

## REPORT FOR: LICENSING PANEL

---

**Date of Meeting:** 26 June 2012

**Subject:** Application for a Review of the Premises Licence held in respect of **Funky Brownz**, Belmont Circle, Harrow

**Responsible Officer:** John Edwards – Divisional Director, Community & Environment

**Exempt:** No

**Enclosures:** Premises Licence and Plan  
Review Application  
Representations  
Location Map

### Section 1 – Summary

An application has been made by the Environmental Health authority, to review the premises licence for 'Funky Brownz', Belmont Circle, Harrow, HA3 8RF, based on three of the licensing objectives - **the protection of children from harm, public safety and the prevention of public nuisance.**

## Representations received

### Representations from Responsible Authorities

From	Relevant Representations details
The Planning Authority	No representations received
<b>Health &amp; Safety</b>	No representations received
<b>Environmental Health Authority (Pollution and environmental enforcement)</b>	<b>Review Application Received</b>
Trading Standards	No representations received
The Area Child Protection Service	No representations received
LFEPA	No representations received
Metropolitan Police	No representations received
<b>Licensing Authority</b>	<b>Representation received</b>
Primary Care Trust	No representations received

### Representations from interested parties

From	Relevant Representations details
<b>Interested Parties</b>	<b>Representations Received</b>

## Section 2 – Report

### 2.1 Brief History

- 2.1.1. There is a premises licence in force at 'Funky Brownz', a public house trading at 28 Belmont Circle, Harrow. A copy of the premises licence is attached to this report providing details of the licensable activities authorised, the opening times and the conditions attached to the licence.
- 2.1.2. The current Premises Licence holder (Funky Brownz 2 Ltd) sought a transfer of the premises licence to it in February 2011. At the time, the Metropolitan Police raised objections to this transfer, however, further to assurances by the new owners, the Licensing Panel granted the Licence as applied for.
- 2.1.3. Since April 2011, there have been 25 complaints received regarding noise from Premises.
- 2.1.4. On 18 April 2011, an enforcement notice under the Environmental Protection Act 1990 was served due to Officers witnessing a Statutory Nuisance on 17 April 2011.
- 2.1.5. The Out of Hours Noise Services received calls for assistance from near by residents on 17 April 2011, 25 June 2011, 2 July 2011, 29 July 2011, 6

August 2011, 7 August 2011, 13 August 2011, 21 August 2011, 18 September 2011, 24 September 2011, 1 October 2011, 8 October 2011, 22 October 2011 and on 23 October 2011.

- 2.1.6 On 12 February 2012, Licensing officers visited the premises at 0210 in the morning to find the premises still open to Public.
- 2.1.7 The Review Application was further to the visit by the Out of Hours Noise Service on 19 February 2012 at 0205 in the morning.
- 2.1.8 There is currently a Planning Application in progress to change the rear garden area in to a covered Lounge.
- 2.1.9 The current licensable activities and hours under the premises licence are:

**Live music (e), Recorded music (f), Performance of dances (g), Performance similar to e f g (h), Provision of facilities music(i), Provision of facilities dance (j), Provision of facilities similar i j (k), Sale of retail alcohol (m)**

Monday - Wednesday	10:00 – 00:00
Thursday	10:00 – 01:00 (the following morning)
Friday & Saturday	10:00 – 02:00 (the following morning)
Sunday	10:00 – 00:30 (the following morning)

**Late Night Refreshment:**

Monday - Wednesday	23:00 – 00:00
Thursday	2300 – 01:00 (the following morning)
Friday & Saturday	2300 – 02:00 (the following morning)
Sunday	2300 – 00:30 (the following morning)

**Hours open to the public:**

Monday - Wednesday	09:30 – 00:30 (the following morning)
Thursday	09:30 – 01:30 (the following morning)
Friday & Saturday	09:30 – 02:00 (the following morning)
Sunday	09:30 – 01:00 (the following morning)

- 2.1.10 On 30 April 2012 a review application was submitted by the Environmental Health Department at Harrow Council, as the relevant Environmental Health Authority. This review application relates to three of the licensing objectives - public safety, the prevention of public nuisance and the protection of children from harm. A copy of the application for the review and the representations in support are attached to this report.
- 2.1.11 The premises is situated adjacent to the roundabout known as Belmont Circle which comprises of a parade of commercial premises with residential properties adjacent and opposite to the premises. A location map is attached to this report.

## **2.2 Representations**

The Environmental Health Authority has submitted an application to review the premises licence. A copy of this representation is attached to this report. A further responsible authority, namely the Licensing Authority, and an interested party have submitted representations supporting the application for review and copies of these representations are also attached to this report.

## **2.3 Consultation**

The review application was advertised at the council offices and on the premises in accordance with the requirements under the Licensing Act 2003.

## **2.4 Licensing Guidance Implications**

The Home Office has issued Guidance pursuant to section 182 of the Licensing Act 2003 and paragraphs 11.1 – 11.33 of the Guidance covers reviews of (premises) licences.

## **2.5 Legal Implications**

2.5.1 The Licensing Panel is required to hold a hearing to consider the review application and any relevant representations. The hearing must be held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

2.5.2 Having considered the representations from all parties, the Panel has to determine the application for the review of the premises licence. The Panel is required to take such of the steps listed below at 2.5.3 (if any), as it considers appropriate for the promotion of the licensing objectives.

2.5.3 Where it considers it appropriate for the promotion of the licensing objectives, the options available to the Panel are:

1. To modify the conditions of the Licence;
2. To exclude a licensable activity from the scope of the licence;
3. To remove the designated premises supervisor;
4. To suspend the licence for a period not exceeding 3 months;
5. To revoke the licence.

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition added.

2.5.4 Any modified conditions should be practical and enforceable.

2.5.5 The licensing authority may at any time reject any ground for review specified in an application for review if it is satisfied that either: (a) the ground is not relevant to one or more of the four licensing objectives; or (b) the application is made other than by a responsible authority and the ground is frivolous, vexatious, or a repetition.

2.5.6 If any grounds of review are rejected on the basis set out in 2.5.5, the application for review is taken to be rejected to that extent.

2.5.7 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.

2.5.8 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).

2.5.9 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.’

## **2.6 Community safety**

Refer to the Licensing objectives, and Section 17 Crime and Disorder Act 1998 as noted above. The Borough Commander on behalf of the police has made no representation.

## **2.7 Financial Implications**

No financial implications

## 2.8 Risk Management Implications

If any party is aggrieved with the decision 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: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 13 June 2012		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 14 June 2012		

## **Section 4 - Contact Details and Background Papers**

**Contact:** P Sivashankar, Licensing Services Manager x 6237

### **Background Papers**

Premises Licence  
Review Application  
Premises Plan  
Representations  
Location Map