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LICENSING & APPEALS SUB-COMMITTEE

Minutes of a Meeting held on Monday 23 September 2019 in the Council Chamber, Town Hall, Matlock DE4 3NN at 10.30am

PRESENT

Councillor Tom Donnelly - In the Chair

Councillors Jacqueline Allison and Joyce Pawley

Eileen Tierney (Licensing Manager), Lee Gardner (Legal Services Manager) and Simon Johnson (Democratic Services Officer)

Mr Lawrence Key (Applicant) and Mr Samuel Bell (Applicant's Employer).

Councillor Peter O'Brien (on behalf of representations), Ms Elizabeth McWhinnie (Representation), Mr John David Else (Representation) and Dr Christine Knight (Representation).

4 Members of the Public

143/19 – ELECTION OF CHAIRMAN

It was moved by Councillor Joyce Pawley, seconded by Councillor Jacqueline Allison and

RESOLVED (Unanimously)

That Councillor Tom Donnelly be elected as Chairman of the Sub-Committee

144/19 – LICENSING ACT 2003 - APPLICATION FOR PREMISES LICENCE: BANK HOUSE BAR AND RESTAURANT, BANK HOUSE, MAIN ROAD, HATHERSAGE, DERBYSHIRE S32 1BB.

The Sub-Committee considered an application for a variation of Premises Licence made under section 34 of the Licensing Act 2003, held in respect of Bank House Bar and Restaurant in Hathersage.

The Chairman invited the participants to introduce themselves, asked whether any party wished the Sub-Committee to consider the application in private and confirmed that the Sub-Committee was quorate.

The Licensing Manager gave an outline of the application.

The Licensing Manager further informed the Committee that some representations received and published in the report should not have been accepted as they are not in close proximity to or directly affected by the application.

The Sub-Committee and the other parties were afforded an opportunity to request clarification of the Licensing Manager's report.

The Sub-Committee then heard representations from the following:

- Councillor Peter O'Brien on behalf of Mr & Mrs Graham and Ms Jean Percival.
- Ms Elizabeth McWhinnie
- Mr John David Else
- Dr Christine Knight

The Sub-Committee had the opportunity to question any of those making representation. The Applicant, Mr Lawrence Key and the Applicant's Employer, Mr Samuel Bell were also afforded the opportunity to request clarification of any points.

Mr Lawrence Key and Mr Samuel Bell then presented their case for the Bank House Bar and Restaurant.

The Sub-Committee had an opportunity to question the Applicant and the Applicant's Employer.

All parties were afforded an opportunity to request clarification of any points.

The Sub-Committee members confirmed that they had sufficient information to make a decision and withdrew into private session to discuss their findings.

145/19 – DECISION

The Sub-Committee resumed in public session.

It was moved by Councillor Joyce Pawley, seconded by Councillor Jacqueline Allison and

RESOLVED The Sub-Committee has heard from the Licensing Manager, Ms Eileen Tierney, Mr Lawrence Key the Applicant, Mr Samuel Bell the Applicant's Employer and those making representation objecting to the application. The Sub-Committee has also considered the written representations appended to the Report.

Following careful consideration of the representations put forward the Sub-Committee has resolved that the application to vary the premise licence be refused

VOTE:

For	1
Against	2
Abstain	0

A full decision notice will be issued and sent out with 5 working days.

Rights of Appeal against this decision should be made to the Magistrates' Court acting for the petty sessional area in which the premises are located. You must do this in writing within 21 days of the date of the written Notice of Decision.

Meeting Closed 12.10pm

(Licensing Act 2003)

Record of proceedings of the Derbyshire Dales District Council's Licensing & Appeals Sub-Committee held on Monday 23 September 2019 at 10.30am.

Full name of Applicant: Mr Lawrence William Key

Premises Address: Bank House Bar and Restaurant, Main Road, Hathersage, Derbyshire S32 1BB

Reason for attendance at the Sub Committee: To determine an application for a variation of Premises Licence made under section 34 of the Licensing Act 2003, to allow the sale of alcohol (for consumption on and off the premises) in the outside area of the premises between the hours of 10:00am and 11:00pm.

CONSTITUTION OF COMMITTEE

Councillor Tom Donnelly (Chair)
Councillor Jacqueline Allison
Councillor Joyce Pawley

REPRESENTATIONS MADE BY

- Councillor Peter O'Brien on behalf of Mr & Mrs Graham and Ms Jean Percival.
 - Ms Elizabeth McWhinnie and on behalf of Dr Christine Eagles, Ms Lydia Keigwin and Ms Marion Codd.
 - Mr John David Else and on behalf of Mrs Else and Mr Simon Gedye.
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NAMES OF OTHERS PRESENT (WRITE "NONE" WHERE APPROPRIATE)

Eileen Tierney – Licensing Manager
Lee Gardner – Legal Services Manager
Simon Johnson – Democratic Services Officer

PREMISES REPRESENTATIVES

Mr Lawrence William Key – Applicant
Mr Samuel Bell – Applicant's Employer

1. 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 legal representative that only evidence that was 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.

2. Chairpersons note of evidence (i.e. concise details of all oral and written details put before the Committee)

The Sub-Committee considered the report and comments made by the Licensing Manager including details of the application for a variation of Premises Licence to seeking to allow the sale of alcohol for consumption on the premises and in the outside area of the premises between the hours of 10:00am and 11:00pm.

The Sub-Committee heard from Licensing Manager further that some representations received and published in the report should not have been accepted as they are not in close proximity to or directly affected by the application.

The Sub-Committee heard from the Licensing Manager that there had not been any objections from the responsible authorities during the consultation period.

The Sub-Committee listened carefully to the representations by those present on current levels of anti-social behaviour, noise nuisance, light pollution disruption to the residents living by the Bank House Bar and Restaurant.

Mr Key and Mr Bell informed the Sub-Committee that the application would be for the variation of the current Premises License to facilitate events and services already supplied subject to the issue of Temporary Event Notices; this would allow the premises to operate outside in the same manner as inside the premises on a year round basis. The Sub-Committee was further informed that the premises operates a robust control of anti-social behaviour and is mindful of the neighbouring residential properties during licenced hours.

Mr Key and Mr Bell were questioned by both the Sub-Committee and those making representations on the following points:

- Operating hours
- Supply of alcohol during operational hours.
- Supply of non-glass receptacles off the premises.
- Monitoring and control of noise nuisance and light pollution
- Control of anti-social behaviour
- Access and road marking of private driveway
- Number of temporary events that may be held during the year.

3. Findings of the Sub-Committee on questions of fact material to the decision (i.e. the relevant facts accepted from the evidence available)

Are detailed in the Reason for the Decision.

4. Full text of unanimous decision

RESOLVED	<p>The Sub-Committee has heard from the Licensing Manager, Ms Eileen Tierney, Mr Lawrence Key the Applicant, Mr Samuel Bell the Applicant's Employer and those making representation objecting to the application. The Sub-Committee has also considered the written representations appended to the Report.</p> <p>Following careful consideration of the representations put forward the Sub-Committee has resolved that the application to vary the premise licence be refused</p>
VOTE:	
For	1
Against	2
Abstain	0
<p>A full decision notice will be issued and sent out with 5 working days.</p> <p>Rights of Appeal against this decision should be made to the Magistrates' Court acting for the petty sessional area in which the premises are located. You must do this in writing within 21 days of the date of the written Notice of Decision.</p>	

Reasons for Decision

On 30 July 2019 an application was received from Lawrence William Key to vary the existing Premises Licence held in respect of the Bank House Bar and Restaurant, Main Street, Hathersage. The application seeks to permit the sale of alcohol in the outside area of the premises (for consumption on and off the premises), between the hours of 10am and 11pm.

The Sub-Committee considered that the relevant licensing objective is 'The Prevention of Public Nuisance'. The Sub-Committee heard a number of representations regarding planning obligations at the premises, however accepts that the licensing and planning matters must be considered separately.

The Sub-Committee further confirmed that the decision was based solely on the application to vary and not with regards to the existing licence.

The Sub-Committee also confirmed that in reaching its decision it had regards to the evidence presented in the report, the evidence presented at the Sub-Committee hearing, together with the Council's Licensing Policy and statutory government guidance ("sc182 Guidance")

The Sub-Committee in considering all the evidence and guidance resolved that the application to vary the premises license be refused.

The Sub-Committee heard evidence from local residents regarding the proximity of residential properties to the licenced premises and also saw from pictures how close local roads were to the outside area.

The Sub-Committee heard further evidence as to the disruption that the premises causes to local residents, from noise nuisance caused by loud customers.

The Sub-Committee heard further evidence as to the disruption that the premises causes to local residents, from noise nuisance caused by loud customers. The Sub-Committee however were minded that there were no representations from Environmental Health and only one complaint from those that made representations.

The Sub-Committee heard from the applicants regarding the procedures they have in place to address the licensing objectives. They further heard that they had voluntarily shut the outside area from 10pm due to concerns of noise from the outside area.

When questioned about why they wanted an outside bar the applicants confirmed that they wished to reduce patrons having to come in and out thus reducing people coming over public access, Also that they can better manage the area as a member of staff was outside servicing on a permanent basis. It would also mean the premises would not have to apply for Temporary Event Notices ("TENs") for special events like the local gala.

The Sub-Committee were referred to the sc182 Guidance sections 2.15 to 2.21 regarding public nuisance. It considered that by placing a bar in the outside area would increase the number of patrons using the outside area and also that patrons which may have stayed inside the premises would be encouraged to stay outside.

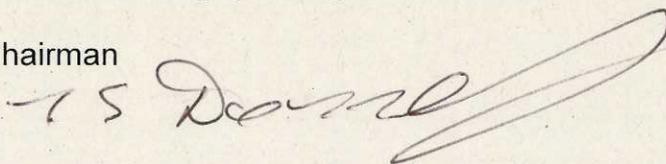
It also considered whether this would be used mainly at times when the premises would have applied for TENs. This seemed to be in contradiction to the statement made in answer to the question of why the premises wanted the variation. The answer to that questions was so that patrons did not have to go in and out of the premises. This would not be at just special events, but would apply at any time and members were concerned that the outside bar would be set up on a regular basis during the summer months.

Thus the Sub-Committee did not accept that the main reason for the variation was to remove the need for TENs applications. The Sub-Committee considered the use of TENs meant they would be restricted to 15 occasions a year, to approve the variation would mean that it would be possible for them to open a bar in the outside area 365 days a year which was considered excessive if the aim was to cover occasional events.

The Sub-Committee considered if they were able to grant the variation with sufficient conditions on the licence to reduce the potential public nuisance. The Sub-Committee accepted that the licence holders had addressed themselves to the licensing objectives and had put processes in place to address these issues, however when considering where the premises is located and the proximity of residential properties, the Sub-Committee could not see how conditions would address the increased noise from patrons that the outside bar would cause.

As such the Sub-Committee concluded, on a 2 to 1, majority that the licensing objectives were not met by granting the variation.

Chairman



Date 23/09/2019