

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Friday, 18 September 2020** at **9.30 am**

Present:

Councillor P Crathorne (Chair)

Members of the Committee:

Councillors C Hampson, L Kennedy, K Liddell and J Maitland

Also Present:

Mrs C Hazell (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mr D Varan (Applicant)

Mrs K Varan (Applicant)

Mr J Rotherham (Other Person)

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members in attendance.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The minutes of the meetings held on 25 June 2020, 9 July 2020, 17 July 2020 and 30 July 2020 were agreed as a correct record and would be signed by the Chair.

5 Application for the Grant of a Premises Licence - La Mensa, 12-13 Main Street, Ferryhill, Co Durham

The Chair welcomed everyone to the meeting and explained that only three Members would be deliberating the application.

Mrs C Hazell, the Council's Solicitor explained why only three Members deliberated the application and ran through the procedure for the meeting.

The Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application for the grant of a premises licence for La Mensa, 12-13 Main Street, Ferryhill (for copy of report, see file of minutes).

A copy of the application and location plan had been circulated together with details of the representations received.

The Licensing Team Leader, Ms H Johnson was in attendance to present the report and outlined the recommendations contained in the report.

Mr J Rotherham, Other Person asked the Licensing Team Leader as regards which aspects of the alcohol licence remained. The Licensing Team Leader noted the element that had been removed related to live and recorded music.

Mr J Rotherham was invited to address the Sub-Committee and he referred to his objections which had been submitted via e-mail. He explained that his business, Higginbottom Pharmacy, had been at the location for 30-40 years, and he had been involved with the business for the last 10-11 years. Mr J Rotherham stressed he had no major objections to a business, rather to the volume of noise from the premises. He noted the Pharmacy was a safe secure place, especially important in the current pandemic, and therefore the aspects of safety and access for the public were important, namely a quiet environment to be able to enable private discussions on health issues, including mental health. He reiterated that his concern was as regards the volume from outside, the movements of people in and out, the disturbance to staff dispensing, and disturbance to patients having private discussions with Pharmacy staff. He concluded by noting he had no objections to people making a living; however, it was his job to protect his business and to look after the people in his community.

Mr D Varan, the Applicant, stated that he had invited Mr Rotherham to see his other restaurant, located at Shildon, and added that the music would be played via a small "Alexa" device, not via separate speakers. He explained he had not had any complaints about his Shildon restaurant, and he wanted the same for the new premises.

He noted it was a professional, family run business and he had young children himself and would not permit noise nuisance. Mr D Varan stated that the outside of La Mensa would solely be for people eating outside and was sure that Mr J Rotherham would not hear the music from the premises, which would be at a low level and was simply to provide an atmosphere for diners.

There were no questions of Mr J Rotherham from the Sub-Committee Members, the Licensing Team Leader or Solicitor.

Mr D Varan and Mrs K Varan were invited to address the Sub-Committee. They noted their Shildon restaurant was part of that local community and they worked with charities and tried to benefit the community. They added that they wished for the new restaurant to work similarly for the community of Ferryhill and stated that there would be 15 jobs created and the premises would attract families to the new restaurant, bringing life to the town. They stated that they understood Mr J Rotherham's concerns and issues that may have existed previously. They stressed that they had worked well with their neighbours at the other restaurant and there had not been any issues, the restaurant being ran very professionally and with no incidents requiring the Police to be called.

Mr D Varan and Mrs K Varan explained they would be serving food with the drinks at the new restaurant and that they also intend to play background recorded music inside the premises, with occasionally live music. They reiterated they had their young children living above the premises so would not want to cause any issues in terms of noise.

The Chair asked for any questions on the Applicants' statement.

Mr J Rotherham reiterated he had no malice towards the Applicants, his objections being solely from concern for his business and patients. He noted the invitation to visit the other restaurant and asked as regards the Applicants referring to live music at the premises as the application was only for a premises licence to supply alcohol. The Licensing Team Leader noted that element had been removed from the application, however, she advised that due to deregulation, some activities did not require a licence. She explained this included the performance of live music between 8.00 am and 11.00 pm on any day on a premises authorised to sell alcohol for consumption on those premises for up to 500 people. The Licensing Team Leader confirmed that La Mensa would be able to have live music at the premises without the need for a licence, with any potential issues in terms of nuisance being a matter for the Council's Environmental Health Team to investigate or could be reason for a review of the premises licence to be sought. She confirmed that a licence would not be needed for background music at the premises.

Mr Rotherham asked as regards the outside area and use as a bar, especially in good weather.

Mr D Varan explained that there would not be an outside kitchen and they would not serve alcohol from the outside bar, with only people having a drink with food when using the outside area of the premises. Mr D Varan added that there would not be live music during the daytime at the premises and it would only be occasionally and after 6.00 pm. He noted that in the current pandemic situation he doubted that this would be an option in 2020.

Councillor J Maitland asked as regards children on the premises and Mr D Varan confirmed that children were welcome at the premises when it was open, being a family friendly restaurant.

Mr J Rotherham asked the Applicants as regards the outside plans included in the application and whether there was any sound-proofing at the premises.

Mrs K Varan reiterated that the outside bar would not serve alcohol and added that there was not sound-proofing as such, however she did not think that this was needed as the music would be at a very low volume and there was also a stairwell at the side of the property adjoining the pharmacy, acting as a natural barrier to sound.

The Chair asked the parties to sum up, with the Licensing Team Leader confirming that a Licence was also not required for recorded music, as well as live music as previously mentioned.

Mr J Rotherham stated that his objection was not personal, he just wished to make sure that his business had a safe environment in which to operate. He explained he felt there were some inconsistencies with the application, such as the application originally including an outside kitchen and bar, with that element subsequently removed.

Mrs K Varan stated that she understood the concerns with the music and reinforced that they would work with their neighbours on any issues and reiterated they ran their other restaurant very professionally. She noted that they had tried to deal with the issues raised by their neighbours and that was why they were no longer opting for an outdoor kitchen and bar, now simply a seating area for patrons to enjoy their meal. Mrs K Varan explained the music level would be very low, reiterating the only device used being a small "Alexa", and added that they needed to hear their customers over the music.

The Chair thanked everyone for their attendance and advised that Councillors K Liddell and J Maitland would join herself to deliberate the application in private and all parties would be notified of their decision later today.

At 10.10 am the Sub-Committee **Resolved** to retire to deliberate the application in Private.

In reaching their decision, the Sub-Committee considered the report of the Licensing Team Leader, the verbal and written representations of the Applicant and Other Persons. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved: That the premises licence be granted as follows:

Licensable Activity	Timings
Sale by Retail of Alcohol (on the premises)	Monday until Saturday 1200 hours until 2300 hours, Sunday 1200 hours until 2200 hours New Years Eve 1200 hours until 0100 hours.
Opening times	Monday-Saturday 1200 hours until 2300 hours Sunday 1200 hours until 2200 hours New Years Eve 1200 hours-0100 hours.

Conditions to be attached to the premises:

- a) All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions. Such training will be recorded in a register. The register will be made available to the Police or an authorised officer of the council upon request.
- b) The premises shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by police or authorised officers of the council.

- c) The premises shall maintain an incident book, which shall be made available to the Police and authorised officers of the local authority upon request.
- d) A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff. All public areas will be covered, including entrances, exits and outside area.
- e) CCTV will cover all areas where alcohol is served and all entrances and exits.
- f) Recording will be retained for a minimum of 28 days.
- g) The premises will ensure that at least one trained member of staff is available to operate the system at all times the premises is open and download any images requested by an authorised officer and provided within 7 days.
- h) The premises licence holder is to undertake right to work checks on all staff who are employed at the licensed premises in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licenced premises. These documents will be made available to officers and responsible authorities when requested.
- i) The premises will have a drugs policy in place.
- j) Verification of age – safeguards to be in place to see that alcohol is not served to or purchased on behalf of under age children. A ‘Challenge 25’ age verification policy is operated which requires anyone looking under the age of 25 to produce photographic evidence of proof of age from a passport, driving licence or PASS accredited scheme before any alcohol is supplied. The actions of staff operating the policy to be regularly monitored.
- k) Minimise the risk of proxy sales – The applicant will work with the police to minimise the risk of proxy provision / proxy sales. (This is alcohol purchased or obtained for young people by relatives or older friends).

- l) Maintain a refusals register – where a sale of alcohol is refused if a person appears intoxicated or appears to be under 18, a refusal register / log to be updated. The register to be made available to the police on request.
- m) Training of staff – all staff responsible for selling age restricted goods to be trained to implement the age verification policy. Staff training to include the risk from proxy sales. Training records for staff to be maintained and refresher training to be provided annually.