

REPORT FOR: LICENSING PANEL

Date:	05 Sept 2016
Subject:	Application for a new premises licence for Tigris Supermarket 2, 97-99 Burnt Oak Broadway, Edgware, Middlesex, HA8 5EP
Responsible Officer:	Tom McCourt - Corporate Director – Community Directorate
Exempt:	No
Enclosures:	New application for a premises licence & Plan of the premises (Annex 1) Location (GIS) Map (Annex 2) Representations (Annex 3)

Section 1 – Summary

An application has been received for a new premises licence to sell alcohol for off-sales under the Licensing Act 2003 in respect of Tigris Supermarket 2, 97-99 Burnt Oak Broadway, Edgware, Middlesex, HA8 5EP. Five representations have been received from other persons and one from a responsible authority. The Licensing Panel is asked to determine whether to grant the application, with or without modifications appropriate to the promotion of the statutory licensing objectives.

Representations received

From	Relevant Representations details
The Planning Authority	No representations received
Health & Safety	No representations received
Environmental Health Authority (Pollution and environmental enforcement)	No representations received
Trading Standards	No representations received
Area Child Protection Service	No representations received
London Fire Brigade	No representations received
Metropolitan Police	No representations received
Licensing authority	Representation received on the grounds of all four licensing objectives

Representations from other persons

From	Relevant Representations details
Other persons	Representations received
A body representing persons living in the vicinity of the premises	Representations received

Section 2 – Report

The applicant, Mr Ibrahim Tarlacik, has applied for a new premises licence in respect of Tigris Supermarket 2, 97-99 Burnt Oak Broadway, Edgware, Middlesex, HA8 5EP. The application seeks to permit the following licensable activity with the following timings:

2.1 Licensable activities

The table below sets out the proposed licensable activities

Day	Proposed hours	
	Hours open to public	Alcohol sales (on and off-premises)
Mon	00:00 – 23:59	00:00 – 23:59
Tues	00:00 – 23:59	00:00 – 23:59
Weds	00:00 – 23:59	00:00 – 23:59
Thur	00:00 – 23:59	00:00 – 23:59
Fri	00:00 – 23:59	00:00 – 23:59
Sat	00:00 – 23:59	00:00 – 23:59
Sun	00:00 – 23:59	00:00 – 23:59

- 2.2 Description of premises
The premises are described on the application form as a supermarket and grocery store
- 2.3 The premises are located on the A5 Burnt Oak Broadway. The premises are located on the ground floor of a busy shopping parade with retail uses either side; residential accommodation is above those premises and directly across the road.
- 2.4 Designated premises supervisor
The proposed Designated Premises Supervisor (DPS) is Mr Ibrahim Tarlacik who is also the DPS at Tigris, 77-79 Burnt Oak Broadway, Edgware, Middlesex, HA8 5EP
- 2.5 Details of application
Received: 08 July 2016
Newspaper advertisement: 15 July 2016
Closing date for representations: 05 August 2016
- 2.6 Representations
Representations set out at annex 3 have been received from the licensing authority, two bodies representing persons living within the vicinity of the premises (Councillors) and four other persons.
- 2.7 The representation from the Councillors sets out in detail the possible effect that the grant of this application would have on persons that live and work within the vicinity of the premises
- 2.8 The representation from the licensing authority sets out the proposed conditions that would be applied to the licence. It also requests that the applicant should submit a local area risk assessment to explain what effect a licensed premises that operates such long hours would have on the community that exists within the vicinity of the premises.
- 2.9 Officers' observations
Under section 16 of the application, the applicant has not offered any additional conditions to further uphold the licensing objectives, although it is stated by the applicant that he is willing to consider any further conditions any authority would propose.
- 2.10 The applicant has not responded to the representation made by the licensing authority acting as a responsible authority which suggests re-worded conditions and additional conditions which could be applied to the licence.
- 2.11 The licensing authority should ensure that the prevention of public nuisance objective is not undermined. This has a lower threshold than that required to prove statutory nuisance, and the Panel should bear in mind the following paragraphs of the statutory guidance to the Act:

2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

- 2.12 These above comments are to assist the Panel in its decision making process based on the evidence before it and the legislative requirements.
- 2.13 Conditions
Members will be aware that an operating schedule forms part of the licensing process. This document outlines what activities are proposed, the opening hours, and how the activities will be managed particularly in respect of the licensing objectives.
- 2.21 The most critical part of the operating schedule are the steps taken by the applicant to promote the licensing objectives. Applicants are always reminded to take careful consideration as to what is entered in this section as whatever is proposed will be translated as conditions on the licence.
- 2.22 Applicants should give consideration to the local area and reflect this in their application. It should demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.
- 2.23 The Panel should also take into account paragraphs 10.13 to 10.15 of the guidance, and in particular the latter paragraph in relation to allowing shops, stores and supermarkets to be allowed to sell alcohol during the same hours as the shop is open for other goods unless there are good reasons based on the licensing objectives not to.

- 2.24 The Panel has the discretion to add to or modify these conditions where it is appropriate to do so to promote the licensing objectives.
- 2.25 Licensing policy
There are no implications in relation to the statement of licensing policy arising from this application.
- 2.26 Legal implications
The Licensing Panel is required to hold a hearing to consider any relevant representations made in relation to the premises licence application unless all parties agree that a hearing is unnecessary. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.
- 2.27 The Licensing Panel is required to give appropriate weight to the representations (including supporting information) presented by all the parties, the Guidance issued pursuant to section 182 of the Licensing Act 2003, the Council's statement of licensing policy and the steps that are appropriate to promote the four licensing objectives.
- 2.28 Having considered those relevant matters, the Licensing Panel is required to take such of the following steps (if any) as it considers appropriate for the promotion of the licensing objectives –

The steps are—

(a) To grant the licence subject to:

- (i) Conditions that are consistent with the operating schedule accompanying the application modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and;
- (ii) Any condition which must under section 19, 20 or 21 of the Licensing Act 2003 be included on the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application

For the purposes of 2.28(a) above, the conditions of the licence are modified if any of them are altered or omitted or any new conditions added.

2.29 It should be noted with all options that –

- clear reasons should be given for the decision.
- any additional or modified conditions should be practical and enforceable
- the applicant and any person who made relevant representations would have the right of appeal to a magistrates' court on one of the grounds provided in Schedule 5 to the Licensing Act 2003

2.30 In addition to determining the application in accordance with the legislation, Members must have regard to the –

- common law rules of natural justice
- provisions of the Human Rights Act 1998
- considerations in section 17 of the Crime and Disorder Act 1998

2.31 By section 6 of the Human Rights Act 1998, the Panel is required to act in a way that is compatible with rights under the European Convention for the Protection of Human Rights. The following provisions of the European convention seem relevant: Article 6 (right to a fair trial) Article 14 (prohibition of discrimination) and Article 1 of the First Protocol (protection of property).

2.32 In relation to section 17 of the Crime and Disorder Act 1998, this states:

'Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.'

Financial Implications

2.33 There are no financial implications.

Appeals

2.34 If any party is aggrieved with the decision of the licensing panel on one of the grounds set out in Schedule 5 to the Licensing Act 2003, they can appeal to a magistrates' court within 21 days from notification of the decision.

Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 12 August 2016		
Name: Andrew Lucas	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 15 August 2016		

Section 4 - Contact Details and Background Papers

Contact: Jeffrey Leib, Principal Licensing Officer extension 7667

Background Papers: Application, Plan of the premises, Representations, Location (GIS) Map, Statutory Guidance.