



Statutory Licensing Sub-Committee

Date Friday 18 September 2020
Time 9.30 am
Venue Remote Meeting - This meeting is being held
remotely via Microsoft Teams

Business

Part A

Items which are open to the Public and Press

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meetings held on 25 June 2020, 9 July 2020, 17 July 2020 and 30 July 2020 (Pages 3 - 50)
5. Application for the Grant of a Premises Licence - La Mensa, 12-13 Main Street, Ferryhill, Co Durham (Pages 51 - 102)
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
10 September 2020

To: **The Members of the Statutory Licensing Sub-Committee**

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

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DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Thursday 25 June 2020 at 9.30 am**

Present:

Councillor L Marshall (Chair)

Members of the Committee:

Councillors C Carr, P Crathorne, A Hopgood and J Maitland

Also Present:

Ms S Grigor (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mrs N Anderson (Licensing Enforcement Officer)

Mr G Blount (Senior Trading Standards Officer)

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 17 December 2019, 21 January 2020, 24 January 2020 and 20 February 2020 were agreed as a correct record and would be signed by the Chair.

5 Application for the Review of a Premises Licence - News & Booze, 1 Catherine Terrace, New Kyo, Stanley, County Durham

The Chair advised the Sub-Committee that herself and Councillors C Carr and A Hopgood would be the members who would be deliberating the application today.

Members were advised that the Premises Licence Holder was unable to attend the meeting and his Solicitor had requested an adjournment based on the medical evidence provided.

Mrs Anderson, Licensing Enforcement Officer on behalf of the Applicant provided members with background information stating that the premises were reviewed in April 2019 for non-compliance of licensing conditions and immigration issues. Following that review on appeal it was agreed that the licence should be transferred to Mr Izzal Mehdi a relative who had a shop in Whealthey Hill. It was agreed that the premises would voluntarily close for 6 weeks while Mr Mehdi assisted the previous licence holder's wife to get the premises in order and ensure when the premises reopened they were compliant with the additional licensing conditions that were put forward on appeal by the previous licence holder's wife and Mr Izzal Mehdi.

The appeal hearing was held on the 6 November 2019 and an inspection took place on 31 January 2020, that was 12 weeks following the appeal hearing.

When they visited the shop to carry out the inspections in 2020, staff had always contacted the previous licence holder's wife to come to the premises to deal with the inspection as she had the day to day running of the premises and had indicated that the premises were gifted to her by her father.

As stated in the review papers, there was still an ongoing prosecution against the previous licence holder's wife who sold alcohol in July 2019 outside of the licensing hours.

Papers were served on the Licence Holder for this review on 9 March 2020, the previous licence holder's wife would have been aware of the review as the blue notice had to be displayed on the premises advising of the review.

The consultation period ended on the 9 April 2020 and no representation had been received from the Mr Mehdi or the previous licence holder's wife. Mr Medhi was served with a notice on the 14 April 2020 advising that the hearing would be delayed. Mr Medhi was advised on the 5 June 2020 of the new hearing date but not until the 22 June 2020 was a solicitor appointed with the review scheduled to take place on the 25 June 2020, the solicitor representing Mr Medhi was the same solicitor for the previous review hearing.

Mr Medhi through his solicitor had indicated that the premises were to be sold, however back in January 2019, council officers were advised that the licence holder at the time expected to vacate the premises early in the new

year, re-establishing the business in a neighbouring property, but there was no indication that the premises was for sale.

The Licensing authority asked that the hearing go ahead given the number of issues at the premises and the long delay already incurred.

The Licensing Team Leader advised Members that this hearing should have been heard by 6 May 2020.

Mr Blount, Trading Standards Officer echoed what had been said by Mrs Anderson and that the Licence Holder had plenty of opportunities to put things in hand and to leave it until two days before the hearing was not satisfactory.

Councillors C Carr, A Hoppood and L Marshall retired to deliberate in private whether to adjourn the review hearing in the absence of the Licence Holder.

After re-convening, the Chair delivered the Sub-Committee's decision that they would hear the review case in the absence of the Licence Holder.

The Council's Solicitor outlined the procedure for the hearing.

The Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application for the Review of a Premises Licence in respect of News and Booze, 1 Catherine Terrace, New Kyo, Stanley (for copy of report, see file of minutes).

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

The Licensing Team Leader was in attendance to present the report and outlined the recommendations contained in the report. Members were advised that the hearing could not be scheduled within the required 20 working days due to the Covid 19 crisis.

Councillor Carr sought clarification if the current Designated Premises Supervisor (DPS) was the same person who was in temporary charge.

The Licensing Team Leader responded that Mr Medhi was the current Licence Holder and DPS.

Mrs Anderson on behalf of the Applicant was invited to present her report and indicated that as outlined earlier the premises had previously being reviewed and additional conditions were added to the licence following an appeal hearing in November 2019.

At that time it was determined that the Licence should be transferred to Mr Medhi as the Premises Licence Holder and DPS and that he oversaw the running of the premises, so that the previous licence holder's wife could be compliant with the licence conditions, but the previous licence holder's wife would have the day to day running of the premises.

An inspection of the premises was carried out on 31 January 2020 by licensing and trading standards. Initially staff telephoned for the previous licence holder's wife to attend the premises to assist with the inspection who they referred to as 'Boss'. They found that the previous licence summary was still on display along with authorisation by the former Licence Holder and DPS. When the previous licence holder's wife was advised that the new Licence was not displayed on the premises she said that she would go home to get the new licence that had arrived that day from the solicitors, this was 12 weeks after the initial hearing and the licence had been sent out shortly after the appeal hearing.

It was unclear why the licence holder had not been sent the licence and the fact that if had been sent to the previous licence holder's wife home address suggested that she was the person with overall charge of the premises. Issues were raised whether the Licence Holder and DPS had any control of the business on a day to day basis, the previous licence holder's wife had stated that he did attend the premises two to three times a week.

Officers then started to go through the conditions on the licence and checked the weekly CCTV log, but this appeared to be the refusal register and the previous licence holder's wife had no idea what the CCTV log was supposed to record. When asked about the refusal register, she indicated that if you look at the CCTV footage you could see the refusals. This indicated that the system had not been checked on a weekly basis as required by the condition of the licence. The incident book was not completed, the previous licence holder's wife had indicated during the inspection that she kept some training records at home, due to a break in at the premises in January 2020, however this was not recorded in the incident log and when asked about this she indicated that it had slipped her mind.

The training records were incomplete and one of the conditions of the licence was that training records were kept. There was no record of any training or proxy sales or sales to intoxicated people, there was one training certificate for the previous licence holder's wife dated 10 April 2019, but this was not signed by her and other records were not signed by the DPS or the Licence Holder.

The right to work documentation was incomplete and this was a condition included in the licence due to previous immigration issues. There was no documentation for one of the members of staff that was at the premises,

there was just a typed sheet with her name and national insurance number, and they were advised that she did not have a passport or National Insurance card. There was also no right to work documentation for the previous licence holder's wife who was working at the shop.

There was no fire risk assessment and no poster displayed which again was part of the licensing conditions. The electronic point of sales was checked and a number of bottles of alcohol did not bring up a prompt about the age limit sale, the conditions on the licence stated that this had to work for all age restricted sales and the prompt did not work at all for cigarettes and scratch cards. The manual refusal register was not signed by a member of staff and the DPS or Licence Holder on a monthly basis in compliance with the licensing condition.

Following the inspection, a letter was sent to the previous licence holder's wife and the Licence Holder detailing their findings. A further visit was made to the premises on the 17 February 2020 where the previous licence holder's wife was telephoned by the staff at the premises, but she had indicated that she was unable to attend as she was at Hospital with her child.

Despite advising the previous licence holder's wife on the last inspection of what needed to be displayed the licence was still displayed incorrectly, the CCTV was displaying the wrong time, the CCTV log had been signed on the 5 and 10 February 2020 but no mention was made of the time been incorrect. The incident book was produced but there were no entries, but they did find a form in a separate file which did log an incident but staff were unaware of the incident logging procedure.

Training had been undertaken on the 5 February 2020, but no training records could be found for one of the members of staff who they were advised had attended the training. The right to work documentation had still not been updated and the fire risk assessment had been carried out and was in the training file.

A poster was displayed at the back of the till advising that alcohol would not be sold to someone who appeared under the influence of alcohol but there was no poster displayed in relation to under the influence of drugs.

The electronic point of sale system was still not working for all alcohol products and all age-related products. The refusals register was being used more frequently but was not signed off monthly by the DPS or Licence Holder but was signed off by the previous licence holder's wife. When staff were asked how often Mr Medhi attended the premises, one member of staff asked who he was, bearing in mind that they had been advised that he attended the premises two to three times a week.

Trading standards carried out a test purchase on the 27 February 2020, but this refusal had not been logged into the refusals register.

The Licensing Authority had concerns about the premises and how they were being run, bearing in mind they had already been through a review process. They appealed that decision and were granted the licence with additional conditions but they didn't appear to be compliant with those conditions and there appeared to be a great lack of understanding about the conditions and the licence and as such the Licensing Authority had great concerns about the management of the premises.

Councillor Carr asked if the previous licence holder's wife had been advised to apply for a DPS for herself or advised to undertake some training to assist her running the premises.

The Licensing Enforcement officer responded that she holds a personal licence but there was an ongoing prosecution for selling alcohol outside of the licencing hours in July 2019.

Councillor Maitland asked if the members of staff who had no right to work documentation at the first visit, if they were still working at the premises at the second visit.

The Licensing Enforcement Officer responded that this was part of the previous review. The member of staff with no national insurance or passport the documentation had still not being produced but they believed that she did have the right to work in the premises.

Mr Blount on behalf of Trading Standards was then invited to address the Sub-Committee and indicated that he had gone through the policy documents that had been provided and there were a number of errors in the documents. He suspected that the previous licence holder's wife and the current Licence Holder had not read the documents as they would have picked up the errors such as reference to Cleveland Constabulary rather than Durham Constabulary.

The documents also did not refer to electronic cigarettes which had been a legislative product for well over 18 months and should have been picked up when the policy was put in place following the last review. The photo ID scheme was also out of date, again in place for nearly two years. Some of the policies had not been signed by the current premises licence holder.

The lack of following anything requested despite it been laid out for them gave him great concerns and they were not paying attention to what was being required.

Trading Standards had carried out a test purchase and nothing had been recorded in the register or the previous or following week, so if they were refusing, they were not recoding this in the register. They had indicated that staff were trained or reminded every week about underage sales, but they were not following it.

He had great concerns, despite that they had been through the review process less than six months ago and were back to what they were doing before the previous review and it seemed to be a recurring problem.

Councillor Carr asked who was providing the training and were there Solicitors for the previous review involved in this review.

The Trading Standards Officer advised that he had no contact with their solicitors and that TJR Consulting produced the original policies and the training records suggested that TJR Consulting had carried out the initial training but all other training had been carried out by the previous licence holder's wife, which again indicated that she was running the premises as opposed to the premises licence holder.

The Licensing Team Leader confirmed that the premises licence was sent to their solicitors on the 7 November 2019, who were the correspondence address.

The Chair thanked everyone for their attendance and that herself and Councillors Carr and Hopgood would retire to deliberate the application in private and all parties would be notified of their decision later today.

At 10.25 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 Senior Licensing Officer, the verbal and written representations of the Applicant and Responsible Authorities. 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 revoked.

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DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Thursday 25 June 2020 at 1.30 pm**

Present:

Councillor C Carr (Chair)

Members of the Committee:

Councillors P Crathorne, A Hopgood and L Marshall

Also Present:

Mrs C Hazell (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mr R Arnott (Solicitor on behalf of Applicant)

Mr A Brown (Co-op Area Manager)

Mrs Webster (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 Application for the Grant of a Premises Licence - Co-op (Shildon Motor Company) Redworth Road/Dale Road, Shildon, Co Durham

The Chair advised the Sub-Committee that himself and Councillors P Crathorne and L Marshall would be the members who would be deliberating the application today.

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 Co-op (Shildon Motor Company) Redworth Road/Dale Road, Shildon (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 was in attendance to present the report and outlined the recommendations contained in the report. Members were advised that the hearing could not be scheduled within the required 20 working days due to the Covid 19 crisis.

Mrs Webster, Other Person sought clarification on the sale of alcohol on a Sunday beyond the 6-hour trading hours. Mr Arnott the Applicant's Solicitor responded that this only applied to stores of a certain size and the Co-op would be below this size and the hours applied for mirrored those of their current store in Shildon.

There were no further questions of the Licensing Team Leader.

Mrs Webster was then invited to address the Sub-Committee and stated that her concerns were anti-social behaviour, customers served alcohol up to 11.00 pm every night of the year, 7 days a week. She then referred to the area before the bypass was built and the corner was an accident black spot and the premises would encourage more traffic to the area.

She then indicated that if the licence was granted could consideration be given to less hours as the Co-op currently in Shildon closed at 10.00 pm.

She indicated that the units were very close to the allotments that were well used as was the garage. People sometimes struggled to get out of the garage due to the volume of traffic and she felt these premises was going to make the traffic worse.

The Licensing Team Leader confirmed that the Co-op store at 18 Redworth Road, Shildon was licensed Monday to Sunday 6.00 am to 11.00 pm., but don't have to open for those hours, but were licensed for those hours.

Mrs Webster sought clarification if the car park was included in the licence and if people would be able to drink in their cars in the car park.

The Licensing Team Leader confirmed that the application was only for the actual store. Mr Arnott also confirmed that the licence did not apply to the car park.

Mr Arnott, the Applicant's Solicitor was then invited to address the Sub-Committee and explained that Mr Brown the Area Manager for the Co-op was also present to answer any operational issues.

He advised the Sub-Committee that the Co-op had 2500 stores, 78,000 people employed and were the world's largest co-operative with 8.2 million members.

It was proposed that the new store would open in October 2020 and the current store would close as the lease would expire in two years' time, so this was a wonderful opportunity to develop a new build store. The old store would be redeveloped but not by a rival type of business. The Co-op was a convenience store and only 15% of its turnover represented alcohol sales. They were a convenience store with alcohol as an ancillary part of it as you would expect.

They understood what was expected of them and had spent a lot of time and effort to ensure that they didn't let anyone down, so every region had a Risk Manager who ensured that they liaised with their neighbours and responsible authorities and any issues were resolved quickly to make sure they were a positive influence on their communities.

To ensure that their policies and procedures were applied in store they had bespoke training colleagues who worked together with risk managers to ensure they got everything right. The Co-op were a very risk averse business. There was an induction process for new staff including how to deal with age restrictive products that ended with an exam. If the exam was not passed you were not allowed near an age restricted product. New staff were also provided with a buddy who mentors new staff to ensure they knew what was required of them. They also had a system in place called 'lockdown' and each cashier had a code allowing them to serve alcohol and this code was not unlocked until after the lockdown which took around four weeks and only when the store manager was happy would the lockdown be lifted.

In addition to the initial training, staff received two refresher training sessions each year and an exam regardless of how long they had been employed with the company. If you failed the exam or at any point if the store manager lost confidence you were sent back into lockdown. A copy of the training manual had been provided and was included in the circulated papers.

He then referred to the CCTV equipment for the new premises that would be internal and external with at least 16 cameras that was a brilliant system. The tills would also remind the cashier that a product was age restricted as all products were barcoded, so they would be prompted to then ask for age verification and the process and only when the tills were satisfied would the sale take place.

He referred to the layout of the new premises that was one way in and out and that the spirits would generally be kept behind the counter with no direct access for members of the public and beers and wines would be in the aisle within view.

The store would have 15 members of staff with at least three personal licence holders, so it would be very rare for a personal licence holder not to be in store.

They intended to trade 6.00 am to 11.00 pm and everyone selling alcohol would have undertaken the training that he mentioned earlier. They would operate challenge 25 and were the first national to adopt this as standard.

The Co-op was very community orientated and were a membership organisation and last November donated around £90 million pounds nationally to worthy causes and referred to some of the charities they were currently working with.

The Co-op took their responsibilities seriously with so many stores nationally and within this area and had been in the locality for many years.

The company would not want to embarrass it's local members by having any prosecutions that they would view as an embarrassment. If their shops were not welcoming and people didn't think well of them, they would shop elsewhere.

They intended to trade 6.00 am to 11.00 pm that was the same as the current store and reflected the planning permission that had been granted.

He then referred to the Secretary of State Guidance 10.15 that stated that supermarkets should be allowed to sell alcohol throughout their trading hours. He explained that not many people would purchase alcohol at 6.00 am in the morning but some people do work shifts and do their shopping at that time and they did not want to say to these people that they needed to come back to purchase alcohol. He assured Members that the same policies and procedures would apply throughout their trading hours.

There were no objections from any responsible authorities, and they proposed good solid conditions in their operating schedule. They did however have a single residential objection from Mr and Mrs Webster.

He indicated that they would promote the licensing objectives and referred to section 182 guidance and the Thwaites case and how you couldn't predict the future or speculate but there were robust measures in place if they got it wrong.

He then dealt with the representation from Mr and Mrs Webster and referred to anti-social behaviour and indicated that teenagers would not be hanging around in a car park that had CCTV and was well lit, with people coming backwards and forwards. They had not had any issues at their current store and do not attract anti-social behaviour. He then referred to drunk drivers and that it was against the law to sell alcohol to anyone who was intoxicated. Planning permission had already been granted for the shop and today was about whether they could promote the licensing objectives for which there was no evidence that they couldn't and would commend the application.

Mr Brown the Area Manager for the Co-o confirmed that he had nothing further to add to the presentation but indicated that the Co-op wanted to work with the community.

Councillor Hopgood asked for clarification of the opening hours as they were applying for a licence 6.00 am to 11.00 pm, however their current store according to their website was 7.00 am to 10.00 pm, was this correct and were they wanting to extend the hours from what they currently had in the store in Shildon.

Mr Arnott responded that the new store would operate 6.00 am to 11.00 pm and were the same hours on the licence for the current store.

Councillor Hopgood asked if the new store was going to have a petrol station attached to it, as their policy stated that only stores with a petrol station were open until 11.00 pm, otherwise they closed at 10.00 pm.

Mr Arnott responded that a number of their stores were open until 11.00 pm and that this was not unusual.

Councillor Carr referred to the Council's Licensing Policy and the recognised hours were 7.00 am to 11.30 pm and was this considered when they submitted their application.

Mr Arnott indicated that he had read the policy and they could promote the licensing objectives from 6.00 am, 7.00 am was an arbitrary time and that 6.00 am was their standard commencement time. They had applied for a terminal hour of less than 11.30 pm.

All parties were given the opportunity to sum up and no party had any other representation to make.

The Chair thanked everyone for their attendance and that himself and Councillors P Crathorne and L Marshall would retire to deliberate the

application in private and all parties would be notified of their decision later today.

At 2.10 pm the Sub-Committee **Resolved** to retire to deliberate the application in Private.

In reaching their decision, the Sub-Committee considered the report of the Senior Licensing Officer, the verbal and written representations of the Applicant and Other Person. 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 subject to the conditions that are consistent with the operating schedule.

DURHAM COUNTY COUNCIL

At a remote meeting of the Statutory Licensing Sub-Committee held on Thursday 9 July 2020 at 9.30 am

Present:

Councillor P Crathorne in the Chair

Members of the Committee:

Councillors L Brown, C Hampson, L Kennedy and J Maitland

Also Present:

G Proud (Council's Solicitor)

H Johnson (Licensing Team Leader)

Mrs S Brierley (Applicant)

Mr M Brierley (Assisting the Applicant)

Mrs C Barratt-Atkin (Other Person)

Mr N Barratt-Atkin (Other Person)

1 Apologies for Absence

Apologies were received from Councillor M Wilson.

2 Substitute Members

Councillor C Hampson was in attendance for Councillor M Wilson.

3 Declarations of Interest (if any)

There were no declarations of interest.

Prior to business, the Chair advised that although five Sub-Committee members were present to hear the application, only three of those members would make the decision. The Council's Solicitor explained that, under the Licensing Act 2003, only three members were permitted to make the decision. The additional members were present to hear the application in order that, in the event that a member had to retire due to unforeseen consequences, one of the additional members could participate as a substitute, thereby avoiding the necessity to rearrange the hearing.

The Council's Solicitor then outlined the procedure for the hearing.

4 Application for the Grant of a Premises Licence - The Gables Pod Camping, Three Lane Ends, Escomb, Bishop Auckland, County Durham

The Licensing Team Leader, presented the report and outlined the recommendations (for copy see file of minutes).

No questions were asked in relation to the Licensing Officer's report.

The Chair then asked Mr and Mrs Barratt-Atkin to outline their objection to the application.

Mrs Barratt-Atkin explained the family had resided at their current address in the quiet rural area for 17 years and their intention was not to cause conflict. During 2017, the first year that the site was operating as a campsite and holiday cottage, there were frequent occasions when noise from guests had caused considerable disruption to the family after 10pm, despite the rules stipulated by the proprietors.

Mrs Barratt-Atkin informed the Sub-Committee that the bedrooms to the rear of their family home, overlooked the drive and were particularly susceptible to noise disruption. During the summer of 2018, their primary school aged son whose bedroom overlooked the drive, had been unable to sleep due to the noise after 10pm, and the noise had also prevented the family from being able to open bedroom windows on summer evenings.

Noise had unsettled their racehorses, stabled at the front of the house, next to the road. The animals had also been disturbed by firework celebrations on bonfire night and at new year. Requests made to the Applicant to refrain from firework displays, due to the close proximity of the animals, had been disregarded.

Mrs Barratt-Atkin referred to an occasion when she had been approached by the Applicant to request she turn down the volume on a small radio that was being played in their stables, to comfort an injured horse. Mrs Barratt-Atkin suggested that, if the Applicant could be disturbed by noise from a small radio, perhaps the Applicant could accept that music being played on the Applicant's land would cause the Barratt-Atkin family disturbance.

Mrs Barratt-Atkin expressed her concern that the initial application requested permission to play live music for 24 hours a day. Following objections from neighbours, this was reduced to 11pm, however she considered this too late adding that residents should have the right to relax in their gardens in peace, and, to retire to bed early if they so wished. Animals should also be allowed to rest and recover.

Mrs Barratt-Akin commented that during a conversation with the Applicant, Mrs Brierley had stated she slept at the front of the house; therefore her sleep was not disturbed as she could not hear noise from guests. Mrs Barratt-Akin stated that some of the neighbours who were in support of the application may not be subjected to as much disturbance from the noise, as The Gables, a stone built house may act as a sound-barrier.

Commenting on the objections that had been withdrawn, Mrs Barratt-Akin stated that some neighbours may have been discouraged from pursuing their objection, due to the technical nature of the remote hearing.

Mrs Barratt-Akin was pleased to note that wedding guests must leave the site by 9pm. She pointed out that the pods sleep a maximum of ten people and the holiday cottage, situated only metres away from the Barratt-Akin's home accommodated four people, adding that she would be interested to hear if the Applicant had a noise reduction policy. Whilst the Barratt-Atkins had no objections to quiet afternoon teas and music recitals, they were of the opinion that music, amplified or not, after 9pm, and, the supply of alcohol until 11pm, was unacceptable in a residential area.

Support had been provided to the Applicant on an occasion when a visitor to the campsite who was not permitted to park their van on the Applicant's drive, had been permitted, by the Barratt-Atkin's, to park the van on their drive overnight.

In summing up, Mrs Barratt-Akin stated they were grateful that the noise disruption had reduced during 2019 and stressed that the family were supportive of many of the Applicant's ideas for the pods, which were for the benefit of the community. In conclusion, she requested the Applicant to respect the views of the neighbours, to retain the neighbourhood as a peaceful and happy place to live, and, to respect their animals.

The Chair thanked Mr and Mrs Barratt-Atkins for their representations and invited questions.

The Licensing Team Leader clarified that the initial application had been for the provision of recorded music from 10am until midnight, however, following mediation, the application had been amended to revise the timings for the provision of recorded music from 10am to 11pm.

Mr Brierley, assisting the Applicant, stressed that he respected the comments made by Mrs Barratt-Akin however the decision should be based on facts.

Referring to the parking of the van, the Applicant clarified that the event was unexpected as visitors were advised that the policy states no vans are allowed on the site. The Applicant thanked the Barratt-Atkins for allowing the visitor to park the van on their drive overnight.

With reference to the noise incident in 2018, the Applicant explained that she had closed the hot tub at approximately 9.30pm and there had been no further noise after 10pm. The Applicant pointed out that 2017 was their first year operating the holiday site, and, they were in the very early stages of building the business and familiarising themselves with the type of clientele they were attracting, with the aim of promoting the site as a peaceful, tranquil holiday site. The Applicant added that an elderly neighbour who lives closer to the Applicant's house than the Barratt-Atkins family, had commented that she was only aware that there were guests staying in the pods if she could see cars parked on the site.

The Chair then asked the Applicant, Mrs Brierley and Mr Brierley (assisting the Applicant) for their representation.

Mrs Brierley explained that prior to opening the site she had worked in the public sector for over 30 years. Personal reasons, including her own cancer diagnosis, led to her desire to give something back to the community and the couple opened 'The Gables' Pod Camping site. 95% of visitors review the site as peaceful and tranquil, and, with no wi-fi on site, they aim to attract visitors who are wishing to get away from the trappings of modern life.

The Applicant explained how the campsite helps to generate interest in the area and income for the local community, adding that they offer free transport to Kynren. In addition, they support several cancer charities offering cancer sufferers the opportunity to enjoy their facilities, free of charge. The venue is a Durham County Council licensed wedding venue for small weddings of up to 30 guests. Guests out of the area are referred to a nearby bed and breakfast, benefiting the local economy. The venue also hosts yoga retreats and holds the official stamp of the Camino Pilgrims.

The Applicant emphasised that the application for the premises licence aims to control alcohol consumption on the site. She explained that the bar is predominantly for wedding packages and alcohol would be sold only to those staying as guests in the pods, or, served with afternoon tea. In terms of live music, this would be in the form of a harpist or a violinist for a wedding, possibly a ballet recital, or, music as part of a Christmas event. The consumption of alcohol is anticipated to be very low. The licence would improve control of the flow of alcohol and the granting of a licence would provide the Applicant with the right to refuse persons from consuming alcohol on the premises, that had not been purchased on the premises.

The Applicant went on to explain that those booking weddings are informed that no loud music or festival style music is permitted and wedding guests must leave by 9pm.

The Chair thanked the Applicant and invited questions.

Mrs Barratt-Atkin questioned why the licence application was for the supply of alcohol until 11pm. The Applicant clarified the licence would enable her to sell alcohol to a guest who may arrive late in the evening, for example, after a long journey.

Mrs Barratt-Atkin commented that the holiday cottage, just metres from her property also generates noise and she raised concerns that guests would be allowed to sit and drink until late evening. The Applicant responded that the holiday cottage has restrictions in place such as that the hot-tub is not used after 10pm and guests were more likely to sit inside the cottage. The Applicant stated that the cottage was closer in proximity to the Applicant's home, than the Barratt-Atkin's home.

The Licensing Team Leader clarified whether the Applicant anticipated any live music being played until 11pm. The Applicant responded that guests in the pods are permitted to play music on devices such as iPhones in the pods until 11pm. The Applicant emphasised that weddings are few and far between, wedding guests are required to leave by 9pm and only one wedding had been held since the venue opened. The Applicant reported that she had heard loud music from Mr and Mrs Barratt-Atkin's home on occasions.

The Licensing Team Leader clarified that music is only licensable when played for a performance of live music, or, is the playing of live music to an audience. Music being played in the pods, on devices such as iPhones, therefore was not licensed and, as such, the Applicant would be required to control it. The Council's Solicitor added that, given the reduction in the hours requested for the playing of live and recorded music, and the fact the activity would not be performed to over 500 people, it would not be a licensable activity.

Mr Brierley emphasised their ethos is to maintain the site as a quiet, retreat site and to work alongside their neighbours and the environment to provide a good experience for guests. As a quiet family themselves they did not seek to attract revellers.

Mrs Barratt-Atkin asked if the Applicant would consider a compromise of a 9pm deadline for recorded music and the supply of alcohol. The Applicant reiterated that the 11pm deadline for the supply of alcohol was intended for guests arriving late.

In response to a question from Councillor Maitland, the Applicant clarified that the pods, when fully occupied accommodate a maximum of ten people and parking was available for all guests when the site is fully occupied.

The Council's Solicitor asked for clarification on the timings for the supply of alcohol. The Licensing Team Leader responded that the initial application had requested timings from 11am until midnight. There were no changes through mediation with environmental health or the police. The Applicant confirmed that, although the application stated midnight, they were now requesting the supply of alcohol on and off the premises until 11pm.

The Licensing Team Leader confirmed she had no further comments.

The Chair then requested final submissions.

Mrs Barratt-Akin pointed out that in addition to the pod camping site, there is also a holiday cottage which accommodates four people, situated close to their home and she added that noise was also generated from the cottage. Mrs Barratt-Akin acknowledged 2019 was better in terms of disruption than the previous year which the family were grateful for and she requested reassurance that they will be allowed to live peacefully, without having noise disruption and being subject to guests consuming alcohol, outside, on summer evenings. Mrs Barratt-Akin commented that a deadline of 9pm for the supply of alcohol and recorded music would be a satisfactory compromise.

The Licensing Team Leader confirmed that the application did not cover the cottage and therefore did not form part of the application for the premises licence.

The Applicant clarified that alcohol would be consumed predominantly in the camping area and there would be no reason for people to congregate in areas such as the car park, to drink alcohol.

In summing up, the Applicant emphasised their aim was to promote a peaceful, tranquil oasis for a relaxing outdoor glamping / wedding experience. The granting of the premises licence would enable control over the flow of alcohol. Sale of alcohol for weddings would be until 9pm and after that time, the sale of alcohol would be minimal. The Applicant stressed that she respected the concerns of the neighbours.

The Council's Solicitor clarified that the reduction in hours meant that the types of regulated entertainment requested by the Applicant did not actually require a licence, as the times requested were between 8am and 11pm.

The deregulatory changes in 2015, meant that a licence is not required for performance of dance between the hours of 8am and 11pm. With regard to live music or recorded music, no licence permission is required between the hours of 8am and 11pm where the premises are authorised to sell alcohol for consumption on the premises and the audience does not exceed 500. The Solicitor also clarified that the supply of alcohol was until 11pm and not midnight as stated in the original application.

The Chair thanked the parties for their attendance and added that herself and Councillors L Brown and J Maitland would retire to deliberate the application in private and all parties would be notified of their decision later that day.

The Sub-Committee retired to deliberate the application in private. In reaching a decision, the Sub-Committee took into account the report of the Licensing Team Leader, and, the oral and written representations of the Applicant, Mrs Brierley, and, Mr Brierley, assisting the Applicant, and other persons present. The Sub-Committee were mindful that ‘other persons’ supporting the application were not in attendance and gave appropriate weight to the written representations submitted. The Sub-Committee also took into account the provisions of the Licensing Act 2003 relating to the grant of a premises licence, together with the Section 182 Guidance and the Council’s Statement of Licensing Policy.

RESOLVED:

That the application for a premises licence be granted as follows:

Licensable Activities	Days & Hours Requested
Supply of alcohol (consumption on and off the premises)	Monday to Sunday 11:00 – 23:00 hrs
Recorded Music (Indoors and outdoors)	Monday to Sunday 10:00 to 23:00 hrs
Live Music and Performances of Dance (Indoors and outdoors)	Monday to Sunday 12:00 to 23:00 hrs
Open to the public	Monday – Sunday 00:00 – 00:00 hrs

The Sub-Committee determined that the mediated conditions agreed by the Applicant and Durham Constabulary would be added to the premises licence on the basis it was necessary and proportionate to impose those conditions upon the licence, together with the standard licensing conditions. The mediated conditions are as follows:

1. 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.
2. 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.
3. The premises shall maintain an incident book, which shall be made available to the police and authorised officers of the local authority upon request.
4. 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.
5. Recordings will be retained for a minimum of 28 days.
6. 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.
7. Children under the age of 18 will not be allowed entry to or remain in the bar areas after 21:00 hours.
8. 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 licensed premises. These documents will be made available to officers and responsible authorities when requested.

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Friday 17 July 2020 at 9.30 am**

Present:

Councillor L Marshall (Chair)

Members of the Committee:

Councillors D Bell, C Hampson, D Hicks and K Liddell

Also Present:

Mr S Buston (Council's Solicitor)
Ms H Johnson (Licensing Team Leader)
Ms A Pillinger (Applicant's Solicitor)
Ms K Nelson (Lidl)
Mr P Clouth (Lidl)
Ms S Harris (Other Person)

1 Apologies for Absence

An apology for absence was received from Councillor P Atkinson.

2 Substitute Members

Councillor K Liddell substituted for Councillor P Atkinson.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Grant of a Premises Licence - Lidl, Staindrop Road, Barnard Castle, Co. Durham

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

Mr S Buston 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 Lidl, Staindrop Road, Barnard Castle (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.

Additional information from the Applicant had also been circulated to all parties prior to the meeting.

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

There were no questions of the Licensing Team Leader.

Mrs S Harris, Other Person was asked to address the Sub-Committee and stated that she lived alongside the proposed development. She referred to her letter that asked if the proposed opening hours of 7.00 am to 11.00 pm would be every day and she understood that this was the case.

She indicated that the outlining planning permission granted was 8.00 am to 10.00 pm Monday to Saturday and five hours on a Sunday to protect the residential amenity of existing residents from the development in accordance with Policy GD1 of the Teesdale District Local Plan and part 15 of the National Planning Policy Framework.

She then asked why residents should not be protected and why Lidl wanted to open such long hours, when Barnard Castle was a small market town not the M1.

Lidl were a large organisation and should be responsible and show some respect for their neighbours. The hours of 7.00 am to 11.00 pm meant 6.30 am to 11.20 pm allowing for staff to come and go. This would only allow residents seven hours sleep a night which was not enough and eight hours minimum was required for a proper night's sleep.

She then referred to the scale of the development and that tests had been carried out at the location and the gentleman carrying out the tests had stated that the development was going to be massive and she indicated that the proposed opening hours would add insult to injury.

The combination of cheap alcohol and long opening hours on the edge of Town not away from everyone in the countryside and the fact that the possible troublemakers don't have vandal written on their faces was a

concern. There was also a problem by the river with cars and the people who drove them were possibly over the age of 18.

The museum grounds were shut due to vandalism. They were here and the police had problems with them, she was not criticising the age restriction policy but was pointing out but there was a strong possibility that they may cause problems roundabout in the local field. Last week there were empty beer bottles near the school which was not far away from the development and with cheap alcohol this would only get worse.

There were no questions of the objector.

Mrs A Pillinger the Applicant's Solicitor was asked to address the Sub-Committee and indicated that this was an application for a premises licence operating between 7.00 am and 11.00 pm Monday to Sunday, which were within the framework set out within the Council's Licensing Policy for off licensed premises.

She then referred to their being no objections from responsible authorities, in particular there were no objections from the Alcohol Harm Reduction Unit. There was one representation from other persons namely Mrs Harris, raising concerns about the nearby residential properties, the availability of alcohol to young adults, litter, safety of the location as the pathway leading up to the store was narrow and the impact the store would have on the local garage.

Mrs Pillinger referred to the last two points and indicated that these would have been considered during the planning process in terms of the location of the store and in relation to the impact on the local garage.

She then referred to paragraph 3.20 of the Council's Licensing Policy that the Council should not consider need or commercial demand when exercising any licensing function.

She focused on the main concern that was the permitted hours and the availability of alcohol to young adults and the possibility of litter in the local area.

Lidl were a national operator and had over 800 stores throughout the country located in a variety of areas. They were very experienced in operating in different types of areas and looked to make a positive contribution to the area. They worked with the Police, local authorities and local communities. By becoming part of the local community and caring about the community they had the same standard and desired outcomes.

She then referred to the strict procedures Lidl had in place and that Mrs Harris was not necessarily concerned about the alcohol procedures in place

but provided Members with details of the policies and procedures and the extensive training that they had in place and referred to the circulated additional information.

She then advised Members of a further procedure that Lidl followed that was unique and was that any cashier who believed that someone was under the age of 25 and trying to purchase alcohol or believed a proxy sale was taking place or under the influence of alcohol already, they would have to follow the procedure that involved them pressing a button under their till that alerted a shift manager who would make the decision if the sale proceeded. This procedure sent a very clear message to everyone attending the store that there was a zero-tolerance approach and was an affective procedure.

Lidl employed an external company to carry out test purchases at all their sites. Lidl stores were supermarkets and the layout of the store was designed to avoid problems with crime and disorder. Alcohol was displayed away from the entrance and was the furthest aisle from the entrance and was constantly monitored by CCTV and staff as they were unlike the larger stores and were an intimate store. Staff were always walking around the store and were trained to approach anyone loitering around in the alcohol aisle who should not be purchasing alcohol and they would remind them that they had a Challenge 25 policy in place and that they may be asked for ID at the checkout, this was an extra system of check to make sure that customers were aware that they had a zero tolerance policy.

She provided Members with an example of Lidl working with the police and local community and referred to a store in London in a community impact zone that had problems with street drinkers. Due to the success of the store and improvements in the local area, 6 months after opening Lidl were allowed to extend their permitted hours.

Lidl were a member of the Retail and Alcohol Standards Group and funder of Community Alcohol Partnership who put initiatives in place which were monitored to see the improvements. They also worked closely with Drink Aware and other charities such as NSPCC and local communities and would become a part of the community.

She believed that Lidl would have a positive impact on the area and referred to the permitted hours and the guidance from government and policies that stated that premises should be allowed to sell alcohol for the duration of their permitted opening hours. She indicated that licensing hours did not have to mirror planning hours and should be based on the licensing objectives. If there was a planning restriction in place restricting the opening hours this was what Lidl would have to comply with until such time as planning was amended and was why they were applying for the hours they had to allow

some flexibility in case they wished to go back to planning in the future and would not want to have to come back to licensing as well.

She referred to the concerns of Mrs Harris in relation to young people drinking and litter and that there was no evidence to suggest that this was more likely to happen between 7.00 am and 8.00 am and 10.00 pm to 11.00 pm, this type of activity would normal happen in the daytime rather than those extreme ends of the hours. She asked Members to consider granting the hours applied for being 7.00 am to 11.00 pm.

Mrs Harris commented that they stated that Lidl were a small store, but the store was going to be bigger than Morrisons.

There were no further questions of the Applicant.

In Summing up, Mrs Harris stated that the opening hours of 8.00 am to 10.00 pm Monday to Thursday and five hours on a Sunday was difficult for the neighbours but 7.00 am to 11.00 pm would be constant with no rest or timeout and the possibility of troublemakers.

The Applicant in summing up, stated that they believed that Lidl would make a positive impact to the local community and if any residents had any particular concerns or experience any difficulties the Store Manager would be available to discuss. This process was used across many stores and she assured Mrs Harris if she had any difficulties there would be a point of contact.

In relation to the concerns raised by Mrs Harris in particular the problems with young people drinking in the fields she referred to point 3.25 of the Licensing Policy and that Lidl could not control people once they had left the premises but Lidl would make sure alcohol was always sold responsibly. There was no evidence to suggest that alcohol should not be sold between the hours of 7.00 am and 11.00 pm. She then referred to the Thwaites case and that conditions should only be attached to a licence with a view to promoting the licencing objectives and that real evidence must be presented to support the reasons for imposing these conditions. No evidence had been presented and there was no objection from the Police or the Alcohol Harm Unit who would be the bodies who would ordinarily have objected to the application if there were concerns with disorder and the sale of alcohol. Government Guidance at paragraph 2.1 stated that the local authority should look to the police as the main source of advice on crime and disorder and they should also seek to involve the local community safety partnerships. There were no objections from the Police and asked Members to grant the application with the hours applied for, if any problems occurred Mrs Harris had the security of being able to ask for the licence to be reviewed.

The Chair thanked everyone for their attendance and advised that Councillors D Bell and C Hampson would join herself to deliberate the application in private and all parties would be notified of their decision later today.

At 10.15 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 Senior Licensing Officer, the verbal and written representations of the Applicant and Other Person. 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:

Activity	Days & Hours
Opening Times	Monday to Sunday 07.00 – 23.00 hours
Supply of alcohol (for consumption off the premises)	Monday to Sunday 07.00 – 23.00 hours

Conditions to be attached to the premises:

- a) All staff are trained and are aware of the licensing legislation, especially in relation to the prevention of underage sales.
- b) Staff are required to sign a register confirming that they have undertaken training and are aware of their responsibilities.
- c) Training is repeated at frequent intervals, at least bi-annually. Any person found to be in breach of the Company Alcohol Policy is subject to disciplinary proceedings.
- d) Notices are displayed in the premises advising of the licensing legislation.
- e) The operators of the premises will maintain a good relationship with the local police and other relevant authorities.

- f) A comprehensive digital CCTV system to be installed internally giving storage of images for a period of not less than 28 days. Images will be provided on to removable media, to authorised bodies, within 48 hours' notice.
- g) Fire safety equipment is provided at the premises and staff are trained on the use of this equipment.
- h) If anyone attempting to purchase alcohol appears to be under the age of 25, the on-duty manager is called. The manager will only accept ID as proof of age (passport, photo driving licence or PASS card). If no ID is provided, no sale takes place.

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DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Thursday 30 July 2020 at 9.30 am**

Present:

Councillor C Carr in the Chair

Members of the Committee:

Councillors J Blakey, A Hopgood, K Liddell and J Maitland

Also Present:

C Hazell (Council's Solicitor)

H Johnson (Licensing Team Leader)

P Lawson (Secretary, Consett Station Club & Institute Ltd) (Applicant)

T Martin (Other Person)

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

No substitute members were in attendance.

3 Declarations of Interest (if any)

There were no declarations of interest.

Prior to business, the Chair advised that although five Sub-Committee members were present to hear the application, only three of those members would make the decision. The Council's Solicitor explained that, under the Licensing Act 2003, only three members were permitted to make the decision. The additional members were present to hear the application in order that, in the event that a member had to retire due to unforeseen consequences, one of the additional members could participate as a substitute, thereby avoiding the necessity to rearrange the hearing.

The Council's Solicitor outlined the procedure for the hearing.

4 Minutes

The minutes of the meeting held on 9 July 2020 at 1.30 pm were confirmed as a correct record and would be signed by the Chair.

5 Application for the grant of a Premises Licence - Consett Station Club & Institute Limited, 18 East Parade, Consett

The Licensing Team Leader, H Johnson, presented the report and recommendations (for copy see file of minutes).

In her presentation, the Licensing Team Leader outlined the premises licence application and explained that the club had held a club premises certificate since November 2005, permitting the supply of alcohol and the provision of regulated entertainment to the club's members and their guests, from 11am until midnight. Additional information in support of the club's application which was circulated by the Applicant, to residents of East Parade, Consett on 7 April 2020, was included in the report at Appendix 4. During the consultation period, 7 objections were received, 2 of which were withdrawn, 5 objections therefore remained.

The Licensing Team Leader read an email received from Mr and Mrs Carroll, in objection to the application. Mr and Mrs Carroll referred to the location of the club being mid-terrace, in a residential area for young families, children and pensioners. They pointed out that the club is in close proximity to a home for adults with special needs which is located at the end of the terrace. Cars parked on footpaths, on both sides of the road, are a safety issue and Mr and Mrs Carroll were of the opinion that an extension of the operating hours would increase the risks and concerns regarding traffic. Mr and Mrs Carroll stated that people regularly congregate on the street, using their mobile phones, smoking and discarding cigarettes. They expressed concern that, if the hours were extended, there would be a risk that people, on their way home from the club, after midnight, would display anti-social behaviour. Mr and Mrs Carroll explained that when they bought their property, the club closed at 10pm on weekday evenings, and, on a weekend, the club opened only on a Sunday afternoon between the hours of 12 noon and 2pm, adding this was very different to the proposed opening hours.

The Licensing Team Leader informed the Sub-Committee that no comments in respect of the application had been received from Environmental Health, the Fire Authority or Durham Safeguarding Children Partnership.

Mrs Martin (Other Person) noted Mr and Mrs Carroll representations had been read to the Sub-Committee and she confirmed she had no questions for the Licensing Team Leader, adding that she was in attendance to hear the application, and, to represent those residents who were unable to attend the remote meeting.

The Applicant, Mr Lawson, raised no questions in respect of the Licensing Team Leader's report.

In response to a question from the Chair, the Licensing Team Leader confirmed that the premises licence application sought to extend the current licensable hours.

The Chair invited Mrs Martin to present her representations. Mrs Martin explained that her concerns were outlined in the written information previously submitted to the Sub-Committee (Appendix 5), however, as a representative of the residents, she would like to add that the proposed change to the licensing hours, to serve alcohol from 9am was concerning. The Chair requested Mrs Martin to feedback to the residents that their concerns regarding parking issues would be a matter for the planning team. Mrs Martin responded that the residents' main concern was the proposal to open the club at 9am, which would exacerbate parking problems in an already busy area, used by those visiting the nearby shops and Medical Centre.

In response to the Chair's question to Mrs Martin as to whether she had said all she wished to say, Mrs Martin agreed, adding that she had put her points forward and she was satisfied that the Sub-Committee had listened to the concerns of the residents, including those submitted by Mr and Mrs Carroll.

Acknowledging the residents' concern regarding the proposal to open the club at 9am, Councillor Maitland asked Mrs Martin whether residents also had concerns regarding the 00.30 hrs. closing time. Mrs Martin responded that some residents did have concerns in this regard, in particular regarding noise disturbance after midnight.

The Applicant, Mr Lawson, Secretary of Consett Station Club & Institute Limited presented his representation. He explained that he decided to apply for a premises licence following a meeting with Michelle Williamson (former PCSO, Durham Constabulary), during a site visit, when it was suggested that a premises licence could be applied for, in addition to the club premises certificate currently in place. The Applicant made it clear that he had no intention of opening the club from 9am until 00.30 hrs. every night and he commented that although the existing club premises certificate allows opening from 11am until midnight, the club did not operate those hours as the demand does not exist.

He explained the reason for the extension of hours is to cover one-off events, which, at present, would require an application for a temporary event notice. He gave the example of club trips which pick up from the club at 9am. If the premises licence was granted, this would enable customers to have a drink, prior to leaving on the trip. The Applicant added the club has recently seen an increase in early morning funeral wakes due to the current pandemic and the early opening hours would enable alcohol to be served at the wakes.

The Applicant reiterated that he had no intention of moving away from the current opening hours, and he hoped he had addressed that in his letter to the residents. He commented that if the application was granted, residents should not notice any change as the change to the opening hours would be to cover one-off events, which were few and far between at approximately one per month. The Applicant also commented that the granting of the premises licence would be financially advantageous as it would enable the club to become a private members club, as opposed to a CIU affiliated club.

The Licensing Team Leader asked the Applicant if his intention was for the premises licence, if granted, to run alongside the club premises certificate. The Applicant confirmed that was his intention. The Licensing Team Leader explained that clubs find themselves in situations where they are limited to members and their guests, therefore, if events are to include the general public, a temporary event notice must be applied for and the Licensing Team have advised clubs in the past that they may wish to apply for a premises licence to cover functions of that nature.

Mrs Martin agreed with the Applicant that the letter he sent to residents fully explained his intentions, adding that if the letter had been circulated to the residents before the application had been lodged, this may have alleviated some of their concerns. However, the residents were also concerned about the future opening hours, if the club changed hands. The Applicant responded that he understood their concerns, however, over recent years the club had in fact reduced the opening hours due to a lack of trade, adding that this may well continue in the future. He pointed out that, at present, the club opens only on Fridays, Saturdays and Sundays.

Cllr Maitland referred to the club trips leaving at 9.30am and asked, if the club was to open at 9am, would this be for the customers to have a drink before they leave at 9.30am, when the club would then close and reopen at 11am. The Applicant confirmed that was correct.

The Licensing Team Leader clarified that if the club changed hands in the future, there would be the opportunity to address any potential problems through working with the Licensing Authority, to mediate or review the licence. She explained that any person is able to apply for a review of the licensing objectives, if it is considered that the objectives are being breached.

The Licensing Team Leader explained the licensing objectives include the prevention of crime and disorder; the prevention of a public nuisance; public safety; and, the protection of children from harm. The Chair emphasised the importance that any potential breaches should be evidenced through diary entries, in order to support the view that the licensing objectives are being breached.

Councillor Hopgood asked the Applicant whether he would consider amending the hours for the sale of alcohol from 9am, to 11am. The Applicant responded that 9am would be preferable as this would enable the club to sell alcohol prior to race trips and at funeral wakes, however, he would be prepared to consider the compromise.

The Chair pointed out that the Applicant may apply for a temporary event notice to cover the one-off events. The Applicant responded that a premises licence would be advantageous as it would be all-encompassing, he added that one-off events are often arranged at short notice and a premises licence would bring peace of mind, knowing that he was covered for those eventualities without having to apply for a separate temporary event notice.

Councillor Blakey asked for clarification on the proximity of the club to the home for adults with learning disabilities and the Applicant stated the home was close to the club, approximately four doors away, at the end of the terrace.

In response to a question from the Council's Solicitor as to why the application requests an extra half an hour, to serve alcohol until 00.30 hrs., the Applicant stated that would be to cover events such as New Year's Eve. The Chair pointed out that this goes beyond the County Council's recommended licensing hours of Monday to Thursday until midnight, with Friday and Saturday until 00.30 hrs. The Applicant responded that he applied for the hours following discussions with the PCSO, however if it was problematic, he would be agreeable to retain the hours set out in the current club premises certificate to end at midnight, with an extension to 00.30 hrs. for New Year's Eve.

All parties confirmed the hearing had been conducted in an open and transparent manner.

Mrs Martin confirmed that she had nothing further to add in summing-up.

In summing up, the Applicant said he wished to alleviate the neighbours' concern as outlined in his letter to the residents. He emphasised the granting of the premises licence would remove the restrictions of being a club under the CIU and the extended opening hours would be to cover one-off events.

The Chair asked if it would help if residents were notified when one-off events were taking place. Mrs Martin replied that as she worked during the day, the impact on her was minimal, during the day. She added that she could not speak for other residents.

The Chair thanked the parties for their attendance and added that he, and, Councillor A Hopgood and Councillor K Liddell would retire to deliberate the application in private and the parties would be notified of their decision later that day. The decision would be made available to view on the Council's website. At 10.15am, the Sub-Committee retired to deliberate the application in private.

In reaching a decision, the Sub-Committee took into account the report of the Licensing Team Leader, and, the oral and written representations of Mr Lawson and Mrs Martin. The Sub-Committee were mindful that 'other persons' objecting to the application were not in attendance and gave appropriate weight to the written representations which were read out at the meeting. The Sub-Committee also took into account the provisions of the Licensing Act 2003 relating to the grant of a premises licence, together with the Section 182 guidance and the Council's Statement of Licensing Policy.

RESOLVED:

That the application for a premises licence be granted as follows:

Licensable Activities	Days and Hours
Supply of alcohol (consumption on the premises)	Sunday- Thursday 1100 hours to 0000 hours Friday- Saturday 1100hours- 0030hours New Year's Eve 1100 hours to 0130 hours
Plays, films, indoor sporting events, live music, recorded music, performance of dance and entertainment of a similar description (all indoors)	Sunday-Thursday 1100 hours to 0000 hours Friday- Saturday 1100hours – 0030hours New Year's Eve 1100 hours to 0130 hours
Late night refreshment (indoors)	Sunday- Thursday 2300 hours to 0000 hours Friday- Saturday 2300hours – 0030 hours New Year's Eve 2300 hours to 0130 hours
Opening hours	Monday to Sunday 0900hours to 0100hrs New Year's Eve: 0900hours to 0130hrs

The Licence will be subject to the conditions that are consistent with the operating schedule.

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DURHAM COUNTY COUNCIL

At a Meeting of the **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Thursday 30 July 2020** at **1.30 pm**

Present:

Councillor C Carr in the Chair

Members of the Committee:

Councillors J Blakey, A Hopgood, K Liddell and J Maitland

Also Present:

G Proud (Council's Solicitor)

H Johnson (Licensing Team Leader)

A Comaish and R Montague-Vaughan (Applicants) (on behalf of Durham University)

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

No substitute members were in attendance.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the grant of a Premises Licence - Durham City Rugby Club, Green Lane, Durham

Prior to the presentation of the report, the Chair advised that although five Sub-Committee members were present to hear the application, only three of those members would make the decision. The Council's Solicitor explained that, under the Licensing Act 2003, only three members were entitled to make the decision. The additional members were present to hear the application in order that, in the event that a member had to retire due to unforeseen consequences, one of the additional members could participate as a substitute, thereby avoiding the necessity to rearrange the hearing. The Council's Solicitor then outlined the procedure for the hearing.

The Licensing Team Leader, H Johnson, presented the application for the grant of a premises licence at Durham City Rugby Club, Green Lane, Durham (for copy see file of minutes).

The Licensing Team Leader advised that the application for a premises licence was to host, Durfest, an annual, outdoor event. An extensive event manual was included as an appendix to the report. The original event had been cancelled due to the Covid-19 pandemic and the first event is now planned for Saturday 5 June 2021. The application was originally lodged by Elsa Kent, and the applicants had changed to Mr Comaish and Ms Montague-Vaughan on 20 July 2020. The Licensing Team Leader then outlined the details of the application and set out the options and recommendations for consideration.

The Chair advised that representatives of Whinney Hill Community Group were not in attendance to state their objection to the proposal, however, additional written information from the group had been circulated and read by the Applicants and members of the Sub-Committee. The Licensing Team Leader explained that additional information received from Mr Hayton representing Whinney Hill Community Group dated 24 July indicated that the group believed that, in April, they had sent a response to the Applicant's letter of 20 April, however it appeared not to have been received. As a result, they submitted a further copy of their response on 24 July. The Licensing Team Leader then read the response from Whinney Hill Community Group dated 22 April, in which the following points were raised in objection to the application:

- The group would not be withdrawing their objection to the application as there was no evidence to alleviate concerns regarding noise and disturbance and they remained concerned that no effective procedures would be put in place to avoid local residents from being subject to noise and unruly behaviour by large groups of people, including students, who wished to continue to party in nearby student accommodation.
- The documentation does not state exactly how many people will attend the event, however it is anticipated that 6,000 people will attend. This exceeds the number of attendees previously managed by the Rugby Club, and, there is no evidence to support the claim that the Rugby Club had previously managed events of up to 3,500 people.
- The lack of clarity on the numbers attending the event led to questions as to whether security issues will be adequately addressed and no information had been supplied regarding the experience or ability of the security persons to manage such large crowds. This information is fundamental to an application concerning an event with a large number of people, where alcohol is available.

- The documentation states no noise will travel more than 30 metres from the event as natural barriers will deaden the noise, however past experience does not support this claim. There is no illustration of the proposed direction of the stage and speakers, or, information regarding any noise suppression measures to be put in place.
- Music from marquees does not prevent noise pollution. Although the organisers state they have had no noise complaints from previous events, those events were indoor events involving only a few hundred people and are not comparable to the events being proposed.
- The claim that no disturbance is anticipated in relation to the event shows a lack of insight into the experience of local people when large events are held and alcohol is consumed, when the local community is subjected to antisocial behaviour.
- The event is due take place at the end of the University term which is a notoriously bad time for complaints about student behaviour. An event at this time will coincide with other events including student parties and this will exacerbate the anti-social behaviour.
- The documentation states that monies raised will go to charities including the Rainforest Alliance however there is no mention of other charities, whether any local charities will be supported, and, how much money will be donated.
- Claims by the Applicant that there are adequate transport links and good parking are inaccurate. The bus stop closest to the proposed site of the event is located near Stockton Road, which would result in increased footfall through Whinney Hill. Parking in Green Lane is limited and it is also used by the public and local businesses. It is inevitable that parking problems and traffic pollution will occur on Whinney Hill, Hallgarth Street and Old Elvet.
- For these reasons it is unreasonable to consider a year-on-year licence for such a large event.

The Licensing Team Leader informed the Sub-Committee that Durham Constabulary proposed additional measures to which the Applicant agreed, in the promotion of the licensing objectives.

No questions were raised by the Applicants on the Licensing Officer's report.

The Chair asked for clarification on which company it was proposed would be providing security at the event. The Licensing Team Leader explained that prior to the application being made, she met with the then Applicant, Elsa Kent, to explain the process for the premises licence application and at that meeting it was discussed that Mitie Security was to be approached to provide security services at the event. The Licensing Team Leader confirmed the application had been considered by the Safety Advisory Group.

The Chair referred to the environmental health requirement for a maximum of 65 decibels, 20-30 metres away from the sound stage. The Licensing Team Leader confirmed that further to the Safety Advisory Group meeting, Elsa Kent had met with environmental health to discuss their requirements.

Councillor Hopgood referred to the recent closure of New Elvet Bridge and raised concern that when the event had been planned, the closure of the bridge was not known and therefore would not have been taken into consideration by the Safety Advisory Group. Councillor Hopgood pointed out that the bridge is to close for 14 months and the event is due to take place within that timescale adding that the closure will have a major impact on vehicle access to the venue and for the residents of Whinney Hill. The Licensing Team Leader responded that the Highways Team are part of the Safety Advisory Group, therefore the group coordinators should be aware of the matter and be advising on this, however, she had no knowledge if they had commented further with regard to the closure of New Elvet Bridge.

The Chair commented that he attends bi-monthly meetings with the Police, Highways and Licensing and at the last meeting, which was held in June the closure of New Elvet Bridge was discussed, therefore, it was likely that this had been taken into consideration. The Licensing Team Leader commented that the Highways team would be expected to respond to the Safety Advisory Group who would advise the event managers in order that appropriate measures could be put in place.

Councillor Blakey expressed concern that it was not known if the Bridge closure had been taken into consideration. The Licensing Team Leader clarified that whilst the Highways team is part of the Safety Advisory Group it is not a responsible authority for the purposes of a licensing consultation. The Chair requested that the Sub-Committee accept the significant importance of the closure of New Elvet Bridge, and, ensure this point is given due consideration during the decision making process.

The Applicants, Mr Comaish and Ms Montague-Vaughan were then invited to make representations. Ms Montague-Vaughan stated that the concerns of Whinney Hill Community Group had been discussed at length by the events team.

Ms Montague-Vaughan explained that the event manual had been written some months ago however further developments had now occurred with regard to security of the event. Mitie security who had been asked to provide security at the event stressed they would not be willing to work on an event where there were concerns around safety. It is planned to have a minimum of 19 door trained supervisors, and, if the number of attendees was to increase to 5,000, the number of door supervisors would increase to 24.

In addition, stewards would be available to provide help and advice, leaving the door supervisors to concentrate on security.

Ms Montague-Vaughan commented that the event is planned to be family friendly, with advertising as a community event and it was not an event specifically targeting children. She added that the event team would consider imposing an age limit for children and would take advice from relevant agencies including the Safety Advisory Group. The Sub-Committee noted that a detailed safety plan which includes a Missing Children Policy was included in the documentation.

Referring to the concerns regarding the timing of the event, the Applicants explained the event is planned to take place at the end of the University exam season to capture the students in Durham prior to their vacation, and they reiterated the desire that the event should be inclusive and a community event.

The Applicants confirmed that donations are planned to be made to the Rainforest Alliance, however they would consider donating to local charities, and they were open to suggestions.

In response to the concerns raised regarding disturbance from houses of multiple occupancy, in accepting that they cannot guarantee no disturbance will occur, the Applicants stated they believe that this opportunity to run an organised event with a responsible bar, and stages closing at staggered times will limit the number of people exiting at any one time. The Applicants informed the Sub-Committee that they are considering a partnership with one of the nightclubs in Durham to host an official 'after-party', in an effort to avoid a large number of students returning to student accommodation immediately after the event.

In response to concerns regarding transport, the Applicants commented that parking on Green Lane is intended for the event providers and residents of that area. The event is to be promoted as an eco-friendly event and therefore they will be discouraging people from driving to the event. Attendees will be directed to park and ride and to the bus stops at Elvet and Stockton Road. They anticipate the majority of students will walk to the event and they expect that families are most likely to use the park and ride and they are generally less likely to cause a disturbance to residents.

Applicant, Mr Comaish referred to a site meeting with environmental health who had confirmed they were satisfied with the arrangements with regard to noise limitations, with the stages pointing away from Whinney Hill, towards the river with speakers channelling sound down into the crowd in order to reduce noise into the atmosphere.

They were also satisfied with the proposal to play softly amplified acoustic music in the marquee until midnight, and the proposal to stagger stage closures in order to minimise disruption.

The Applicants emphasised they were very aware of safety concerns regarding the proximity of the river. It is proposed that the entire site area is fenced and stewards will line the path in order to discourage people from taking that route. The main entrance is to be well away from the river. On advice from the police, it was resolved that the most appropriate entry and exit point for the event would be the footpath at the top of Green Lane.

Questions were then invited.

Cllr Hopgood asked the Applicants if they had discussed the park and ride system with the Council as the only bus service available during the bridge closure will be park and ride from Howlands which is already very busy. The Applicants responded that they had not spoken to the Council on this, as the bridge closure was a relatively new development, however, they would be keen to do so. Ms Montague-Vaughan added that she would be willing to research the bridge closure and identify alternative ways of getting people to and from the venue. Mr Comaish pointed out that their aim was to promote the use of the park and ride in the hope that this would keep car journeys to a minimum, and they hope that students will walk to the venue.

The Chair enquired about the system which is used by the University to ensure that intoxicated students are picked up by taxi and taken safely to their halls of residence. Ms Montague-Vaughan stressed the aim is to avoid attendees getting too intoxicated. Discussions are taking place regarding the operation of a challenge 25 policy and to arrange a 'pay as you go' phone on site, for people to call to arrange transport home. In addition, discussions have taken place with a company to supply stewards with radios to ensure any potential problems can be communicated as quickly as possible.

Councillor Liddell referred to the fencing around site and the emergency exits located at the entrance and near the toilet facilities and asked if two exit points were adequate for the amount of participants. The Applicants responded that they had liaised with health and safety to devise a plan where a large section of fence could be moved leading into a large field by the Rugby Club. Stewards would be used to direct attendees to Green Lane in an emergency. Exit points near the river were being avoided.

Councillor Blakey asked whether any other sites had been considered for the event. Ms Montague-Vaughan explained that Wharton Park had been considered however it too is a residential area and has the disadvantage of being situated on a busy road. The racecourse had also been considered however it has limited availability due to the sporting events held there.

The site outlined in the application has the advantage of natural sound barriers and is relatively unobtrusive.

Councillor Maitland raised concerns that there is no mention of a recommended time for children to leave the event. The Applicants acknowledged this was not mentioned in the manual however it had been discussed more recently. The Applicants commented that they would be considering recommending that children leave by a set time, details of which were to be determined. The Applicants confirmed that they are considering using stage announcements to communicate with the audience to recommend that children leave at a particular time. In addition they would discourage artists from using inappropriate language during their sets.

In response to a question from the Chair, the Applicants confirmed they were aware that traders selling food and / or alcohol at the event must comply with the licence conditions. The Licensing Team Leader commented that it was pleasing that there will be at least 19 security industry authority trained door supervisors to monitor the sale of alcohol and the Licensing Team would be willing to make the necessary checks on the company responsible for running the bar at the event. The Licensing Team Leader advised that, should the licence be granted, it is the responsibility of the licence holders to ensure the necessary arrangements are in place. Mr Comaish stressed that experienced personal licence holders is a priority.

At that point Councillor Maitland took the Chair as Councillor Carr was experiencing technical difficulties. No further submissions were made by the parties.

The Council's Solicitor announced that the Councillors making the decision would be Councillor Carr, Councillor Blakey and Councillor Maitland. However, if Councillor Carr was unable to re-join the meeting, Councillor Hopgood would substitute.

The decision would be communicated to the parties later that day and it would be available to view on the Council's website at a later date.

At 2.35pm, the Sub-Committee retired to deliberate the application in private.

In reaching a decision, the Sub-Committee took into account the report of the Licensing Team Leader, and, the oral and written representations of the Applicants and the written submissions of Whinney Hill Community Group. The Sub-Committee also took into account the provisions of the Licensing Act 2003 relating to the grant of a premises licence, together with the Section 182 Guidance and the Council's Statement of Licensing Policy.

RESOLVED:

That the application for a premises licence be granted as follows:

Licensable Activities	Days & Hours Requested
Provision of Films indoors (marquee)	Saturday 11:30 hrs – 23:00 hrs
Live Music (indoors/outdoors)	Saturday 11:30 hrs – 00:00 hrs Two outdoor stages – music will cease by 23:00 hrs and continue in the marquee until 00:00 hrs
Recorded Music (indoors/outdoors)	Saturday 11:30 hrs – 23:00 hrs
Performance of Dance, Anything of a Similar Nature (indoors/outdoors)	Saturday 11:30 hrs – 23:00 hrs
Late Night Refreshment (indoors/outdoors)	Saturday 23:00 hrs – 00:30 hrs
Sale by Retail of Alcohol (on the premises)	Saturday 11:30 hrs – 00:30 hrs
Hours open to the public	Saturday 11:30 hrs – 00:30 hrs

- a) The Sub-Committee acknowledged that the responsibility for children leaving the event is that of the parent or responsible adult, however they welcomed the agreement of the Licence Holder that announcements would be made encouraging children under the age of 16 to leave the event by 9pm.
- b) The Sub-Committee determined that the mediated conditions agreed by the Applicant and Durham Constabulary would be added to the premises licence, together with additional conditions imposed by the Licensing Sub-Committee on the basis it was necessary and proportionate to impose those conditions upon the licence, together with the standard licensing conditions. The mediated/additional conditions are as follows:

1. The Event Manager, Event Safety Officer and the Head of Security will be able to contact each other during the event should there be any need for intervention or police presence. Any request for police assistance will be made via the standard reporting procedures, i.e. for non-urgent matters 101 and for urgent matters 999.
2. All recommendations and comments made by the SAG members will be agreed upon and actioned prior to the event. Failure to reach agreement and get approval will result in the event being cancelled.
3. The Event Manual and any accompanying Risk Assessments provided for any events held as part of this licence, must be adopted in full.
4. The number of events shall be limited to 1 in any calendar year.
5. The Licence Holders are to engage with the Council's Safety Advisory Group 3 months prior to the event taking place each year.
6. The Licence Holders are to provide the Licensing Authority with the details of those suppliers of alcohol and late-night refreshments, no later than one month prior to the event taking place.

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Statutory Licensing Sub-Committee

18th September 2020

**Application for the grant of a Premises
Licence**

Ordinary Decision



**Report of Alan Patrickson Corporate Director of Neighbourhoods
and Climate Change**

**Councillor Brian Stephens, Cabinet Portfolio Holder for
Neighbourhoods and Climate Change**

Electoral division(s) affected: Ferryhill

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine the application for the grant of a premises licence for La Mensa 12-13 Main Street, Ferryhill, Co Durham DL17 8LA.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 The application is for the grant of a new Premises Licence for La Mensa 12-13 Main Street, Ferryhill, Co Durham. The applicant states it is an Italian bar and restaurant, family run on one level, outside garden bar and toilets kitchen and bar all inside restaurant.

The original application was for the following activities:

- Live Music (indoors and outdoors) Saturday 18:00 until 22:00 hrs and New Year's eve 18:00 until 24:00 hrs
- Recorded Music (indoors & outdoors) Monday to Sunday 12:00 until 22:00 hrs and News Year's Eve 12:00 until 01:00 hrs
- Sale by Retail of Alcohol (on the premises) Monday to Saturday 12:00 hrs until 23:00 hrs, Sunday 12:00 hrs until 22:00 hrs & New Year 12:00 hrs until 01:00 hrs
- Proposed Opening Times Monday to Saturday 12:00 hrs until 23:00 hrs and Sunday 12:00 hrs until 22:00 hrs and New Year's Eve 12:00 hrs until 01:00 hrs

However, the applicant has amended the application and removed Live and Recorded music. The applicant has also confirmed the closure of the outdoor area at 8pm each day.

- 4 The licensing authority received responses from Durham Constabulary and Durham Safeguarding Children Partnership, both agreed further conditions with the applicant. County Durham & Darlington Fire and Rescue Service and Durham County Council Environmental Health had no comments to make. Durham County Council Planning submitted an email which was forwarded to the applicant.
- 5 The licensing authority received two letters in opposition to the application, one from Mr & Mrs Bates and one from Mr Rotherham of Higginbothams Pharmacy. (other persons).
- 6 Following the amendment by the applicant to remove Live and Recorded music from the application and close the outside area at 8pm, Mr & Mrs Bates withdrew their representation. Mr Rotherham's representation remains.

Recommendation(s)

- 7 The Sub-Committee is asked to determine the application with a view to promoting the licensing objectives.
- 8 The Sub-Committee is recommended to give appropriate weight to:
 - (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representation (including supporting information) presented by all parties;
 - (c) The Durham County Council Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 6.
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 7.

Background

- 9 Background information – The application form was submitted by Mr Diako Varan.

Type of Application: Grant of a premises licence	Date received: 24 th July 2020	Consultation ended: 21 st August 2020
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Details of the application

- 10 An application for the grant of a premises licence was received by the Licensing Authority on 24th July 2020. A copy of the application is attached at Appendix 3.
- 11 The application is deemed by the Licensing Authority to be correctly served and advertised in accordance with the Licensing Act regulations.
- 12 The revised activities now requested are as follows:

Licensable Activities	Days & Hours
Sale by Retail of Alcohol (on the premises)	Monday to Saturday 12:00 hrs - 23:00 hrs Sunday 12:00 hrs - 22:00 hrs New Year 12:00 hrs - 01:00 hrs
Hours open to the public	Monday to Saturday 12:00 hrs – 23:00 hrs Sunday 12:00 hrs – 22:00 hrs New Year 12:00 hrs – 01:00 hrs

- 13 The applicant has proposed conditions and the steps that they intend to take in order to promote the four licensing objectives, which are outlined within the application form.

The Representations

- 14 The Licensing Authority received two letters of representation during the consultation period from, one from Mr & Mrs Bates and one from Mr Rotherham of Higginbottom Pharmacy. (other persons).

Following the amendment by the applicant to remove Live and Recorded music and close the outside area at 8pm Mr & Mrs Bates withdrew their representation. Mr Rotherham's representation remains.

- 15 The licensing authority deemed the representations as relevant, relating to the following licensing objectives:
- Public Safety
 - The Prevention of Public Nuisance

- 16 Copies of the representation from Mr Rotherham is attached at Appendix 4. The licensing authority corresponded with Mr Rotherham regarding the amendments to the application, in an attempt to alleviate his concerns, however the representation remains.

Copies of these responses are attached at Appendix 4.

- 17 Responses were received from the following Responsible Authorities:

Following mediation two Responsible Authorities agreed further conditions with the applicant, namely Durham Constabulary and Durham Safeguarding Children Partnership.

County Durham & Darlington Fire & Rescue Service and Durham County Council's Environmental Health Department had no comments to make.

Durham County Council Planning submitted an email which was forwarded to the applicant.

See Appendix 5.

The Parties

- 18 The Parties to the hearing will be:

- Mr Diako Varan (Applicant)
- Mr Rotherham – Higginbottom Pharmacy (other person)

Options

- 19 There are a number of options open to the Sub-Committee:

- (a) Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003;
- (b) Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it appropriate for the promotion of the licensing objectives and the mandatory conditions set out in the Licensing Act 2003;
- (c) To exclude from the scope of the licence any of the licensable activities to which the application relates;
- (d) To refuse to specify a person on the licence as the Designated Premises Supervisor;

- (e) To reject the application.

Main implications

Legal Implications

- 20 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

Consultation

- 21 The premises licence application was subject to a 28 day consultation.

See Appendix 1

Conclusion

- 22 The Sub-Committee is asked to determine the application for the grant of a premises licence in light of the representation received.

Background papers

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)

Other useful documents

- None

Contact: Helen Johnson

Tel: 03000 265101

Appendix 1: Implications

Legal Implications

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that:

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this, it was stated that any condition attached to the licence should be an enforceable condition.

Consultation

The premises licence application was subject to a 28 day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

The notice of application was displayed on the premises for a period of 28 days.

Notice of the application was published in a newspaper which was circulated within the vicinity of the premises.

In addition, details of the application were available to view on the Council's website throughout the 28 day consultation period.

Appendix 2: Location Plan

Durham County Council - IntraMAP



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 Ordnance Survey A 100049055
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.



Map produced by Durham County Council - IntraMAP on 8/9/2020 at a scale of 1:1250

Appendix 3: Application Form

DURHAM COUNTY COUNCIL, Licensing Services, PO Box 617, Durham. DH1 9HZ

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Diako varan

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
La mensa 12 -13 main street Ferryhill			
Post town	Durham	Postcode	DI17 8la

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£ 11,750

Part 2 - Applicant details

Please state whether you are applying for a premises licence as **Please tick as appropriate**

- | | | |
|--|-------------------------------------|-----------------------------|
| a) an individual or individuals * | <input checked="" type="checkbox"/> | please complete section (A) |
| b) a person other than an individual * | | |
| i as a limited company/limited liability partnership | <input type="checkbox"/> | please complete section (B) |
| ii as a partnership (other than limited liability) | <input type="checkbox"/> | please complete section (B) |
| iii as an unincorporated association or | <input type="checkbox"/> | please complete section (B) |
| iv other (for example a statutory corporation) | <input type="checkbox"/> | please complete section (B) |

- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	Mr
Surname Varan			First names Diako		
Date of birth		I am 18 years old or over <input checked="" type="checkbox"/> Please tick yes			
Nationality Iranian					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					

--

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth		I am 18 years old or over <input type="checkbox"/> Please tick yes			
Nationality					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town		Postcode			
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)

Description of applicant (for example, partnership, company, unincorporated association etc.)
Sole trader
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start? DD MM YYYY

--	--	--	--	--	--	--	--

If you wish the licence to be valid only for a limited period, when do you want it to end? DD MM YYYY

--	--	--	--	--	--	--	--

<p>Please give a general description of the premises (please read guidance note 1)</p> <p>Italian bar and restaurant family run All one level with disabled access and toilet Outside garden and bar and toilets Kitchen and bar all inside restaurant</p>

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

- | | |
|---|--|
| <p>Provision of regulated entertainment (please read guidance note 2)</p> <p>a) plays (if ticking yes, fill in box A)</p> <p>b) films (if ticking yes, fill in box B)</p> <p>c) indoor sporting events (if ticking yes, fill in box C)</p> <p>d) boxing or wrestling entertainment (if ticking yes, fill in box D)</p> <p>e) live music (if ticking yes, fill in box E)</p> | <p>Please tick all that apply</p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/></p> |
|---|--|

- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g)
(if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)					
Mon								
Tue								
Wed						<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
Thur								
Fri						<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat								
Sun								

B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of films take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4) We may not and then have a singer in the restaurant or outside on the decking area .this won't be a regular thing but maybe a one off			
Mon						
Tue						
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5) New years eve singer or band from 6pm until 12pm latest			
Thur						
Fri						
Sat			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 6) New years eve 18:00 until 24:00			
	18.00	22:00				
Sun						

F

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4) Cd Radio Mp3 Alexa		
Mon	12:00	22:00			
Tue	12:00	22:00	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5) New years eve 12:00 - 01:00		
Wed	12:00	22:00			
Thur	12:00	22:00	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 6) 12:00pm until 01:00 new years eve		
Fri	12:00	22:00			
Sat	12:00	22:00			
Sun	12:00	22:00			

G

Performances of dance Standard days and timings (please read guidance note 7)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue			<u>Please give further details here</u> (please read guidance note 4)		
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
Thur			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sun			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 4)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5) <p style="text-align: center;">New years eve</p>		
Mon	1200	2300			
Tue	1200	2300			
Wed					
	12:00	2300			
Thur					
	12:00	2300			
Fri					
	1200	2300	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6) <p style="text-align: center;">New years eve 12.00 until 01:00</p>		
Sat					
	1200	2300			
Sun					

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name	
Date of birth	
Postcode	DI17 8la
Personal licence number (if known)	
Issuing licensing authority (if known) Durham county council	

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

L

<p>Hours premises are open to the public Standard days and timings (please read guidance note 7)</p>			<p><u>State any seasonal variations</u> (please read guidance note 5)</p> <p>New years eve 12.00 to 01:00</p>
Day	Start	Finish	<p><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 6)</p> <p>New years eve 12pm to 1am</p>
Mon	12:00	23:00	
Tue	12:00	23:00	
Wed	12:00	23:00	
Thur	1200	2300	
Fri	1200	2300	
Sat	1200	2300	
Sun	1200	2200	

M

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

Cctv
Work closely with local authorities

b) The prevention of crime and disorder

Cctv
Contact with local police who are straight opposite our building

c) Public safety

All fire alarms equipment etc up to date
Third party liability insurance
Cctv
More staff in busier times
Any intoxicated customers will not be allowed in

d) The prevention of public nuisance

No large crowd
No underage drinking
Music turned down later at night and kept at a minimum
No intoxicated people late drinking

e) The protection of children from harm

No under age drinking
All children to be accompanied by an appropriate adult
Any intoxicated people asked to leave

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

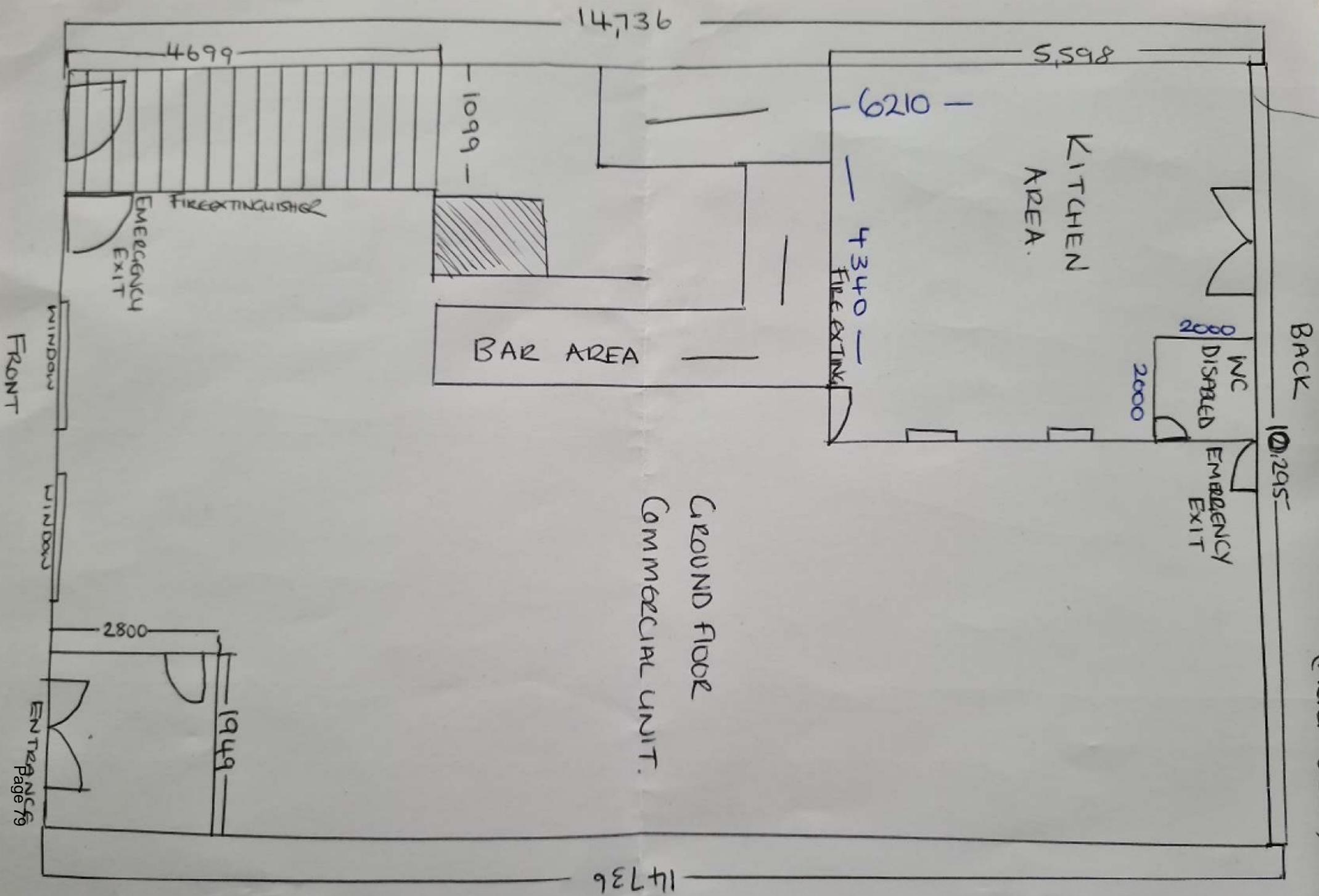
Declaration	<ul style="list-style-type: none">• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or
--------------------	---

	her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)
Signature	
Date	22/07/2020
Capacity	Owner

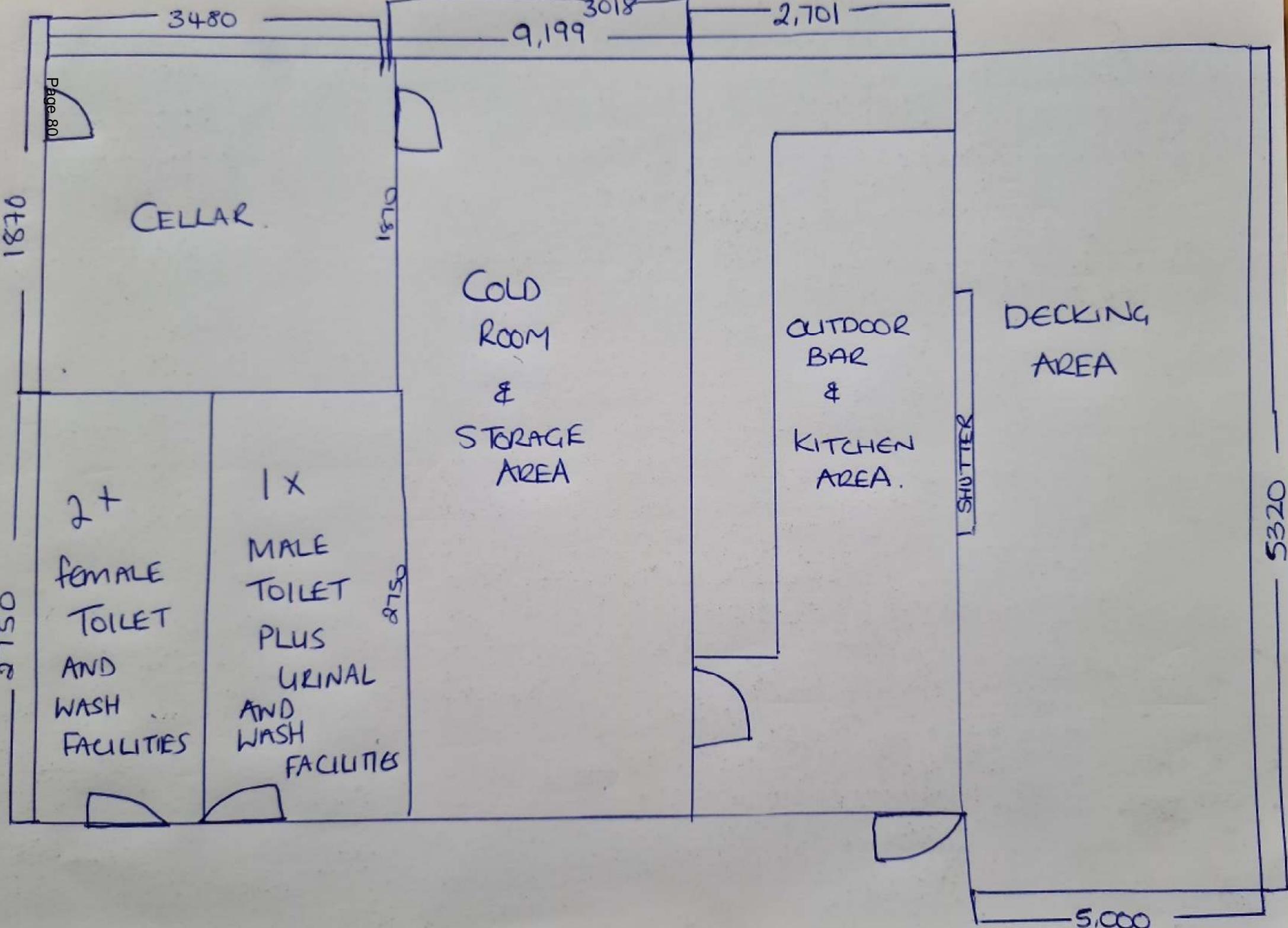
For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			



(Meter Scale)



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CELLAR

COLD ROOM
&
STORAGE AREA

OUTDOOR BAR
&
KITCHEN AREA

DECKING AREA

2+
FEMALE
TOILET
AND
WASH
FACILITIES

1x
MALE
TOILET
PLUS
URINAL
AND
WASH
FACILITIES

1 SHUTTER

5,000

5320

Appendix 4: Representation

From: j rotherham
Sent: 21 August 2020 09:38
To: AHS Licensing <Licensing@durham.gov.uk>
Subject: Licence application for La Mensa 12-13 Main Street Ferryhill

To whom it may concern ,

I am writing to you with regard to the application made by Mr Diako Varan for La Mensa , 12-13 Main Street , Ferryhill, DL17 8LA I am the owner of Higginbottom Pharmacy, 11 Main Street, which is the premises adjacent to the planned restaurant. As you can appreciate the pharmacy has been a long standing part of the community for over 40 years now and being able to serve the community is vital to the area. My concern centres around the granting of a music license during the hours of 12pm -10pm . The pharmacy is a place which requires a quiet and confidential environment in order for the staff to concentrate and ensure levels of safety are paramount as thousands of prescriptions are dispensed on a weekly basis that need to be accurately checked and assembled with minimal distraction . As well as this patients and customers a like often come to the pharmacy for advice . In the current Covid climate due to lack of availability of GP appointments it is important that the environment they come to is free from distraction and noise as more and more patients access pharmacies for support. My concern is that by granting a music license during the hours the pharmacy operates, it will have an adverse affect on my business and the wider communities ability to use the pharmacy without distraction . It would obviously have a detrimental affect to the pharmacy if music is pumping out of outdoor speakers front or back as the Pharmacy dispensary runs along side the property and to the rear of the building and therefore would be affected by such noise. Internally I am unaware of any sound proofing that has been done to prevent noise transferring through the walls into the pharmacy premises. The Previous tenants had several battles with the landlord over noise from the old wine bar and we also suffered with noise leakage through the walls to the Pharmacy which was very distracting although the tenants then reduced the sound and played low level music during the day after several complaints.

I'm not opposed to the business and wish them every success however they have never explained any of there plans to myself about the music application . As you can appreciate this could have a profound impact on my business and the accessibility and safety to patients if the licence is granted during the Pharmacy opening hours. If you decide that it is fair to grant the license then I am asking for assurances from yourselves that the level of noise is controlled and kept to a minimum during the pharmacies opening hours of 8.30am - 5.30pm Monday to Friday to avoid any potential problems . I feel it would be completely unacceptable for the council to grant an application without considering the safety aspect of the conditions required in the pharmacy and , if it does grant the application , to not control aspects of that application that could affect neighbouring business' and the safety of the community and there right to a quiet confidential place to discuss there healthcare needs .

I look forward to your response in this matter.

Appendix 5: Responsible Authorities Comments

From: Helen Johnson - Licensing Team Leader (N'hoods)
Sent: 06 August 2020 09:17
To: Tracey Lock
Cc: Karen Robson; Yvonne Raine
Subject: FW: Licence Application La MENSA Ferryhill

Hi Tracey

Please see below conditions agreed with the applicant and police.

Thanks

Helen Johnson
Licensing Team Leader
Community Protection Service
Neighbourhoods and Climate Change

From: Paul Conroy
Sent: 05 August 2020 18:55
To: Helen Johnson - Licensing Team Leader (N'hoods) <Helen.Johnson2@durham.gov.uk>
Cc: Caroline Dickenson
Subject: FW: Licence Application La MENSA Ferryhill

Hi Helen,
These are the conditions for LA MENSA, could they be added to the licence please?

Regards,

Paul

From: kerry varan
Sent: 05 August 2020 18:16
To: Paul Conroy
Subject: RE: Licence Application

Hi Paul

Yes not a problem at all I agree to all the above and will make sure everything in place for opening

Regards
Kerry

On Wed, 5 Aug 2020 at 18:14, Paul Conroy

 wrote:

Hi Kerry,

Please see below the conditions we discussed today, Please check them and let me know.

- 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.
- 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.
- The premises shall maintain an incident book, which shall be made available to the Police and authorised officers of the local authority upon request.
- 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.
- CCTV will cover all areas where alcohol is served and all entrances and exits.

- Recording will be retained for a minimum of 28 days.

- 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.

- 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.

- The premises will have a drugs policy in place.

Regards,

Paul

From: Helen Johnson - Licensing Team Leader (N'hoods)
Sent: 20 August 2020 10:34
To:
Cc: Tracey Lock
Subject: La Mensa, 12-13 Main Street, Ferryhill - new premises licence application
Importance: High

Dear Diako

As you are aware the above application is going through the consultation period. I have today received a response from Durham Safeguarding Children Partnership who would like to see the following steps in the promotion of the licensing objectives:

- 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.
- 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).
- 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.
- 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.

I would be grateful if you could let me know by the end tomorrow as that is when the consultation ends, if you are happy with them to be included within the operating schedule.

Look forward to hearing from you.

Kind regards

Helen Johnson
Licensing Team Leader
Community Protection Service
Neighbourhoods and Climate Change



Chief Fire Officer: Stuart Errington

Fire and Rescue Service Headquarters,
Belmont Business Park, Durham, DH1 1TW

Date: 27 July 2020

This matter is being dealt with by: Jonathan Smith

Ext:

Our Ref: 7A70600090

Your Ref: LA MENSA

Direct Di

E-mail: j

1

Tracey Marie Lock
Licensing Officer
Durham County Council
Annand House
Meadowfield
Durham
DH7 8RS

Dear Tracey

Licensing Act 2003
Regulatory Reform (Fire Safety) Order 2005
La Mensa, 12-13 Main Street, Ferryhill, DL17 8LA

I acknowledge your application dated 24 July 2020 for a Premises Licence under The Licensing Act 2003 in respect of the above named premises.

No representations will be made to the Licensing Authority subject to the responsible person for the above premises ensuring compliance with the requirements of the Regulatory Reform (Fire Safety) Order 2005.

For further guidance please refer to <https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents> which provides information about the Regulatory Reform (Fire Safety) Order 2005.

Should you require any further information please do not hesitate to contact me on the telephone number or e-mail address shown above or visit our website www.ddfire.gov.uk and follow the link to Fire safety at work.

Yours faithfully

Jonathan Smith
Fire Safety Section



From: Sarah Clement-Dawson
Sent: 11 August 2020 13:49
To: Tracey Lock
Cc: AHS Licensing
Subject: LICENSING ACT 2003 - APPLICATIONS RECEIVED - LA MENSA 12-13 MAIN STREET
FERRYHILL DL17 8LA



MEMO

To: Mrs Tracey Lock
Licensing Services

From: Dr Sarah Clement-Dawson
Neighbourhoods and Climate Change

Date: 11 August 2020

Re: **Licensing Application New premises licence, 12-13 Main Street, Ferryhill, DL17 8LA**

With reference to the above licensing application received on 27 July 2020.

I have assessed the application with reference to the public nuisance licensing objective and would confirm I have no objection to raise in relation to the granting of the above new premises licence.

Sarah Clement-Dawson
Senior Contaminated Land Officer
Development Assessment Team
Community Protection Service
Neighbourhoods and Climate Change
Durham County Council
Annand House
Meadowfield
Durham
DH7 8RS

From: Tracey Lock
Sent: 21 August 2020 08:28
To:
Subject: LICENSING ACT 2003 - APPLICATIONS RECEIVED - NEW PREMISES LICENCE - LA
MENSA 12-13 MAIN STREET FERRYHILL DL17 8LA
Attachments: CON28/20/01994 - 12-13 Main Street, Ferryhill

Tracey Marie Lock
Licensing Officer
Durham County Council
Environment, Health & Consumer Protection
PO Box 617
Durham
DH1 9HZ

Mr Diako Varan
La Mensa
12-13 Main Street
Ferryhill
DL17 8LA

21 August 2020

Dear Mr Varan

**THE LICENSING ACT 2003- APPLICATION FOR A PREMISES LICENCE
LA MENSA 12-13 MAIN STREET FERRYHILL DL17 8LA**

Please find attached an email from the Planning Department for your information.

If you require any further information, please do not hesitate to contact the Licensing Section.

Yours faithfully

Tracey Marie Lock
Licensing Officer
Community Protection Service
Neighbourhood and Climate Change
Durham County Council
Annand House
Meadowfield
Durham
DH7 8RS

From: Jayne Pallas
Sent: 19 August 2020 20:12
To: Tracey Lock
Subject: CON28/20/01994 - 12-13 Main Street, Ferryhill
Attachments: PreApplicationAdviceProtocol.pdf; PreApplicationEnquiryForm.pdf

Good evening Tracey,

Thank you for your consultation in relation to 12-13 Main Street, Ferryhill.

I can advise that planning approval 7/2002/0653/DM restricted the operating hours at the property to the below:-

Monday to Saturday – 9am to midnight

Sunday – 9am to 10.30pm

The above should be adhered to at all times in order to comply with this planning permission. Any alterations would be subject to a further planning application.

The enquiry has been supported by a plan showing an outdoor bar and kitchen area with decking. The precise location of this is unclear, however it appears that this may be contained within a detached building to the rear, previously detailed as a storage building in the 2001 consent (7/2001/0164/DM).

Due to the uncertainties regarding the work that has taken place, and the overall operation of the site, it is recommended that the applicant submit a pre application enquiry to the Local Planning Authority with full details to establish whether or not planning permission would be needed.

I have attached the relevant pre application enquiry form and a copy of the Council's Pre Application Protocol. Please note that there is a fee for this advice, which will be confirmed when the work proposed on site has been established.

I hope the above is of assistance, however please do not hesitate to contact me if you would like to discuss further.

Kind regards

Jayne Pallas
Planning Officer – South West Area Office

Planning Development
Regeneration, Economy and Growth
Room G73 – 82
County Hall
Durham
DH1 5UQ

www.durham.gov.uk

Appendix 6: Statement of Licensing Policy

7.2 Public Safety - The Act covers a wide range of premises that require licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants and people in the immediate vicinity who may be affected by the premises and activities taking place therein.

Applicants are advised to seek advice on such matters from the council's occupational health and safety team, Health and Safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service. They should incorporate any recommendations from these responsible authorities in their Operating Schedule before submitting their applications. Matters for consideration include:

- First Aid
- Public security
- Event control
- Polycarbonate Glass
- Fire Safety
- Electrical safety
- Building safety
- Transport
- Drink driving issues
- Occupancy levels

In addition to the information provided above, **Table 2 in Appendix VI** provides recommendations, suggestions and examples of how to prevent the specific dangers outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

7.3 Prevention of Public Nuisance - Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping near the premises.

The concerns relate, amongst other things, to litter, light pollution, noxious odours and noise nuisance resulting from music, human voices, ventilation equipment and vehicles. The **council will expect** applicants to demonstrate that suitable and sufficient measures have been identified, and will be implemented and maintained, with the intention of preventing public nuisance relevant to the individual style, location and characteristics of the premises and events.

If an external structure or area is to be used by customers, whether for consumption of alcohol or for smoking, the **applicant will be expected** to offer measures designed to minimise its impact on residents in respect of both public nuisance and crime and disorder. These measures may include a restriction on hours that areas / structures will be used or appropriate signage requesting customers to consider residents and monitoring of such areas by staff.

The placement of tables and chairs outside of licensed premises may give rise to public nuisance including noise and litter. When tables and chairs are situated on the public highway, relevant authorisations will often be required from the Highways Authority. Enquiries concerning such consents should be made to the Council's Highway's Section (see Appendix III). In predominantly commercial areas, such as shopping centres, the use of tables and chairs outside may be allowed however, the **council will normally expect** them to be removed before the premises close, and any resulting litter/debris cleared away.

Applicants should consider reducing potential noise nuisance by, for example (this list is not exhaustive):

- Assessment of likely noise levels in the premises
- Assessment of likely noise levels if outdoor drinking is allowed
- The sound insulation the building would provide (e.g. double glazing, double doors / lobbies to entrances, windows used for ventilation)
- The distance and direction to the nearest noise sensitive premises.
- Likely noise sources outside of the premises (e.g. emptying bottle bins, taxis, unruly customers leaving the premises)
- Dispersal of patrons – where necessary the council will expect a dispersal policy for patrons at the end of the evening. The policy will specify such issues as alterations to the style and volume of music played, public address announcements and use of appropriate signage at exits
- Ways to limit noise / disorder from patrons leaving the premises

The extent to which the above matters will need to be addressed will be dependent on the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.

Applicants are advised to seek advice from Durham County Council's Environmental Health team and incorporate any recommendations in their operating schedule before submitting their applications.

Takeaways and fast-food outlets - The council expects takeaways and late-night refreshment premises to take reasonable steps in clearing litter from outside their premises and along the pavement in either direction as necessary, whilst the premises are open and at the end of the working day. These premises should maintain clean, dirt or grease free frontages. Such premises should also display notices advising customers of the location of bins and patrons should be encouraged to use the bins made available.

Important note: The council considers that it will be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises (“takeaway” premises).

Takeaway premises are often open late at night and in the early hours of the morning. They can be associated with disorder as people under the influence of alcohol may congregate outside takeaways after leaving or in some cases having been ejected from late-night licensed premises.

Takeaways operate within the night time economy but without the same framework around them, e.g. pubwatch, use of security staff etc. In addition, alcohol sold from takeaways could readily be consumed in public spaces and may not be subject to the same controls associated with other types of licensed premises.

From a health perspective, obesity levels are rising nationally and locally; without action the health of the population will continue to suffer. Responsible licensees can support the ‘Working toward a healthy weight in County Durham’ goals and the council would see the following steps as a contribution to reducing health harms and health inequalities:

- Menu to display calories per portion information for all food offers.
- Menu to offer at least one clear and stated, 'healthy option' and to be priced competitively.
- Menu to display recommended daily calorie limits for adults (For women the recommended limit is 2,000 calories a day for men it's 2,500).
- Menu to offer smaller / half portions.
- Salt and pepper available upon request rather than always on the table

In addition to the information provided above, **Table 3 in Appendix IV** provides recommendations, suggestions and examples of how to prevent the specific nuisance type outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

Appendix 7: Section 182 Guidance

Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

¹ S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

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