



**OPEN
LICENSING AND APPEALS SUB-COMMITTEE**

Licensing and Appeals Sub-Committee – 8 October 2023

**Licensing Act 2003 - Application for Variation to Premises Licence
Bank House Bar & Restaurant, Main Road, Hathersage, S32 1BB**

Report of Director of Regulatory Services

Report Author and Contact Details

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Wards Affected

Hathersage

Report Summary

This report informs the Committee of an application made under section 34 of the Licensing Act 2003, by Lawrence William Key, for a variation to the existing Premises Licence held in respect of Bank House Bar and Restaurant, Main Road, Hathersage,

The variation seeks to allow the sale of alcohol from a pop-up bar in the outside seating area of the premises, within the designated serving area shown on the plan attached to the application.

The Sub-Committee is asked to consider the 5 representations received from local residents (Other Persons) during the 28-day advertisement period. Three of the representations support the proposed variation and two are objecting to the variation on the grounds that the public safety and the prevention of public nuisance licensing objectives would be undermined if the variation was granted.

Recommendations

That the application for a variation to the existing Premises Licence, (licence number LN/4962), made by Lawrence William Key, to allow a pop-up bar for the sale of alcohol to be located in the outside area at Bank House Bar & Restaurant, Main Road, Hathersage be determined.

List of Appendices

- Appendix 1 – Existing Premises Licence LN/4962
- Appendix 2 – Variation application form, site plan and advert notice
- Appendix 3 – Representations from Other Persons
- Appendix 4 – Hearings Procedure

Background Papers

None

Consideration of report by Council or other committee

No

Council Approval Required

No

Exempt from Press or Public

No

1 The Application

1.1 The Licensable Activities

On 30 August 2023, an application was received from Lawrence William Key to vary the existing premises licence (licence number LN/4962) to allow the sale of alcohol for consumption on the premises only, from a pop-up bar in the outside seating area of the premises.

1.2 The application does not seek to make any other changes to the existing licence, a copy of which is reproduced in **Appendix 1** for the Sub-Committee's information.

1.3 In the operating schedule part of the application to vary the licence, (Section M), the premises licence holder is required to volunteer measures which he considers will continue to ensure promotion of the licensing objectives if the variation is approved; (please see section 1.8 below).

1.4 A copy of the variation application and plan of the site are produced in **Appendix 2** for the Sub-Committee's consideration.

1.5 Advertising the Application

The legislation requires that the application is served on all the Responsible Authorities specified in the legislation. This has to be done at the same time it is served on the Licensing Authority. Please see table in paragraph **1.11** for details of Responsible Authorities and their responses to the application.

1.6 The applicant is required to display a notice at the premises (on pale blue coloured paper) for a period of 28 consecutive days and place an advertisement in a local newspaper or similar publication which circulates in the area where there isn't a newspaper, informing local residents and businesses of the application. The Licensing Authority is required to advertise notice of the application on the District Council's website, and to make available public register copies on request.

1.7 The 28-day period during which the Responsible Authorities and Other Persons could make representations to the Licensing Authority in respect of this application, started on Thursday 31st August and ended on Wednesday 27th September 2023.

1.8 During the consultation period the Licensing Manager was made aware that the advertisement in the local newspaper did not meet the legal timescales for advertising the application, as a result of the publication date of the Peak Advertiser being later than the distribution date. The Applicant re-advertised the application in the following edition of the paper and re-posted revised advertisement notices at the premises.

1.9 The Licensing Authority re-started the consultation period with the Responsible Authorities to ensure that the administrative process was not flawed. The revised start date for the 28-day period was 22nd September with the revised end date for representations now being 19th October 2023. A copy of the revised Advertisement Notice is produced in **Appendix 2** with the variation application.

1.8 The Operating Schedule – Licence Conditions

In section M of the Operating Schedule part of the application form, the applicant is required to describe the steps that they intend taking to promote the four licensing objectives if the variation application is granted.

1.9 The four licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

1.10 The legislation allows for any measures that an applicant/premises licence holder has volunteered in Section M of the Operating Schedule part of the application, to be translated into licence conditions and (together with the Mandatory Conditions specified in the Licensing Act 2003), be attached to a new premises licence or to a varied licence, if the application is granted.

1.11 **Representations**

1.11.1 Responsible Authorities

During the consultation period, the application was provided to the Responsible Authorities for consideration. The responses received from the Responsible Authorities are detailed in the following table:

Derbyshire Police Authority (North Division)	“...no representations from Police Licensing.”...
DDDC Environmental Health Public Health Team (Noise Pollution)	“...I did make comment that I do not have any objections to the proposed variation. We did receive a noise complaint from Mrs Else on 31/5/23 regarding loud music from the premises, but not specifically about the presence of the pop-up bar, which was in-situ at the time. However, we did not receive any completed diary sheets back from Mrs Else or any further communication after her initial complaint on 31/5/23, so the worksheet was closed. I do not believe that the presence of the pop-up bar and serving of alcohol outside will increase noise from the site, per se...”.
DDDC Environmental Health – Commercial Team (Health & Safety).	No Comments.

Derbyshire Fire & Rescue Service (Buxton)	"... The Fire and Rescue Authority has no objection to the granting of the proposed variation to the premises licence. ..."
Peak District National Park Planning Authority	No response.
Derbyshire County Council Trading Standards	No response.
Derbyshire Local Safeguarding Children Board	No response.
Derbyshire County Council Public Health	No response.
DDDC – Licensing Authority	No response required.

1.11.2 Other Persons

During the consultation period, representations in respect of the application were received from 5 local residents. 3 of the representations were in support of the variation and 2 were objecting to it on the grounds that if this variation is granted the Prevention of Public Nuisance and Public Safety licensing objectives, in particular, would be undermined.

The representations are produced in **Appendix 3**, for the Sub-Committee's consideration.

2 **The Hearing**

- 2.1 The Sub-Committee consists of 3 Members drawn from the full Licensing and Appeals Committee. The Members are Councillors Steve Wain, Neil Buttle and Lucy Peacock.
- 2.2 The Sub-Committee will be advised by Kerry France, Legal Services, and the report will be introduced by Eileen Tierney, Licensing Manager.
- 2.3 A copy of the procedure to be followed by the Sub-Committee is set out in **Appendix 4**, for information.
- 2.4 In determining the application for a premises licence the Sub-Committee will take into account the measures proposed by the applicant to promote the 4 licensing objectives and any relevant representation received and not withdrawn. The Committee will also take into account the provisions of the 2003 Act, and the most current Statutory Guidance issued to Licensing Authorities under section 182 of the Act. (April 2018).
- 2.5 The Committee will have regard to the District Council's most current Licensing Policy Statement republished under section 5 of the 2003 Act, in 2016. The Policy was reviewed and republished in January 2021 (to be reviewed again no later than January 2026).
- 2.6 In making its decision the Licensing Sub-Committee has powers to
 - approve the variation application;
 - reject the whole of the application;
 - reject part of the application;

- exclude licensable activities from the licence;
- restrict hours of the activities;
- and/or attach conditions consistent with the Operating Schedule part of the application, or other conditions deemed necessary and proportionate for the promotion of the licensing objectives.

2.7 The existing premises licence will remain intact if the variation is not granted as only the variation can be determined.