

## LICENSING SUB-COMMITTEE

TUESDAY 27 APRIL 2021

09:45 – 10:39

Councillor Olly Wehring     **Chair**  
Councillor Simon Edwards  
Councillor Katrina Lidbetter

### 1. APPOINTMENT OF CHAIR

It was proposed by Councillor Lidbetter, duly seconded and

**Resolved**, that Councillor Wehring was appointed 'Chair' for the duration of the meeting.

### 2. DECLARATIONS OF INTEREST

Councillor Lidbetter declared that she knew of one of the residents who had made objections to the licensing application through her church. It was confirmed that her association with the other person was not sufficient enough to affect her judgment in any way.

### 3. MINUTES

The minutes of the previous meeting held on 13 April 2021 will be approved at a later date.

### 4. NIKU BAR & RESTAURANT - 90-92 EWELL ROAD, SURBITON,     **Appendix A** **KT6 6EX**

The Licensing Officer introduced the matter for determination and informed the Licensing Sub-Committee that V&Z Garden Limited had applied for a variation of the existing Premises Licence, to extend the use of the external area labelled as (A) on the plan attached to the licence from 21:00 to 22:00 hours and to amend conditions 16 and 31 accordingly, in respect of the premises known as Niku Bar & Restaurant, 90-92 Ewell Road, Surbiton, KT6 6EX.

The application sought to amend conditions 16 and 31 as follows:

Condition 16:

16. The external decking area as defined on the attached plan as (A) shall be cleared of customers by 22.00 hours every evening and will remain closed to all customers.

Condition 31:

31. Patrons permitted to temporarily leave and then re-enter the premises shall smoke only in the designated smoking area defined as the external decking area (A) and external smoking area (B) up to 22.00. For the avoidance of doubt, smoking is prohibited in the side alleyway during the hours of opening.

The Licensing Officer informed the Licensing Sub-Committee that the current hours of licensable activities and operation were laid out in Annex 3 and that no other amendment to the hours of operation, authorisation or other conditions were being sought.

The Licensing Officer explained that the applicant had advertised the application, as required, by way of a poster at the premises and by advertisement in a local newspaper and that the application had also been advertised on the Council's website for the full consultation period. In addition, some 480 addresses were consulted in writing and informed that an application had been received. 4 valid representations were received from Other Persons. The representations referred to matters that related to public nuisance and public safety licensing objectives. Copies of the representations were attached at Annex 5.

It was confirmed that all Responsible Authorities received a copy of the application and no representations were received from those Responsible Authorities.

The Licensing Sub-Committee first heard from the applicant who explained that the reasoning behind the application was so that both garden areas would close at the same time to avoid any confusion among patrons. The applicant also clarified that the impact of the coronavirus pandemic has forced the owners of the premises to try and utilise the garden area as much as possible. Licensing officers and members of Kingston's police force have visited the premises and have approved of the coronavirus-related measures currently in place.

The Licensing Sub-Committee queried the applicant on smoking in the external area and where it would be permitted. The applicant explained that they have chosen to only permit smoking in a designated area (labelled as B on the plan attached to the licence) away from other customers so as to not impact their dining experience and also reduce the likelihood of smoke disturbing neighbouring residents. The applicant also explained that they are planning to install an air ventilation system for the smoking area.

Clarification was also sought by the Licensing Sub-Committee regarding the premises dispersal policy due to this being identified as an issue of public safety and public nuisance in the representations from other persons. The applicant explained that they have now adopted a policy to disperse patrons in groups and ensure that they have prepared their transport home in advance of leaving the premises. This was introduced in order to avoid many people leaving the premises at the same time and causing a public nuisance to neighbouring residents.

In response to a general query by the Licensing Sub-Committee on the layout and operation of the external area, the applicant explained that there are around 20 outdoor dining tables and that they would only permit drinks to be consumed with meals in the external area as part of their booking policy and as required by the terms and conditions of their Premises Licence.

The Licensing Sub-Committee then heard a representation made by Charles Bamford, a neighbouring resident who objected to the application on the grounds of public health and safety, as well as it causing a public nuisance if approved. He raised issues regarding unsuitable noise from customers leaving the premises, litter on their property and cigarette smoke from departing customers at the front of the premises entering his property.

The Licensing Sub-Committee members queried Mr Bamford on whether he could directly attribute the public nuisance to the premises. Mr Bamford explained that the instances of public disturbance most usually occur at closing time of the premises due to many customers leaving and that he and his wife had faced difficulty in getting in contact with the premises owner to inform them of such disturbances in order to find a resolution. Mr Bamford further added that door staff finished before closing time of the premises so were often not present to assist in reducing public nuisance from customers leaving the premises later.

In response to the Licensing Sub-Committee asking if he had successfully made contact with the relevant authorities, Mr Bamford explained that he had raised his concerns with the Kingston Police Licensing officer and was encouraged to take and share videos of disturbances. He has also attempted to make contact with the owners of the premises to address issues of public nuisance but has had low levels of success in terms of engagement.

### Reasoning

In making their decision, the Licensing Sub-Committee considered the merits of the application and had regard to the Council's Statement of Licensing Policy and guidance issued by the Secretary of State under section 182 of the Licensing Act 2003. The Licensing Sub-Committee considered the steps which were appropriate and proportionate to promote the licensing objectives, and after taking account of all relevant issues that had been raised in the application and by the written and verbal representations, decided to GRANT the application in part to VARY the premises licence subject to conditions as set out below.

The Licensing Sub-Committee had regard to the relevant written representations from four residents which raised concerns relating to public safety and the prevention of public nuisance licensing objectives and agreed to impose some additional conditions with the aim of reducing the likelihood of any further issues arising.

It was considered that staggered closing may now cause more noise than a single closure of the outside areas. The partial grant only allowed the extension sought to apply to the weekends when there were later hours.

### Decision

The Licensing Sub-Committee decided to grant the variation of the PREMISES Licence, subject to conditions, for the use of the external area labelled as (A) on the plan attached to the licence is extended from 21:00 to 22:00 hours on Fridays and Saturdays only.

### **The existing conditions 16 and 31 were amended as set out below:**

#### The prevention of public nuisance

Condition 16 on the current licence to be amended to:

- The external decking area as defined on the attached plan as (A) shall not be used by customers after 21:00 hours Sunday to Thursday and 22.00 hours on Fridays and Saturdays and will remain closed to all customers.

Condition 31 on the current licence to be amended to:

- Patrons permitted to temporarily leave and then re-enter the premises shall smoke only in the designated smoking areas as follows:
  - external decking area (A) until 21:00 hours Sunday to Thursday and 22.00 hours on Friday and Saturday; and
  - external smoking area (B) until 22.00 hours every day.
- Smoking is prohibited by customers in the side alleyway during the hours of opening.

**The following additional conditions were imposed by the Licensing Sub Committee:**

The prevention of public nuisance

- A direct mobile telephone number for the manager at the premises shall be publically available at all times the premises is open in case of noise management issues or emergency. This telephone number is to be made available to residents and businesses in the vicinity of the premises. The Premises Licence holder must maintain direct contact availability by mobile telephone call until at least 30 minutes after closing for the real time reporting of disturbances by neighbouring residents.
- All wall mounted lighting within the external areas of the premises must be downward facing so as not to cause a nuisance to nearby properties.

The prevention of crime & disorder

- A Security Industry Authority (SIA) registered door supervisor or member of staff shall remain on duty to supervise the area immediately outside the premises and customers dispersing until 15 minutes after the last customer has left the premises.
- During the hours of operation of the premises, the Premises Licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business each day.

**5. URGENT ITEMS AUTHORISED BY THE CHAIR**

There were no urgent items.

**6. EXCLUSION OF THE PRESS AND PUBLIC**

This item was not required.

Signed.....Date.....  
Chair