

**MUNICIPAL YEAR 2019/20 REPORT
NO.188**

COMMITTEE:
Licensing Sub-Committee
22 January 2020

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

Agenda - Part	Item
	SUBJECT: Application for a New Premises Licence
	PREMISES: Fresh Food Centre, 220-222 Hertford Road, Enfield, EN3 5BH
	WARD: Enfield Lock

1 LICENSING HISTORY:

- 1.1 A Premises Licence already exists at this address, LN/200900250 was granted without subject to representation, on 15 July 2009 and TFC (Enfield) Ltd was the named premises licence holder.
- 1.2 The premises licence has been transferred twice since, most recently on 5 November 2019 to KYK Trading Ltd. This transfer application was granted without subject to representation.
- 1.3 The Directors of KYK Trading Ltd are Yilmaz Kara, Talip Kaynar and Oktay Yilmaz.
- 1.4 A Vary Designated Premises Supervisor (DPS) application was recently granted on 6 January 2020, without subject to representation, naming Mr Talip Kaynar.
- 1.5 The premises licence LN/200900250 has not been subject to any review applications.
- 1.6 No Temporary Event Notices (TENs) have been sought for this premises.
- 1.7 A copy of LN/200900250 is now produced in Annex 1.

2.0 THIS APPLICATION:

- 2.1 On 21 October 2019 an application was made by KYK Trading Ltd for a new premises licence, at the advice of their solicitors Dadds LLP.
- 2.2 KYK Trading Ltd is also the premises licence holder of the existing premises licence LN/200900250.
- 2.3 The proposed Designated Premises Supervisor is Mr Talip Kaynar, as per the existing premises licence.

2.4 The application seeks:

Activity	Times sought by this new application	Timings of previous licence LN/200900250
Opening hours	24 hours daily	08:00 to 23:00 daily
Supply of alcohol (off sales)	24 hours daily	08:00 to 23:00 daily

- 2.5 Each of the Responsible Authorities were consulted in respect of the application.
- 2.6 This premises is situated in the Enfield Highway Cumulative Impact Policy (CIP) Area .
- 2.7 A copy of the application is attached as Annex 2.

3.0 RELEVANT REPRESENTATIONS:

- 3.1 **Metropolitan Police:** Representations have been made, objecting to the full hours sought and seeking modification of conditions, based on the prevention of crime and disorder licensing objective.
- 3.2 The Police's representation is attached as Annex 3.
- 3.3 **Licensing Authority:** Representations have been made, objecting to the full hours sought and seeking modification of conditions, based on the prevention of crime and disorder, prevention of nuisance and protection of children from harm licensing objectives.
- 3.4 The Licensing Authority's representation is attached as Annex 4.
- 3.5 The Responsible Authorities (RA's) seek the following times, in line with the Cumulative Impact Policy:

Activity	Times sought by this new application	Timings proposed by RA's
Opening hours	24 hours daily	08:00 to 00:00 daily
Supply of alcohol (off sales)	24 hours daily	08:00 to 00:00 daily

- 3.6 To date, the applicant has not provided a written response to the representations.

4.0 PROPOSED LICENCE CONDITIONS:

- 4.1 The conditions proposed by the Responsible Authorities are attached as Annex 5. The applicant has not yet indicated whether these conditions are agreed.

5.0 RELEVANT LAW, GUIDANCE & POLICIES:

- 5.1 The paragraphs below are extracted from either:
5.1.1 the Licensing Act 2003 ('Act'); or
5.1.2 the Guidance issued by the Secretary of State to the Home Office of April 2017 ('Guid'); or
5.1.3 the London Borough of Enfield's Licensing Policy Statement of January 2015 ('Pol').

General Principles:

- 5.2 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4(1)].
- 5.3 The licensing objectives are:
5.3.1 the prevention of crime and disorder;
5.3.2 public safety;
5.3.3 the prevention of public nuisance; &
5.3.4 the protection of children from harm [Act s.4(2)].
- 5.4 In carrying out its functions, the Sub-Committee must also have regard to:
5.4.1 the Council's licensing policy statement; &
5.4.2 guidance issued by the Secretary of State [Act s.4(3)].

Cumulative Impact Policy:

- 5.5 The applicant premises/club premises is located in the Edmonton Cumulative Impact Policy Area [Pol s.9.22/23].
- 5.6 The application is for a variation of a premises licence [Pol s.9.22/23].
- 5.7 The application is subject to a relevant representation [Pol s.9.22/23].
- 5.8 Therefore, the Cumulative Impact Policy applies to this application [Pol s.9.22/23].
- 5.9 The Core Hours for this application are:
5.9.1 Sale/supply of alcohol (off supplies only): Monday to Sunday Indoors and/or outdoors 08:00 to 00:00 [Pol s.9.24.1]:
- 5.10 The Council's policy is that this application (which is outside the Core Hours set out above) is subject to the presumption against grant that is implicit in a cumulative impact policy [Pol s.9.23].
- 5.11 Where the cumulative impact policy applies to an application, applicants are expected to demonstrate an understanding of how the policy impacts on their

application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy [Guid 8.35].

Hours:

- 5.12 The Sub-Committee decides licensed opening hours as part of the implementation of the licensing policy statement and is best placed to make decisions about appropriate opening hours in their area based on their local knowledge and in consultation with responsible authorities [Guid 10.13].
- 5.13 Stricter conditions with regard to licensing hours may be required for licensed premises situated in or immediately adjacent to residential areas to ensure that disturbance to local residents is avoided. This will particularly apply in circumstances where, having regard to the location, size and nature of the premises, it is likely that disturbance will be caused to residents in the vicinity of the premises by concentrations of people leaving, particularly during normal night-time sleeping periods [Pol s.8.4].

Determining actions that are appropriate for the promotion of the licensing objectives

- 5.14 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. [Guid 9.42]
- 5.15 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. [Guid 9.43]
- 5.16 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. [Guid 9.44]

Decision:

- 6.1 As a matter of practice, the Sub-Committee should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas [Guid 9.37].
- 6.2 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the Sub-Committee must give appropriate weight to:
 - 6.2.1 the steps that are appropriate to promote the licensing objectives;
 - 6.2.2 the representations (including supporting information) presented by all the parties;
 - 6.2.3 the guidance; and
 - 6.2.4 its own statement of licensing policy [Guid 9.38].
- 6.3 Having heard all of the representations (from all parties) the Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are:
 - 6.3.1 to grant the application subject to the mandatory conditions and such conditions as it considers necessary for the promotion of the licensing objectives;
 - 6.3.2 to exclude from the scope of the licence any of the licensable activities to which the application relates;
 - 6.3.3 to refuse to specify a person in the licence as the premises supervisor;
 - 6.3.4 to reject the application [Act s.18].

Background Papers:

None other than any identified within the report.

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