

## **Decisions of the Licensing Sub-Committee**

26 January 2015

### **Members Present:-**

Cllr Brian Salinger (Chairman)

Cllr Kitty Lyons

Councillor Jim Tierney

### **Officers to the Panel:-**

Paul Frost – Governance Team Leader (Acting)

Bob Huffam – Legal Services

Daniel Pattenden – Licensing Officer

Jan Natynczyk – Governance Officer

### **Responsible Authority:-**

Elaine Blencowe – Environmental Health

Janet Mead – Environmental Health

### **Also in Attendance:-**

Sergeant Mark Altman – Metropolitan Police

Mr Sivashankar – Licence Holders Representative

#### **1. APPOINTMENT OF CHAIRMAN (Agenda Item 1):**

Councillor Brian Salinger was appointed as Chairman.

#### **2. ABSENCE OF MEMBERS (IF ANY) (Agenda Item 2):**

Councillor John Marshall had given his apologies and was substituted by Councillor Brian Salinger.

#### **3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY) (Agenda Item 3):**

None.

#### **4. LICENSING SUB-COMMITTEE HEARING PROCEDURE (Agenda Item 4):**

The procedure was noted.

#### **5. REVIEW OF PREMISES LICENCE – FUNKY BROWNZ, THE GLEN, 63 THE HYDE, LONDON, NW9 6LE (Agenda Item 5):**

Members' attention was drawn to the additional Information listed as agenda items 5(a) and 5(b).

- (a) **ADDITIONAL INFORMATION - REVIEW OF PREMISES LICENCE –  
FUNKY BROWNZ, THE GLEN, 63 THE HYDE, LONDON, NW9 6LE**

This information was noted.

- (b) **FURTHER ADDITIONAL INFORMATION - REVIEW OF PREMISES  
LICENCE – FUNKY BROWNZ, THE GLEN, 63 THE HYDE, LONDON,  
NW9**

This information was noted.

**6. MOTION TO EXCLUDE THE PRESS AND PUBLIC (Agenda Item 6):**

That, under Regulation 14(2) of the Licensing Act 2003 (Hearings Regulations 2005), the parties be excluded from the meeting.

**7. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE  
DECISION OF THE SUB-COMMITTEE (Agenda Item 7):**

**RESOLVED** that the press and public be re-admitted to the meeting and the Sub-Committees decision, as detailed below be noted:

This is an application for a review of the license for Funky Brownz, 63 The Hyde, Edgware Road. It is brought by the Environmental health Department of the Council following an inspection on 14 November 2014 which revealed a vermin infestation in the property, no hot water, severe flooding in the kitchen, and a failure to produce a current electrical safety certificate, while the license holders continued to serve food drink and shisha on the premises.

The licensing objective in this instance is public safety. The Willesden magistrates Court closed the premises on 18 November 2014 under food safety regulations. Two improvement notices were served on the license holder on 3 December 2014 requiring various contraventions of the health and safety at work regulations to be put right by 28 January 2015.

Several photographs of the premises taken during the inspection have shown the premises to be in a very poor state and it is unlikely that this had happened over a short period. The panel also noted the Inspection Report which detailed the breaches of the regulations.

The Environmental health team believes that the owners of the property seem to be incapable of operating a business of this nature well. They point to the previous reviews of this license in 2007, 2009, and 2013, albeit that they were in relation to other licensing objectives. Action plans were agreed with the owners with varying degrees of success.

They also point to previous inspections and reports on food safety at these premises in July 2014, May 2012, January 2012, and April 2011, all of which showed areas of concern.

We were asked to hear representations from the Police and an e-mail from the Fire Authority in support of the review, but as they were served out of time we declined to do so and they have not been considered by us.

**It is of particular concern that not all the remedial works have been completed, and that the Court notices of the prohibition order had been removed on several occasions during the closure of the premises.**

**The owners have accepted that the facts relied upon for the review are true and have apologised for this. They have provided medical information on a family member showing a very unfortunate illness.**

**They have also provided a treatment report from Diamond pest Control which states that there were no signs of pest infestation by 19 January. Photographs show a much cleaner property. A training course has been booked with the Environmental Health Department of Harrow Council.**

**An argument has also been raised that the licensing objective should not be confused with the issue of public health, which is behind the application for this review.**

**We have considered the guidance to the Licensing Act and the references to public health and public safety. We accept that the usual facts relating to public safety have more to do with fire issues or escapes, but it must be a matter of common sense that safety includes food safety as well as issues concerning fire escapes. We therefore feel that the issues referred to here are relevant to the Licensing Committee and that we must consider what powers we have in order to promote the public safety objective.**

**We firstly considered whether the imposition of any further conditions would be appropriate, but we were very concerned about the historical lack of co-operation from the license holders and also could not see any appropriate conditions that did any more than require the owners to comply with the law on food safety.**

**We discussed the removal of the DPS but as it seems to be the owners of the premises who are in control and have shown the lack of co-operation stated above, we do not believe that this would be effective. We considered a suspension of the license but again in view of the history of non compliance we do not think this appropriate.**

**We find that the only appropriate course, in view of the seriousness of the allegations, the time over which these problems have clearly existed, and the lack of co-operation from the premises license holders in trying to resolve these problems, is to revoke the license.**

**All parties were advised of their right of appeal to Willesden Magistrates' Court 448 High Road, London NW10 2DZ before the expiration of a period of 21 days from notification of this decision. Any appeal is by way of Complaint for an order. The Court may either dismiss the appeal, substitute for the decision appealed against any other decision which could have been made by the Licensing Authority or remit the case to the Licensing Authority to dispose of it in accordance with the directions of the court, and can make such order as to costs as it thinks fit.**

**8. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT (Agenda Item**

**10):**

None.

The meeting finished at 1.58 pm