

**DERBYSHIRE DALES DISTRICT COUNCIL
LICENCING & APPEALS SUB-COMMITTEE**

DECISION

Licensing Act 2003

Hearing held on Wednesday 08th November 2023 at 10.30am

Full name of Applicant:	Lawrence William Key
Premises Address:	Bank House Bar & Restaurant, Main Road, Hathersage, S32 1BB
Application	Variation to Premises Licence Bank House Bar & Restaurant, Main Road, Hathersage, S32 1BB 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.
Members of the Sub Committee	Councillor Neil Buttle (Chair) Councillor Steve Wain Councillor Marilyn Franks
Legal Advisor	Kerry France Solicitor
Officers in Attendance	Eileen Tierney Licensing Manager Tommy Shaw Democratic Services Team Leader Lucy Harrison Democratic Services Assistant
Date of Decision	08 th November 2023

Reason for attendance at the Sub Committee:

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.

Recommendation

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.

Objection Representations

No objections were presented in person.

Support Representations

Sir Kevin Barron Applicant's Witness in support.

The meeting was conducted in public, with the agreement of all parties.

The Sub-Committee withdrew into private session to consider its decision and were advised by the Sub-Committee's legal representative that only evidence relevant to the four Licensing objectives could be taken into consideration and that it was important that any conditions attached to a Licence should be to promote the Licensing objectives.

Decision

The Sub-Committee resolved to grant the application, subject to the reduction in the applied for hours, (reducing them to 22:00) and the addition of the following conditions.

1. General outside lighting will be reduced after 10pm significantly so that only pathways around the site are illuminated from a low level to allow safe access and egress around the outside areas of the premises.
 2. The temporary bar in the outside area will be staffed on every occasion the bar is in use for the sale of alcohol. Any staff responsible for operating the bar will be fully trained in selling alcohol and in escalating any issues they are unable to resolve, to the Premises Licence Holder/Designated Premises Supervisor or a person nominated.
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Reasons

In reaching its decision the Sub-Committee had regard to

- The licensing objectives,
 - the prevention of crime and disorder.
 - public safety.
 - the prevention of public nuisance; and
 - the protection of children from harm.
- The Council's statement of licensing policy,
- The Statutory Guidance issued under section 182 of the Licensing Act 2003
- The Application for Variation
- The Report by the Licensing Manager
- Both the written and oral representations made to the Sub-Committee by
 - the Applicant
 - Sir Kevin Barron who supported the application

- The written representations made by Mr & Mrs Bell and Mr Hodgson in support.
- The written representations made by Ms Gallagher and Mrs Else in objection.

The Sub-Committee considered the report and comments made by the Licensing Manager including details of the application for a variation of the Premises Licence at Bank House Bar & Restaurant.

There was careful consideration of the current licence of this premise and the Sub-Committee were clear that this application only related to the sale of alcohol at the outside area of the property which already benefits from the consumption of alcohol which is not a licensable activity. Thus, noting there would be no change to the public enjoyment of the outside area.

The Sub-Committee further noted that even if the application was refused the business would still operate as they do currently and the sale of alcohol in the outside area was based on an operational matter for reducing the number staff and customers from entering and exiting Bank House Bar and Restaurant. The variation would simply complement the business and enable the business to operate in a more streamlined and effective way. With this in mind the Sub-Committee noted that the consumption of alcohol in the area would remain regardless of the outcome of this application.

The Sub-Committee considered that should this variation be granted this may encourage more occasions of drinking outside. Therefore, including a condition requiring lights to be reduced at 10pm would promote the objective of the prevention of public nuisance as patrons would be encouraged to move their activity inside the establishment at 10pm.

The Sub-Committee further deliberated that should this variation be granted; it would be beneficial in the prevention of crime and disorder that the temporary bar be staffed at all times of operation. It was noted by the Sub-Committee that the applicant provides communication devices (earpieces) that are utilised by staff for maintaining contact and to report and incidents. Consequently, the condition relating to staffing the bar is to be included to further this licensing objective.

The Sub-Committee was advised by the applicant that the intention for the pop-up bar was to be a barrel and tap not a fully stocked bar.

The Sub-Committee noted that Environmental Health Service had not objected to the application, stating that they did not believe that the presence of the pop-up bar and serving of alcohol outside will increase noise from the site, per se..." As one of the overriding principals of the Licensing Act 2003 is the "prevention" of public nuisance, on the balance of probabilities the Sub-Committee felt occupiers of properties, whose houses are situated next to the property may suffer public nuisance if the hours for service of alcohol were not reduced to 22:00 (it was 23:00 in the application) Any need to serve alcohol, earlier than 10:00hrs and later than 22:00, for ad hoc events/occasions can be dealt with by the use of Temporary Event Notices which are designed for such occasions.

It is also open to the applicant to come back to the Licensing Authority, at any point in the future to apply for a variation after showing the use of Temporary Event Notices has not caused any such nuisance.

In all the circumstances and taking into account the 4 Licensing Objectives which are key and paramount, on the evidence before them the Sub-Committee feel this decision is

appropriate and proportional to ensure the application can be granted whilst promoting the Licensing Objectives.

Date of decision: 08th November 2023

Councillor Neil Buttle
Chair
Licensing & Appeals Sub-Committee

There is a right of appeal to the Magistrates Court against the decision of the licensing authority.

Such right of appeal must be exercised within 21 days of receipt of this notice.

How to appeal

You should appeal in writing to the designated officer for the magistrates' court in the area where the premises is situated.

In Derbyshire this is usually:

North East Derbyshire & Dales Magistrates Court

Chesterfield magistrates court,
Chesterfield Justice Centre
Tapton Lane
Chesterfield
S41 7TW

or

Southern Derbyshire Magistrates Court

The Court House
St Mary's Gate
Derby
DE1 3JR

You must make your appeal within 21 days of being formally told of the Licensing Committees' decision in writing.