

Application for the review of a premises licence or club premises certificate 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 Chief Inspector Jon Kirby on behalf of the Chief Officer of Police.

(Insert name of applicant)

apply for the review of a premises licence under section 51 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description The Beverage Bank (AKA: The Vault) 1 The Row New Ash Green Longfield	
Post town New Ash Green	Post code (if known) DA3 8JB

Name of premises licence holder or club holding club premises certificate (if known) Mr Kenneth Kirkman
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Number of premises licence or club premises certificate (if known)

Part 2 – Applicant details

I am

Please tick yes

1) an interested part (please complete (A) or (B) below)

- | | |
|---|--------------------------|
| a) a person living in the vicinity of the premises | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |

2) a responsible authority (please complete (C) below) ☒

3 a member of the club to which this application relates (please complete (A) below)

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(A) DETAILS OF INDIVIDUAL APPLICANT (fill in a applicable)

Please tick

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title ☐
(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

☐

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

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(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Kent Police Council Offices Argyle Road Sevenoaks TN13 1HG
Telephone number (if any) <div style="background-color: black; width: 100px; height: 1.2em; margin-top: 5px;"></div>
E-mail address (optional) <div style="background-color: black; width: 300px; height: 1.2em; margin-top: 5px;"></div>

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

The Beverage Bank is situated on the Row in New Ash Green, Kent and is one of two pubs in the main town. The premises licence holder and DPS is a Mr Kenneth Kirkman.

The location was granted a premises licence on 31st of January 2019 - following Kent Police making representations relating to the initial application that was received. These conditions were sent to the applicant on 30th of January 2019 and all of the representations were agreed by the applicant (Mr Kirkman) on 31st of January.

The authorised licensable activity times are recorded on the licence as 11:00 to 23:00 Monday to Thursday, 11:00 to 00:00 Friday and Saturday, and 11:00 to 22:30 on a Sunday. The only exceptions to these times are on a bank holiday when the sale or supply of alcohol is permitted until 01:00am. The licence conditions are listed below:

Annex 3 – Conditions consistent with the Operating Schedule

1. Custom will not be sought by solicitation outside of the premises.
2. CCTV will be in operation and recording at the premises at all times that the premises are open to the public. All images will be retained for a period of not less than 30 days.
3. CCTV will cover the main trading area and entrance as a minimum.
4. A member of staff trained in the use of the CCTV system must be available at the premises at all times that the premises are open to the public.
5. Signage will be displayed advising customers that CCTV is in operation.

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6. A log will be maintained of all incidents occurring at the premises, whether police were called or not.
7. Large, clear and bold signage will be displayed at the exit and in any outside area used by patrons requesting customers and staff to respect the neighbours and not cause unnecessary noise.
8. Outside areas used by patrons for any purpose will be closely monitored by staff to ensure there is no disturbance or anti-social behaviour.
9. All staff responsible for the sale of alcohol will receive training in all aspects of the requirements of the licensing act, such training will be documented and available for inspection by responsible authorities upon a reasonable request being made.
10. All staff will be trained in respect to Environmental Health Requirements.
11. Challenge 25 will be in operation at the premises at all times, clear signage will be displayed to advise all customers of it.
12. A refusals log will be kept and maintained at the premises of sale refused for any reason, ie age, drunkenness etc
13. Prevention and vigilance in illegal drug use at retail and unit area.
14. Bottles and other waste should not be removed from the premises and tipped into refuse and recycling bins between the hours of 21:00 and 08:00. Waste and recycling bins utilised shall be lidded and large enough to hold all waste generated by the premises.
15. Hours for deliveries to and collections from the premises shall be between 08:00 to 20:00 Monday to Saturday and 09:00 and 17:00 on Sundays.
16. Signage used to advise patrons and staff to be quiet when leaving the premises shall be large, bold and clearly displayed for all patrons to see.
17. A log shall be maintained of all noise complaints received by the premises, and any inspections carried out in accordance with the running of the business or those required under statute. The Log book(s) will be available when requested by persons authorised under the Licensing Act 2003 or associated legislation.
18. Any doors and windows to the bar shall be kept shut after 20:00 with the exception of doors being opened to allow access and egress of patrons.
19. Customers temporarily leaving the premises e.g. to smoke, shall not be permitted to take drinks or open glass containers with them.
20. Customers will be asked not to stand in the street talking, to a level which would cause nuisance to nearby residents.
21. Customers will not be permitted to remain on the premises beyond the opening hours.
22. Internal and external fixed lighting for Public safety.

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Kent Police are seeking a review of the premises licence due to concerns surrounding the current licence holder/DPS and issues with compliance with the premises licence as granted. Kent Police believes that recent incidents at the premises have questioned whether Mr Kirkman is 'fit and proper' to be in the position of premises licence holder or Designated Premises Supervisor. It is felt by Kent Police that Mr Kirkman is failing to uphold his responsibilities as a Designated Premises Supervisor, and failing to work with the relevant authorities in order to ensure he is adhering to the relevant licensing objectives.

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Please provide as much information as possible to support the application

(please read guidance note 2)

Kent Police believes that the licensing objectives of the Prevention of Crime and Disorder, Public Safety and Prevention of Public Nuisance are being undermined as evidenced below.

A visit by police was conducted on 21/03/19 and the venue did not appear to be ready to open, building work was being conducted and nobody was present. It is not clear when the premises opened for business.

Since opening there has been interaction between the DPS, police and the licensing authority. On 15/07/19 Kent Police attended the premises to conduct a licensing check and there was one member of staff on duty at the pub. The premises licence was not on display and despite requesting to see a copy the staff member was unable to locate it. The member of staff advised that he had not received any licensing training, despite condition 9 on the licence stating that all staff are to receive training 'in all aspects of the requirements of the licensing act'. There were customers within the pub at the time of this visit and the DPS was reported to be upstairs asleep as he was unwell. It was noted that a seating area had been erected at the rear of the premises which raises concerns as the premises licence does not permit customers to remove open drinking vessels from the premises, as defined in Condition 19.

A further visit was arranged with the DPS by phone and this took place on 19/07/19, a member of the Sevenoaks District Council Licensing Team was also in attendance. The DPS was present along with his partner. Issues surrounding the previous visit on the 15th were discussed and Mr Kirkman stated that the licence was not previously displayed as the he was in the process of getting it re-framed, it was displayed at the time of this visit. Mr Kirkman and his partner outlined that the area at the rear of premises was being used by customers to smoke. They were reminded of condition 19 and the fact that an application for a variation of the licence would be required should they wish to use the outside area for licensable activity. It was also identified that the premises had changed its name to 'The Vault', the Licensing Authority had not been advised of this change resulting in the premises licence having the incorrect details. This was also discussed and Mr Kirkman was advised that he is required to make an application for a change of name via the Licensing Authority. The full process was explained to Mr Kirkman and the visit was finalised with him stating he would do what was required surrounding the variation to the licence to incorporate an outside drinking area and change of name.

To date Mr Kirkman has not contacted the Local Authority in order to change the name of the premises or submit a variation to the licence in relation to condition 19.

At 12:52 on 16/09/19 Kent Police received a call via the 999 system, the caller identified himself as Mr Kirkman, [REDACTED]

[REDACTED] He stated he had put the fire out and refusing to leave. Police attended the scene and spoke with Mr Kirkman in the outside seating area. The assessment of Mr Kirkman, by the attending officers, was that he was intoxicated and obstructive (see appendix 2). His demeanour and level of intoxication is evidenced by officers within their statements and on their body worn video. Officers could not gain access to the upstairs area due to the door being locked, Mr Kirkman stated he did not have the keys despite him stating it was his living area. He was seen to be laughing about the incident when asked questions. Customers were observed to still be inside the pub and customers were also observed drinking outside with Mr Kirkman, this within the previously discussed outside seating area. There seemed to be complete disregard for the fact that police were present or for the fact that there was potentially a lit fire upstairs. [REDACTED]

[REDACTED] Kent Fire and Rescue Service (KFRS) attended the scene and confirmed that there was evidence of a fire within the upstairs hallway. Kent Police Scenes of crime officers conclude that the fire was a deliberate act and not an electrical fire, as had previously been alleged. KFRS served a prohibition notice to Mr Kirkman preventing the use of the living area, at the point of this review application the prohibition notice is still in place.

Kent Fire and Rescue Service have been contacted following the incident and conclude that the cause of the fire was a deliberate act. The crew that attended had concerns that customers were still present within the public house on their attendance, despite the report of a fire upstairs. Body Worn Video of attending police officers shows that a member of staff was still serving customers.

The fire itself was described as being small and was at the top of the stairs, within the living quarters. It was

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confirmed by Kent Police Scenes of Crimes officers as being ignited by setting fire to clothing on the floor. The ignition was deemed to be a deliberate act. Despite the fire being extinguished there was safety concerns as an electrical heater, directly above the fire, was sparking and posed a further risk to safety - hence the power was cut and a prohibition notice placed on the upstairs living area.

The attending officers have provided a statement and Body Worn Camera Video (BWV), see appendix 1 for statement of attending officer: PC 14470 ROOTES.

Mr Kirkman is declining to support a prosecution in relation to this incident, further allegations have been made by both parties involved and currently investigations are ongoing.

On Wednesday 13th November 2019 Police and the local authority Licensing Department met with Mr Kirkman at the venue in order to raise the issues and concerns that had been identified following the incident mentioned above. Strong words of advice were given to Mr Kirkman and it was expressed that Kent Police did not feel he was fit, proper or responsible enough to remain as the Designated Supervisor. It was agreed that he would find a suitable replacement and as such would submit a variation. Mr Kirkman agreed to a deadline of 16th of December in order for the DPS variation to be complete. It was explained that failure to do so would likely result in a review of the licence. PC Comben confirmed with Mr Kirkman that he had all of the relevant contact details for police and the licensing department should he require any assistance with the process.

As part of the visit a full licensing check was conducted and it was identified that Mr Kirkman was in breach of a number of licence conditions.

Namely Condition:

2&3 - CCTV - Was working but Mr Kirkman could not log onto the system - there was no camera covering the main entrance.

6 - Logs of incidents - a log book was produced but completely blank. No entry of any incidents, despite the recent incident surrounding the arson. 9 - No evidence of any staff training - Mr Kirkman advised he has a new member of staff [REDACTED] due to start but could not advise what training he had provided.

10 - Training (environmental health) no evidence of any training.

19 - Customers still leaving the public house with drinks, to drink them in the rear 'smoking area'. Mr Kirkman has previously been visited (July 2019) surrounding this and warned that he is in breach of his licence by allowing customers to leave with alcoholic drinks. He appeared to have previously erected a drinking area at the rear of the premises (outside) and despite advising him to stop the activity, however there was evidence on the officer BWV (when they attended the arson) to show that Mr Kirkman and other customers were drinking outside at the rear of the pub.

Mr Kirkman was again given stern words of advice surrounding all of the breaches and told he will be visited again in two weeks to check compliance.

Following the visit on 13/11/2019 Mr Kirkman was sent a letter (appendix 2) by Kent Police licensing department (PC COMBEN). This outlined the issues/breaches identified. This letter was sent on: Monday 18th November 2019.

On Wednesday 27th November 2019 PC COMBEN attended as part of a follow up licensing check, this was linked to the previous visit on 13/11/2019 and the follow up letter sent on 18/11/2019. Mr Kirkman was present along with his partner.

The CCTV system was in full operation and Mr Kirkman showed footage of the outside area on previous evenings - there was no evidence to show that the outside area is being used for drinking.

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It was also reiterated that the change of DPS deadline (16/12/2020) still stood and that the expectation was that he will have a new DPS in place by this date - Mr Kirkman confirmed that he had started the process of removing himself and felt he had a suitable replacement.

PC COMBEN called Mr Kirkman on the date of the deadline (16/12/2020) and he advised that he was still awaiting the results of a CRB check which had been submitted for the proposed DPS. He advised that the process would take two weeks.

On 06/01/2020 PC COMBEN called Mr Kirkman to ascertain why no DPS variation had been received. He advised that he was still awaiting the CRB checks to be returned for the proposed DPS. Mr Kirkman was asked if he fully understood the process of making variation, which he confirmed he did. It was reiterated that should he face any difficulties or didn't understand then he must call either the Local Authority or PC COMBEN. Mr Kirkman stated he would chase the department conducting the checks and provide an update. Mr Kirkman was advised, given the circumstances, he had until the 31/01/2020 for the relevant DPS variation to be made. PC COMBEN asked Mr Kirkman to email or text the details of the proposed DPS, these details were received via text message on 08/01/2020.

On 28/01/2020 PC COMBEN received a text message from Mr Kirkman stating "LICENCE SHOULD BE HERE BY FRIDAY". PC COMBEN then called Mr Kirkman whereby he stated he there had been an issue with the personal licence of the proposed DPS being granted, this because Mr Kirkman had signed some of the paperwork incorrectly. It was again reiterated that should he not have the variation submitted by the 31/01/2020 then a review would be invoked. PC COMBEN requested that he contact the Local Authority as a matter of urgency, this in order to ensure he was submitting the application correctly. Mr Kirkman advised he would personally attend Sevenoaks District Council. No further contact has been received from Mr Kirkman and to date no DPS variation application has been received by the Local Authority Licensing Department.

It has been evidenced above that despite numerous attempts to work with Mr Kirkman it is clear that he does not appear to be taking the matter seriously and there is a complete lack of urgency. Face to face meetings have taken place in order to outline the concerns of Kent Police yet Mr Kirkman has failed to meet any of the deadlines set.

Kent Police are now calling a review of the premises licence and request that consideration is given to the revocation of the premises licence, the premises licence holder has demonstrated little regard to operating his premises in accordance with the premises licence as initially granted. Kent Police do not believe that the premises licence holder will actively strive to uphold the licensing objectives and that his attitude and behaviour whilst running this premises has given rise to serious concerns for the safety of the members of the public attending the venue as well as the safety of the wider community, which will undoubtedly be affected by this premises. As highlighted above, Mr Kirkman has acted in a negligent manner despite knowing there was a serious risk of harm to his customers by not ensuring all customers and staff were away from the premises. His actions are deemed so serious that further efforts of engagement short of review are deemed inappropriate.

Appendix 1 = redacted statement from PC 14470 ROOTES

Appendix 2 = Letter sent to Mr Kirkman by PC 12876 COMBEN

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Please tick yes

Have you made an application for review relating to this premises before ☐

If yes please state the date of that application

Day		Month		Year	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to this premises please state what they were and when you made them

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Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☐
- I understand that if I do not comply with the above requirements my application will be rejected ☐

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent
(See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

10 / 02 / 2020.

Capacity

LICENSING OFFICER.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

SEVENDALS POLICE STATION
ARGYLE RD.
SEVENDALS
KENT.

Post town SEVENDALS

Post code TN13 1HG

Telephone number (if any)

If you would prefer us to correspond with you using an e mail address your e mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.