objector, and the licensing inspector.
37. The Committee considered whether the garden bar of the Greytown Hotel should be removed from the designated licensed area. In *Wolland [2007] NZLLA 1211*, in which the applicant sought to include outdoor areas in a renewed licence for the Dudley Arms Tavern (a country hotel and tavern), Judge E W Unwin refused the extension of licence to include the lawn area but approved the extension for the deck area. Judge Unwin stated:
- "The licensee has already shown an unwillingness to comply with the noise limits of the District Plan and we have no confidence that he would operate large outdoor functions without offending the neighbours."*
38. On balance, however, the Committee determined that excluding the Greytown Hotel's Garden bar from a renewed licence would be impractical in practice and would be unlikely to resolve the issues raised.
39. In the case of *Rangiuru Sports Club Incorporated [1992] 299/92*, relating to excessive noise from a club's premises experienced by one neighbour, the District Court Judge F G Paterson for the then Liquor Licensing Authority, accepted the applicant's undertaking to better monitor the club's noise and to put in place steps to minimise it. The Judge also outlined his expectations that the applicant would meet with the objector from time to time to discuss issues and how to address them. The Judge noted:
- "We do not consider it is sufficient for a licensee to take action only on receipt of a complaint."*
40. With regards to the Greytown Hotel, the Committee is of the opinion that it would be unwise to renew the licence while relying solely on the undertaking of the applicant that noise issues will be addressed. This has proven to be unsuccessful in the past. Holding a licence is a privilege. Getting on with a licensed premises' neighbours, such as the objectors here, is an important part of the responsibilities of a licensee.
41. The Committee approves the renewal of an on-licence for the Quiet Man Limited (Greytown Hotel) for **nine months from the date of this decision**, namely an abridged renewal will expire at 11.59pm on 21 May 2024, with additional conditions pursuant to ss132 and 135 of the Act, as listed below: -
- a. The applicant is directed to broaden its Host Responsibility Policy and its implementation to include the minimisation of the adverse impacts of the operation of its premises on the residents of the houses on the opposite side of the road to the hotel, and to file this broadened policy and implementation plan with the council;
- AND**

b. A fit-for-purpose Noise Management Plan (NMP) is to be lodged with the South Wairarapa District Council by 11.59pm on 21 May 2024, along with an application for a renewed on-licence, and that this NMP will:

- (i) Contain properly designed noise mitigation solutions based on advice from an architectural acoustics expert.
- (ii) Include limits on the number of live public events and the number of private events per annum.
- (iii) Include a robust complaints resolution policy and procedures.
- (iv) Include developmental input from objectors: Ms Gina Jones, and Mr Malcolm Fleming.
- (v) Receive feedback on its fitness-for-purpose, during drafting, from the South Wairarapa inspectorate.

The Committee recognises the independence of the inspectorate under s197 of the Act. However, years of the inspectorate's monitoring of the Greytown Hotel's compliance with noise expectations have not resolved the issue. The Committee agrees that the point has been reached where it would be expedient for the inspectorate to help support a solution.

- (vi) Be agreed with these parties noted in paragraph 41(b)(iv), prior to being lodged with the Council.
- (vii) Include a reasonable implementation timeline for noise mitigation solutions agreed with the parties noted in paragraph 41(b)(iv) of this decision; **AND**

c. In the event a fit-for-purpose NMP (according to 41(b)(i) to (vii) above) is **not** lodged with the Council within the timeframe outlined in paragraph 41, the on-licence renewal for the Greytown Hotel will be set down as a matter of urgency for a hearing at the earliest possible opportunity, subject to the reporting agencies and objectors time constraints and the requirements of the Act.

Failure to lodge a fit-for-purpose NMP in accordance with this decision will put the applicant's suitability to continue to hold an on-licence squarely and prominently in doubt at a further hearing of the renewal application.

DATED at Martinborough this 22 day of August 2023.



Ms A Yeoman

Chair, District Licensing Committee

