

# REPORT FOR: LICENSING PANEL

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**Date of Meeting:** 17 March 2011

**Subject:** Application to transfer the premises licence in respect of 'Funky Brownz', (formerly known as Spanish Arch PH) 28 Belmont Circle, Kenton Lane, Harrow, HA3 8RF

**Responsible Officer:** Brendon Hills – Corporate Director, Community & Environment

**Exempt:** No

**Enclosures:** Premises Licence  
Transfer Application  
Objection Notice  
Premises Plan  
Location Map

## Section 1 – Summary

An application to transfer the premises licence issued under the Licensing Act 2003 in respect of "Funky Brownz" (formerly known as Spanish Arch PH), 28 Belmont Circle, Kenton Lane, Harrow, HA3 8RF, has attracted an objection notice from the Metropolitan Police, on the basis that granting it would undermine the crime prevention objective.

## Representations received

From	Relevant Representations details
Metropolitan Police	Objection Notice received

## **Section 2 – Report**

### **Current situation**

- 2.1 There is currently a premises licence in force at “Funky Brownz” (formerly known as Spanish Arch PH), 28 Belmont Circle, Kenton Lane, Harrow, HA3 8RF. Briefly the premises licence authorises the following licensable activities during the timings specified:

#### Sale of Alcohol and Regulated Entertainment:

Monday to Wednesday	10.00am – Midnight
Thursday	10.00am - 01.00am (following morning)
Friday & Saturday	10.00am – 02.00am (following morning)
Sunday	10.00am – 00.30am (following morning)

#### Late Night Refreshment:

Monday to Wednesday	11.00pm – Midnight
Thursday	11.00pm - 01.00am (following morning)
Friday & Saturday	11.00pm – 02.00am (following morning)
Sunday	11.00pm – 00.30am (following morning)

#### Hours Open to Public:

Monday to Wednesday	09.30am – 00.30am (following morning)
Thursday	09.30am - 01.30am (following morning)
Friday & Saturday	09.30am – 02.00am (following morning)
Sunday	09.30am – 01.00am (following morning)

- 2.2 On 3<sup>rd</sup> February 2011, an application was made to transfer the premises licence to Funky Brownz 2 Ltd (the applicant).
- 2.3 The Metropolitan Police have submitted an objection notice on the grounds that the exceptional circumstances of the case are such that the granting of the application would undermine the crime prevention objective. A copy of this notice is attached to this report.
- 2.4 The premises is situated at 28 Belmont Circle, Kenton Lane, adjacent to both commercial and residential properties. A map of the area is attached to this report.

### **Licensing Policy Implications**

- 2.5 In relation to the Council’s policy at paragraph 8.19, the applicants and the current premises licence holder have provided all relevant signatures and consents.

### **Legal Implications**

- 2.6 The Licensing authority (in this case the London Borough of Harrow) is required to hold a hearing to consider the objection notice (and the transfer 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.

- 2.7 The Licensing Panel is required to give appropriate weight to representations made by all 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 necessary to promote the crime prevention objective.
- 2.8 Having considered those relevant matters, the Licensing Panel can either:–
- a. Grant the application to transfer the premises licence;
  - b. Reject the application to transfer the premises licence if it considers it necessary for the promotion of the crime prevention objective.
- 2.9 It should be noted with all options that –
- Clear reasons should be given for the decision.
  - The applicant and the Metropolitan Police would have a right of appeal to a magistrates' court on one of the grounds provided in Schedule 5 to the Licensing Act 2003
- 2.10 In addition to determining the application in accordance with the legislation, Members must have regard to –
- The common law rules of natural justice
  - The provisions of the Human Rights Act 1998
  - The considerations in section 17 of the Crime and Disorder Act 1998
- 2.11 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 and Freedoms. 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).

### **Community Safety**

- 2.12 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.’
- 2.13 The Borough Commander, through Sergeant Davis, has submitted an objection notice against this application.

## Financial Implications

2.14 There are no financial implications.

## Risk Management Implications

2.15 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. The Appeal period is 21 days from notification of the decision.

## Section 3 - Statutory Officer Clearance

Name: <b>Kanta Hirani</b>	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: <b>22 February 2011</b>		
Name: <b>Paresh Mehta</b>	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: <b>3 March 2011</b>		

## Section 4 - Contact Details and Background Papers

**Contact:** P Sivashankar, Head of Licensing Services, ext 6237

### Background Papers:

- Premises Licence
- Transfer Application
- Objection Notice
- Premises Plan
- Location Map