

## LICENSING SUB-COMMITTEE

MONDAY 14 JUNE 2021

(9:45 - 11:45 am)

Councillor Simon Edwards  
Councillor Hilary Gander (Chair)  
Councillor Katrina Lidbetter

### 1. APPOINTMENT OF CHAIR

Moved by Councillor Lidbetter, seconded by Councillor Edwards and  
**Resolved**, that Councillor Gander be appointed Chair for the duration of the meeting.

### 2. DECLARATIONS OF INTEREST

Councillor Lidbetter and Councillor Edwards declared that as members of the Kingston Town Neighbourhood Committee and the Planning Committee respectively, it was possible that the Lidl planning application could be heard by one those committees in the near future.

The application before the Licensing Sub-Committee would be considered on distinct licensing principles (promotion of the Licensing Objectives, appropriate and proportionate decisions balanced against the competing interests of the parties in a fair hearing) as opposed to planning considerations.

Any decisions made by Councillor Lidbetter and Councillor Edwards would be based solely on those distinct licensing principles.

### 3. MINUTES

**Resolved**, that the minutes of the meeting held on 19 May 2021 be confirmed as correct.

### 4. LIDL – 153-161 LONDON ROAD, KINGSTON UPON THAMES, Appendix A KT2 6NU

The Licensing Officer introduced the matter for determination and informed the Licensing Sub-Committee that Lidl had applied for a New Premises Licence to permit the sale by retail of alcohol for consumption off the premises, from 07:00 hours to 23:00 hours daily, in respect of the premises known as Lidl, 153-161 London Road, Kingston Upon Thames, KT2 6NU.

The Licensing Officer informed the Licensing Sub-Committee that the proposed hours of operation were laid out in Annex 2.

The Licensing Officer explained that the applicant had advertised the application, as required, by way of a public notice displayed at the premises, and in a local

newspaper. The application had also been made available on the Council's website for the full consultation period. In addition, some 685 addresses were consulted in writing and informed that an application had been received. One valid representation was received from Other Persons. The representation referred to matters that related to the Prevention of Public Nuisance and the Prevention of Crime and Disorder Licensing Objectives. A copy of the representation was attached at Annex 4. Following submission of the representation the applicant made direct contact with the objector in an attempt to alleviate their concerns and a copy of this was contained within the late material provided to the Licensing Sub-Committee.

It was confirmed that all Responsible Authorities received a copy of the Application and the Metropolitan Police as the Responsible Authority for the Prevention of Crime and Disorder Licensing Objective initially raised concerns regarding the Application. Following further consultation the Applicant had addressed the concerns by making amendments to their Operating Schedule. These amendments were reflected in the conditions shown in Annex 3 of the report before the Licensing Sub-Committee. In light of these amendments, the representations made by Responsible Authorities had been satisfied.

The Licensing Sub-Committee first heard from the Applicant who stated it was important to note that no representations were received from the Responsible Authorities. The Police had contacted Lidl on receipt of the application and had asked for additional conditions that were readily agreed.

The Applicant referred to concerns raised by the Objector in relation to street drinking, drugs and litter in the area known as Orchard Walk. The Applicant stated that Lidl would be spending in excess of £2 million on refurbishing the area including the internal and external areas and referred the Licensing Sub-Committee to the email sent to the Objector that detailed further work that would be carried out to the area.

The Applicant explained the processes and procedures that were in place at all Lidl stores to address the Licensing Objectives, to ensure alcohol was not sold to street drinkers or those under the ages of 18. All staff were trained in under age sales, how to identify proxy sales and street drinkers and how to deal with conflict. The Applicant referred the Licensing Sub-Committee to pages A36-A54 of the report containing extracts of training documentation and asked that particular attention be paid to page A38 regarding the way in which sales are refused by referral to a manager making that decision to take that away from conflict with the till staff.

The Applicant explained the layout of the premises was designed to avoid problems with shoplifting and to avoid encouraging street drinkers to enter to purchase alcohol. One of the conditions agreed with the Police was that no alcohol would be displayed within 3 metres of the entrance or exit of the premises. The Applicant explained that Lidl were experienced with working with the Police in the community to address issues of street drinking and gave an example relating to another store. It was explained that Lidl was also a funding partner of the Community Alcohol Partnership, was a member of the Retail and Alcohol Standards Group, work with Drink Aware and support local and national charities.

The Licensing Sub-Committee sought clarification from the Applicant on how planted areas would not attract littering and how local residents would not suffer any disproportionate disturbance from lighting and deliveries. The Applicant confirmed an external company would visit twice a week to deep clean the car park and shrubbed areas. The lighting would be set on a timer aligned with the activation of the store alarm and would also be equipped with sensors. Lidl would also work to ensure residents were not disturbed by deliveries.

The Licensing Sub-Committee sought clarification on the Applicant's store- focused approach. The Applicant confirmed there was constant supervision and assessment of what was happening at a particular store, and excellent relationships were maintained with local police forces. The Applicant gave an example of a store in Shepherds Bush and how they had liaised with the Police to resolve issues of concern.

In their closing remarks the Applicant referred to concerns raised by the Objector in that if the Police had concerns about the area known as Orchard Walk, they would have continued with an objection to the application. The Applicant also highlighted the substantial investment that would be made in the area and the policies, procedures and training in place to ensure the licensing objectives would be addressed.

### **Reasoning and decision**

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 representations, decided to **grant** the application for a New Premise Licence subject to conditions as set out below.

### **Decision**

**The Sub-Committee decided to grant the application for a NEW PREMISES LICENCE authorising the sale by retail of alcohol for consumption off the premises from 07:00 to 23:00 daily, subject to conditions set out in the Applicant's Operating Schedule in Annex 3 of the report before the Licensing Sub-Committee, as follows:**

#### **The prevention of crime & disorder**

##### **Closed Circuit television System (CCTV)**

1. A comprehensive digital CCTV system to be installed internally and maintained in effective working order. The CCTV system shall be in operation at all times the premises is open to the public, and coverage will include the entrance/exit, alcohol display areas and the checkouts. Images will be stored for a period of not less than 28 days will be provided on to removable media to authorised bodies with 48 hours of a request being made.

**Storage/display of alcohol**

2. No alcohol products will be displayed for sale within 3 meters of the entrance/ exit of the store

**Open containers**

3. Alcohol will not be sold in an open container and the consumption of alcohol on the premises will not be permitted

**Personal licence holders**

4. A Personal Licence Holder will ordinarily be on the premises during trading hours

**The protection of children from harm**

**Challenge 25 policy**

5. There will be a Challenge 25 policy operating at the premises. The holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older. Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" logo and the person's date of birth. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

6. In the event that an employee suspects that a person attempting to purchase alcohol is under the age of 25, is a street drinker or is attempting a proxy purchase they will immediately call the duty manager. The duty manager will make appropriate enquiries and will determine whether the sale should be permitted.

7. 'Challenge 25' posters shall be displayed in prominent positions at the premises.

8. An automated till prompt shall be set up so that the operator has to positively confirm that Challenge 25 has been complied with when the first item of alcohol has been scanned.

**Staffing, training**

9. Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Staff will also be trained to recognise the signs of proxy purchases.

10. Records will be kept of such training for the member of staff who has received that training.

11. All staff will receive refresher training every six months as a minimum and records are to be kept of this refresher training.

12. Confirmation of training shall be made available to the Licensing Authority or Police within 7 days of a request.

**5. THE KINGSTON 1 HOTEL – 88 LONDON ROAD, KINGSTON, KT2 Appendix B  
6PX**

The Licensing Officer introduced the matter for determination and informed the Licensing Sub-Committee that Kingston One Group Limited had applied for a variation of the Premises Licence for the premises known as The Kingston 1 Hotel, 88 London Road, Kingston upon Thames, KT2 6PX. The Application sought to remove condition 30 of the current Premises Licence (There shall be no consumption of alcohol or any bottles or glasses taken outside onto the pavement or other outside areas of the premises at any time) and replace it with conditions that allowed limited seating outside and consumption of alcohol outside with table meal conditions and to amend the plan attached to the premises licence to include that external seating area for use between 12:00 hours and 21:30 hours daily.

The application further sought to add a number of additional conditions to the Premises Licence in relation to the management and control of the external seating area.

The Licensing Officer informed the Licensing Sub-Committee that the current and proposed hours of licensable activities and operation were laid out in Annex 3.

The Licensing Officer explained that the applicant had advertised the application, as required, by way of a public notice 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 968 addresses were consulted in writing and informed that an application had been received. 8 valid representations were received from Other Persons, 5 against and 3 in support of the application. One of the representations supporting the application was made on behalf of Tricorn Residents Association. The representations referred to matters that related to the Prevention of Crime and Disorder, Prevention of Public Nuisance and Protection of Children from Harm 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 sought clarification from the Licensing Officer regarding the existing pavement licence, specifically when it was granted, how it differed if at all from what was being applied for, and if any complaints had been received regarding its operation. The Licensing Officer confirmed the pavement licence was issued on 22 March 2021, granted under the provisions of the Business and Planning Act 2020, which enabled trading on the highway for licensed premises. There were hours specified as part of the pavement licence in which tables and chairs could be placed outside (Monday to Sunday from 08:00 hours to 22:00 hours). The restrictions on the consumption of alcohol related to the Premises Licence and not the Pavement Licence. The Licensing Officer confirmed no complaints had been received since the Pavement Licence was granted and that conditions were attached relating to keeping the area tidy.

The Licensing Sub-Committee then heard from the Applicant who stated the amendments to the current Premises Licence were sought with the aim of customers being able to enjoy a drink outside while consuming a table meal.

The Applicant referred to concerns raised from Objectors about noise and stated there were only 12 seats in the outside area and that it was not a beer garden. In relation to the pavement, only 70cm of one side of the pavement was taken with the rest of the area on their premises. The Applicant stated they were aware of schools in the area and that is why they were also promoting a children's menu, and had recently had a lot of families visit the premises with parents asking about the possibility of having an alcoholic drink with their food outside.

The Applicant referred to concerns from Objectors regarding public urination, stating that customers would be asked to finish their drinks or move back inside the premises when the outside area closes, and would be able to use the toilets inside the restaurant up until 23:00 hours so there would be no need for people to use the highway or private gardens. The Applicant observed that such behaviour was not the kind associated with the type of premises they were and want to run there.

In relation to concerns raised by Objectors that the character of the hotel would change to that of a pub, the Applicant referred to the drinks menu submitted to the Licensing Sub-Committee where bottled beers were not mentioned. The Applicant confirmed they had 4 types of beers on tap which are priced around £5.80 and are not popular beers that would target a particular type of clientele. The staff were also trained to refuse service to street drinkers as well as those already under the influence of alcohol. The Applicant also stated one waiter/waitress would be assigned to the outside area, and would check on it regularly during popular periods, such as Thursday, Friday and Saturday evenings.

The Applicant concluded by stating they invest in the community by using local suppliers and by promoting Kingston as much as possible and informed the Licensing Sub-Committee of an upcoming article in The Telegraph. Clarification was also sought by the Licensing Sub-Committee with regards to how the area was tidied up. The Applicant confirmed the tables were very light and could be cleared away in 5 minutes and put into a back room, with the rest of the area cleared and the pavement swept.

The Licensing Sub-Committee referred to concerns raised by the Objectors regarding the management of the outside area, specifically whether people had the option to get up and walk around and what supervision would be in place if people should walk around with their drinks, and whether glass or plastic receptacles would be used for drinks. The Applicant confirmed they had a bar supervisor in place trained in security and staff were also trained and able to address issues should they arise. The outside area was table service only; if people wanted to just have a drink they would be asked to go inside. Alcohol would be served in glass receptacles.

In their closing remarks the Applicant stated the reason for the application was so customers could enjoy a drink with a meal. They were not aiming to promote drunkenness or to serve people who are already intoxicated as it is against the law.

Their philosophy was to develop a quality clientele that would visit their premises and visit Kingston.

### **Reasoning and decision**

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 to VARY the Premises Licence as sought and to remove condition 30 as sought subject to the new conditions as set out below.

The Licensing Sub-Committee noted that in the event of any future concerns, residents should discuss these in the first instance with the Premises Licence holder and that should this course of action not address these concerns, then a complaint could be made to the Licensing team or ultimately an application for Review of the Premises Licence could be submitted to the Licensing Sub-Committee for consideration.

### **Decision**

**The Licensing Sub-Committee decided to grant the application to VARY the PREMISES LICENCE as applied for and as detailed below:**

- **Remove condition 30 on the current premises licence, which restricts the consumption of alcohol in the external area;**
- **Amend the plan attached to the licence to include an external seating area;**
- **Add 7 conditions to the Premises Licence to control the external seating area. The conditions to be added are listed below.**

#### **Condition to be removed from the existing licence:**

30. There shall be no consumption of alcohol or any bottles or glasses taken outside onto the pavement or other outside areas of the premises at any time.

#### **Conditions to be added to the premises licence:**

#### **The prevention of crime & disorder**

##### **Control of external areas**

1. The consumption of alcoholic and non-alcoholic drinks by patrons will not be allowed in any outdoor area other than the designated external seating area as shown on the plan attached to the premises licence.
2. Alcohol must not be sold, supplied, or consumed in the outside seating area otherwise than to persons who are taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
3. The external seating area will be cordoned-off with suitable barriers.

4. Capacity in the external seating area will be restricted to 12 seats only.

**The prevention of public nuisance**

**Control of external areas**

5. The external seating area will be checked every 15 minutes by the bar manager or supervisor to ensure that patrons behave in an orderly and neighbourly fashion.

6. One waiter/waitress will be tasked to serve and monitor the outside area exclusively.

7. The external drinking area shall not be used after 21:30 hours every day of the week.

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

There were no urgent items.

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

The motion to exclude press and public was not required

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