

File Copy

Olson Kendra

From: PPatti1956@aol.com
Sent: 23 July 2009 09:33
To: Olson Kendra
Subject: Re: Funky Brownz Licensing Application
Attachments: Funky Brownz Licensing.doc; Licensing-Sub-agenda-and-report-pack-20-4-09.pdf

Dear Kendra Olson,

Hope this letter and information gets through to okay.

I have been talking to many of my neighbours and we are in agreement that it is unbelievable that a license could be given at all to this proposed establishment after reading about the incidents at The Hyde in Hendon.

I am sure that Haringey would not want any publicized incidents relating to violence and nuisance to the residents of Tottenham Lane and the surrounding area.

Many Thanks

Patrice Gale

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MEETING
LICENSING SUB-COMMITTEE

DATE AND TIME
MONDAY 20 APRIL 2009 AT 7PM

VENUE
BARNET HOUSE, 1255 HIGH ROAD, WHETSTONE, N20 0EJ
(please report at Reception)

TO: MEMBERS OF THE COMMITTEE (Quorum 3)*

Councillors:

Wendy Prentice (Chairman)
John Hart
Susette Palmer

**This licensing authority will only allow licensing decisions to be taken by a minimum of three Councillors. In the event of one Member being unable to attend, their place will be substituted by another Member taken from the membership of the full Licensing Committee. In the event of this substitution taking place, all parties will be informed of the change of Membership at the beginning of the hearing.*

You are requested to attend the above meeting for which an Agenda is attached.

David Seabrooke, Democratic Services Manager

Democratic Services contact: Nick Musgrove 0208 359 2024

CORPORATE GOVERNANCE DIRECTORATE

To view Agenda papers on the website: <http://committeepapers.barnet.gov.uk/democracy>

FACILITIES FOR PEOPLE WITH DISABILITIES

Barnet House has access for wheelchair users including lifts and toilets. If you wish to let us know in advance that you will be attending the meeting please telephone **Nick Musgrove** on 020 8359 2024. People with hearing difficulties who have a text phone, may telephone our minicom number on 020 8203 8942. All of our Committee Rooms also have induction loops.

ORDER OF BUSINESS

Item No.	Title of Report	Contributors
1.	ABSENCE OF MEMBERS	-
2.	DECLARATION OF MEMBERS' PERSONAL AND PREJUDICIAL INTERESTS	-
3.	PROCEDURE AT MEETING	-
4.	APPLICATION FOR THE REVIEW OF A PREMISES LICENCE – Ash Bar/Funky Brownz, 63 The Hyde, West Hendon, London, NW9 6LE (West Hendon Ward) 10.30am(approx)	Democratic Services Manager / Licensing Officer
5.	MOTION TO EXCLUDE THE PRESS AND PUBLIC: That, under Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the meeting whilst the sub-committee deliberate the application	
6.	DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION	
7.	RE-ADMISSION OF PRESS AND PUBLIC Announcement of the decision of the Sub-Committee	
8.	Any other items which the Chairman agrees are urgent	

Fire/Emergency Evacuation Procedure

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by Committee staff or by uniformed porters. It is vital you follow their instructions.

You should proceed calmly; do not run and do not use the lifts.

Do not stop to collect personal belongings.

Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions.

Do not re-enter the building until told to do so.

LONDON BOROUGH OF BARNET

LICENSING SUB COMMITTEE

HEARINGS PROCEDURE

General points

The following procedure is based on Regulations made by the Secretary of State under the Licensing Act 2003 ("the Hearings Regulations") which may be viewed or downloaded from the website of the Department for Culture, Media and Sport by following links from www.culture.gov.uk

The procedure is intended as a general framework to ensure natural justice and a fair hearing. The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed.

The procedure allows each party a maximum period of 5 minutes in which to present their case (Regulations 16 & 24). At the end of the time allowed, the Chairman will terminate the presentation and the hearing will proceed in the form of a discussion led by the authority to explore points of dispute. The discussion will not be timed

The procedure is subject to periodic review and amendment to reflect best practice and relevant legislative changes. An updated version of this procedure is published as soon as possible following any such amendments.

Chairman

- Introduces him/herself and Members of the Committee, and outlines their roles.
- Introduces Licensing, Legal and Democratic Services Officers.
- Explains that Legal and Democratic Services Officers will be present during the Committee's deliberations to advise only, and that the Licensing Officer will be excluded from deliberations.
- Asks parties present to introduce themselves.
- Outlines procedure to be followed (Regulation 22).
- Asks all parties to confirm their understanding of the procedure.
- Clarifies any aspect(s) of the procedure where any parties are uncertain or asks Legal or Democratic Services Officer as appropriate to clarify.

DSO

- Informs Committee of absent parties.
- Details persons whom a party is seeking permission to represent them at hearing.
- Panel confer re permission.
- Chairman announces decision re permission.

Licensing Officer presents the report to the Committee

- Is a statement of the facts including details of the application and operating schedule, relevant policy details, detail representations made, a chronology of events and highlights the points on which the Authority requires clarification.

Applicant

- Presents opening submissions and clarifies points raised by Authority in notice of hearing. Time allowed 5 mins.

Other parties

- Presents opening submissions either in person or by spokes person Time allowed 5 mins per interested party.

Note regarding use of video evidence

Video evidence must be in DVD format and will form part of the relevant party's five minutes opening submission. Any party wishing to use video evidence must submit a copy to the Authority along with sufficient, identical extra copies to serve on all the opposing parties – i.e. if the applicant is submitting it, there must be enough copies for all parties making representations and if a party making representations is submitting it there must be a copy for the applicant. The recording must be edited down to the highlights, containing only relevant matter which relates to the written representation previously submitted. In addition, a description of how, when and where the video was recorded and what it contains must be submitted. These must be supplied to the Authority at least five working days before the hearing.

Members question Licensing Officer on Policy

Discussion

Chairman leads a discussion concentrating on points of dispute:

Chairman asks Applicant what he disputes in other parties' submissions, and asks other parties to comment.

Chairman proceeds through all objectors dealing with all matters of contention.

When Chairman feels all matters have been thoroughly discussed and all parties have been given a fair and equal opportunity to comment and make representations, she/he closes discussion.

Determination

There are two procedures depending on whether or not determination is to be made at the end of the Hearing or within five working days of the Hearing. This later announcement of determination is permitted in terms of the Legislation for certain types of applications.

Chairman informs all present that will deliberate, that Legal and DSO will remain to advise but will not be part of decision-making process, and that all others must leave (under Reg. 14).

- Parties, apart from Legal and Democratic Services Officer, leave the room.
- The Committee deliberates, with advice as required from Legal and Democratic Services Officers, and reaches a conclusion. The Legal officer may assist, as required, in formulating the wording of the determination.
- Parties return.
- Chairman reads out determination, and advises it will be sent in writing to all parties.
- Opportunity for determination to be clarified by any interested party who is unclear.
- Chairman gives advice about appealing against the determination.
- Chairman thanks all for attending and closes the meeting.

...Within five working days of the hearing

- Chairman explains requirement to determine the Hearing within five working days, and advises that the Committee will proceed to deliberate and announce the determination within that time.

- During deliberations, Legal and Democratic Services Officers remain to advise on law and procedure as required. The Legal Officer may assist, as required, in formulating the wording of the determination. The Licensing Officer plays no part in the determination and withdraws for this part of the proceedings.
- Chairman advises all parties that they will receive written notification of the determination within five working days of the Hearing date, together with general information on how to appeal against the determination.
- Chairman thanks all parties for attending and invites the applicant, objector(s), other party(ies) and the Licensing Officer to leave.

This version

December 2007

Information on Appealing against the decision

You may at any time before the expiration of a period of 21 days from notification appeal to Hendon Magistrates' Court, The Court House, The Hyde, Hendon NW9 7BY (Telephone 020 8511 1200, DX 154 720 Hendon 4) 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.

AGENDA ITEM: 4 Pages 1 – 54

Meeting Licensing Sub-Committee

Date 20 APRIL 2009

Subject **Application for the review of a premises licence –
Ash Bar / Funky Brownz, 63 The Hyde, West
Hendon, London NW9 6LE (West Hendon)**

Report of Democratic Services Manager/Licensing Officer

Summary This report asks the Sub-Committee to consider an application
for a Review of a Premises Licence under the Licensing Act
2003.

Officer Contributors Jonathan Regal – Democratic Services (covering report)
Michelle Redland – Licensing Officer (Licensing Officer's
Report)

Status (public or exempt) Public

Ward(s) affected West Hendon

Enclosures Enclosure 1: Licensing Officer's Report

For decision by Licensing Sub-Committee

Function of Council

Reason for urgency /
exemption from call-in
(if appropriate) Not applicable

Contact for further information: Nick Musgrove, Democratic Services, Tel: 020 8359 2024

1. RECOMMENDATIONS

- 1.1 That the Sub-Committee consider the application for a Review of a Premises Licence.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decision of Licensing Sub-Committee dated 25 March 2009.
2.2 Decision of Licensing Sub-Committee dated 27 March 2009.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Council's Licensing Policy.

4. RISK MANAGEMENT ISSUES

- 4.1 Not applicable.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Licence applications are dealt with according to the provisions of the Licensing Act 2003 and associated Regulations which allow both applications and representations to applications to be made by all sectors of the community.

6. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 6.1 None.

7. LEGAL ISSUES

- 7.1 The Licensing Act 2003 requires that before determining an application for a review the Licensing Authority must hold a hearing to consider it and any relevant representations within 28 days of the receipt of the Chief Officer's application.

8. CONSTITUTIONAL POWERS

- 8.1 The Licensing Sub-Committee will discharge the functions under the Licensing Act 2003 and associated Regulations, as delegated to it by the Licensing Committee.

9. BACKGROUND INFORMATION

- 9.1 The application and report of the Licensing Officer and appendices are attached to this report.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Legal –

Enclosure 1

**Licensing
Officer's Report**

Section 53A - LICENSING ACT 2003
'Summary reviews in serious cases of crime and disorder'

OFFICERS REPORT – SUMMARY EXPEDITED REVIEW

Ash Bar/Funky Browns, 63 – 65 The Hyde, London, NW9 6LE

1. The Applicant

On 23 March 2009 at 14:30 a Certificate under Section 53A(1)(b) and an application for a review of a premises licence under section 53A of the Licensing Act 2003 were delivered to the licensing team on behalf of Superintendent Seabridge of the Metropolitan Police Service. Both documents are attached as annexes 1 and 2 of this report.

2. Interim Hearings

Under Section 53 A of the Act, the licensing authority within 48 hours of receipt of the senior police officer's application, considered whether it is necessary to take interim steps pending determination of this review of the premises licence. The hearing took place on 25 March at 10am where it was decided that the licence be amended to show the following:

1. Terminal hour for all Licensable Activity to be no later than 1am (01:00hrs) on any Thursday, Friday, or Saturday with the premises being closed and cleared by 1:30am (01:30hrs) of all persons with the exception of staff employed at the premises. No admission or readmission after 12.30am (00:30hrs) on those nights.
2. A 'calm down' period of 20 minutes in the nightclub prior to closing.

The remaining conditions to be as submitted by the Police, namely:

3. All licensable activity in the restaurant/bar area of the premises will end 30 minutes prior to any current terminal hour of the club. The restaurant/bar area will also close 30 minutes earlier than any current terminal hour for the club.
4. SIA door supervisors will be employed on Thursday, Friday and Saturday from 8:30pm (20:30hrs) until 30 minutes after the premises have closed.
 - o The SIA door supervisors will wear a clearly identifiable jacket with high visibility (light reflective) panels
 - o 5 SIA door supervisors will be employed at any time when the club is open.
 - o If the club is closed then the requirement for SIA door supervisors may be reduced to 2 at the discretion and risk assessment of the premises licence holder.
 - o If the club is hired for a private function the number of SIA door supervisors may be reduced in agreement with the Police. This will require completion and submission of an approved Police risk assessment form 14 days prior to the event.
5. There will be no external promotions at the venue. All functions at the premise will be controlled by the premises licence holder including the advertising and promotion of these events.
6. There shall be no direct access to the public by the intercommunicating doors between the bar/restaurant area and the club.

A second hearing was held on 27 March at 10:30am after the council had received a representation from the licence holder in relation to the interim steps taken by the Council. Condition numbers 1 and 2 as outlined above were amended by the licensing sub committee to read:

1. Terminal hour for all Licensable Activity to be no later than 1am (01:00hrs) on any Thursday evening/Friday morning with the premises being closed and cleared by 1:30am (01:30hrs) of all persons with the exception of staff employed at the premises.
2. A 'calm down' period of 20 minutes in the nightclub on any Friday evening/Saturday morning or Saturday evening/Sunday morning prior to closing at 2.00am.

The decisions of these hearings are attached to this report as annexes 3 and 4 and the representation received by the Council on behalf of the premises licence holder is shown as annex 5.

3. The application

The application made by the Metropolitan Police Service states that they are of the opinion that this premises are associated with serious disorder. Within the certificate submitted with this review the Superintendent states the reason for this type of application having been made was that:

.....In recent weeks there has been a significant and real increase in disorder and alcohol related offences at these premises (information contained in supporting document). A standard review would be inappropriate as it does not allow for the immediate enforcement of conditions by means of the "interim steps". These steps are required to ensure that the likelihood of any further disorder is greatly reduced pending the full review.

In addition to the certificate and the review application the police have also provided us with documents in which they suggest revisions to the licenses current conditions. This document is attached to this report as annex 6.

4. Current Premises Licence

Ash Bar / Funky Brownz has a Premises License under the Licensing Act 2003 which was originally granted on 6 August 2005 however was transferred to the current owners on 31 August 2006. Since then the following applications have been made to the licensing authority:

- a review application submitted by Mr Ralph Haynes, Noise and Statutory Nuisance for London Borough of Barnet which was heard on 1 November 2007; and
- an application to vary the premises licence.

The current licence for the premises has been written to include the decisions of all of the applications (and hearing decisions) made to this authority. A copy of the premises licence is attached at Annex 7. It details the hours the premises can be used for certain licensable activities and also specifies the conditions subject to which the licence has effect.

5. Representations

Interested Parties

We have received relevant representation from 2 local residents, and 1 from a Solicitors firm representing a client who lives in the vicinity of the premises. These representations relate to following licensing objectives:

- The Prevention of Crime and Disorder, and
- Prevention of Public Nuisance

One of the representations makes mention of nuisance caused by barking dogs and an Injunction order that was applied for to Barnet County Court. These issues despite relating to noise nuisance do not relate to the premises licence or its licensable activities and therefore cannot be taken into account when determining this review application. In any event the proceedings have concluded at Barnet County Court and the issues resolve. It is for this reason that the court documents referred to in the representation have not been attached to this report.

Responsible Authorities

There have been no representations received from any of the responsible authorities identified in the Licensing Act 2003.

All representations are attached to this report as annex 8.

5. Officer's Comments

Environmental Health have confirmed that there have been no noise nuisance call logged relating to any of the licensable activities since the review and variation applications were heard by the licensing sub committees in November 2007.

6. Guidance and Policy

Attached as annex 8 of this report is the Guidance issued by Secretary of State for Culture, Media and Sport on Expedited and Summary Licence Reviews – October 2007 (includes flow chart of the entire process).

The Council's Policy at Section 2.2, 2.3 3.1 and 3.2 refer to our Policy Objectives and Licensing Principles.

The Guidance issued under Section 182 Licensing Act 2003 June 2007 at 2.38 and at 2.39 refers to the control of behaviour away from licensed premises.

2.38 In the context of preventing public nuisance, it is again essential that conditions are focused on measures within the direct control of the licence holder or club. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives.

2.39 Beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

The Guidance at 2.41 to 2.50 refers to the protection of children from harm.

7. Determination

The sub-committee shall determine the application in accordance with Section 53C of the Licensing Act 2003.

S 53C

- (2) The relevant licensing authority must –
 - (a) hold a hearing to consider the application for the review and any relevant representations;
 - (b) take such steps as mentioned in subsection (3) (if any) as to considers necessary for the promotion of the licensing objectives; and
 - (c) secure that, from the coming into effect of the decision made on the determination of the review any interim steps having effect pending that determination cease to have effect (except so far as they are compromised in steps taken in accordance with paragraph (b))

- (3) Those steps are –
 - (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of a licensable activity from the scope of the licence,
 - (c) the removal of the designated premises supervisor from the licence,
 - (d) the suspension of the licence for a period not exceeding three months, or
 - (e) the revocation of the licence.

- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
- (5) Subsection (2)(b) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- (6) Where the authority takes a step mentioned in subsection (3) (a) or (b), it may provide that the modification or exclusion is to have effect only for a specified period(not exceeding three months).

Full Copies of the Councils Statement of Licensing Policy, the Statutory Guidance to the Act and the Council's Guide to Good Practice at Licensed Premises will be available at the Licensing Sub Committee hearing or in advance if required.

ATTACHMENTS

- ANNEX 1 – Certificate under Section 53A(1)(b)
- ANNEX 2 – Application for a review of a premises licence under section 53A of the LA 2003
- ANNEX 3 – Decision of Hearing on 25 2009
- ANNEX 4 – Decision of hearing on 27 March 2009
- ANNEX 5 – Premises Licence Holder representation to interim steps
- ANNEX 6 – Suggested revised conditions received from the Police
- ANNEX 7 – Premises Licence
- ANNEX 8 – Relevant Representations
- ANNEX 9 – Guidance issued by Secretary of State for Culture, Media and Sport on Expedited and Summary Licence Reviews – October 2007 (includes flow chart of the entire process)

Report By: Michelle Rudland
Date: 8 April 2009

Section 53A - LICENSING ACT 2003

'Summary reviews in serious cases of crime and disorder'

OFFICERS REPORT – EXPEDITED REVIEW

Ash Bar/Funky Browns, 63 – 65 The Hyde, London, NW9 6LE

Determination and Notification

Determination in accordance with Section 53C of the Licensing Act 2003.

- (2) The relevant licensing authority must –
 - (a) hold a hearing to consider the application for the review and any relevant representations;
 - (b) take such steps as mentioned in subsection (3) (if any) as to considers necessary for the promotion of the licensing objectives; and
 - (c) secure that, from the coming into effect of the decision made on the determination of the review any interim steps having effect pending that determination cease to have effect (except so far as they are compromised in steps taken in accordance with paragraph (b))
- (3) Those steps are –
 - (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of a licensable activity from the scope of the licence,
 - (c) the removal of the designated premises supervisor from the licence,
 - (d) the suspension of the licence for a period not exceeding three months, or
 - (e) the revocation of the licence.
- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added
- (5). Subsection (2)(b) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- (6). Where the authority takes a step mentioned in subsection (3) (a) or (b), it may provide that the modification or exclusion is to have effect only for a specified period(not exceeding three months).

Notification in accordance with Section 52 (10) of the Licensing Act 2003.

10. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to-

- (a) the holder of the licence,
- (c) any person who made relevant representations, and
- (d) the chief officer of police for the police area (or each police area in which the premises are situated).

11. A decision under this section does not have effect until -

- (a) the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.

Steps taken (if any)	Reason(s)

Steps taken (if any)	Reason(s)

ANNEX 1

ANNEX B

The Metropolitan Police Service Barnet
Colindale Police Station,
Graham Park Way
Colindale
NW9 5TW

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder¹.

*Premises*²:

Funky Brownz
63 – 65 The Hyde
London
NW9 6LE

Premises licence number (if known): LN/199906627

Name of premises supervisor (if known): Mr Avinash Patel

I am a Superintendent ³ in the Metropolitan
police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁴:

Serious disorder took place at the premises in the early hours of Friday 20th March 2009 resulting in seven arrests.

Since the 13th February 2009 there have been 11 calls to these premises relating to violent offences, disorder, offensive weapons. One male has been stabbed and two Police officers assaulted. These have all involved people associated with the premises.

A seven point action plan was implemented on the 2nd March 2009 following

¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

³ Insert rank of officer giving the certificate, which must be superintendent or above.

⁴ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

concerns. Early indications are that the management of the premises have failed to follow this action plan resulting in the serious disturbance on Friday 20th March.

In recent weeks there has been a significant and real increase in disorder and alcohol related offences at these premises. (information contained in supporting document)

A standard review would be inappropriate as it does not allow for the immediate enforcement of conditions by means of the "interim steps". These steps are required to ensure that the likelihood of any further disorder is greatly reduced pending the full review.

.....
(Signed)

(Date)

Information & Crime Reports Funky Brownz 63 – 65 The Hyde London NW9 6LE

Since the 13th February 2009 there have been 11 calls to the location of Funky Brownz relating to violent offences, disorder and offensive weapons. One male has been stabbed two Police officers assaulted and CS spray along with batons have been deployed by Police Officers due to the level of disorder. These incidents have all involved people associated with the premises.

A seven-point action plan was implemented on the 2nd March 2009 following earlier concerns re the management at the premises, type of event being promoted, and increase in disorder.

Unfortunately it would seem that some of the Police recommendations were not complied with and serious disorder took place on the morning of Friday 20th March 2009. London Borough of Barnet CCTV picked up a fight shortly before 2am. It was apparent that a large number of people were involved. First officers on scene called for urgent assistance and the majority of the night duty team attended. Dog teams and officers from surrounding Boroughs supported them.

During the fighting CS spray was deployed against one male. A female officer whilst defending herself from an attack by a female armed with a bottle sustained an injury to her hand. A male officer was also kicked about the head by another female and has sustained bruising to the area adjacent to his left eye. Five people were arrested at the scene for offences of affray, assault on Police, offensive weapon and Public Order offences. Further enquiries are ongoing to identify and arrest other offenders.

Closure Order Sect 160 Licensing Act 2003

On the authority and information of Superintendent Tucker a closure order was granted by district judge Daber, at Hendon Magistrates Court, under sect 160 Licensing Act 2003. The Closure Order was effective for a period of 24 hours starting at 19:00hrs on Friday 20th March 2009 until 19:00hrs on Saturday 21st March 2009.

This order was applied for due to the Police concerns that there would be further violence that evening due to people returning to seek retribution, and that the management of the premises was not strong enough to prevent further disorder.

Date & Time	Crime Report Reference	Brief Details of Incident
13/02/2009 23:30	2404024/09	ABH & M/Wound VIW1 and VIW2 are brother and sister. They were both attacked by SUSP1 outside the bar at location and suffered injuries where the skin was broken and blood drawn
13/02/2009 01:55	CRIS 2403520/09	GBH Victim was stabbed by an apparent unknown suspect, the victim was unable/unwilling to give any account of what happened or description of Suspect, he claimed that he did not know what happened
14/02/2009 02:15	CRIS 2403598/09	ABH & M/Wound Following a disturbance outside the ASH bar police attended and spoke to VIW1 who had a bloody nose and VIW2 who had a bruise to his forehead. They pointed out the suspect as being one of their attackers
22/02/2009 02:30	CRIS 2404188/09	ABH & M/Wound By suspect hitting VIW1 & 2 causing visible injuries

02/03/2009	ACTION PLAN	Meeting held at Colindale Police Station to discuss recent disorder at the premises Action plan agreed and copied to those attending: Rajendra Patel (Dad) Raigini Patel (Mum) Vaishali Patel (Daughter) Avinash Patel (Son) DPS
20/03/2009 01:55	2406348/09	ABH & M/Wound Viw 1 and viw 2 attacked by suspects in public house as they were asking them to leave the venue.
20/03/2009 02:10	2406344/09	Assault on Police VIW 1 WAS ASSISSTING IN THE ARREST OF SUSP 1 AND SUSP 1 KICKED VIW 1 IN THE RIGHT THIGH CAUSING INJURIES SHOWN
20/03/2009 02:10	2406347/09	Affray BY SUSPECT RUNNING TOWARDS OFFCIERS AND MOP SHOUTING AGGRESSIVELY WITH FISTS CLENCHED AND RAISED
20/03/2009 02:04	2406345/09	Assault on Police Police called to location as result of urgent assistance. Upon arrival Suspect was restrained and as trying to aid other officers Suspect has kicked out sticking officer in the face causing visible injuries.
20/03/09 02:15	2406342/09	Offensive Weapon

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

London Borough of Barnet Licensing Team, Building 4, North London Business Park, Oakleigh Rd South, London N11 1 NP

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I Sergeant Mark Altman [on behalf of] the chief officer of police for the Metropolitan Police (Barnet) police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Funky Brownz
63 – 65 The Hyde**

Post town: London

Post code (if known): **NW9 6LE**

2. Premises licence details:

Name of premises licence holder (if known): Vaishali Patel and Ragini Patel

Number of premises licence holder (if known): LN/199906627

3. Certificate under section 53A (1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for

the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

PLEASE SEE ATTACHED DOCUMENT:

"Information & Crime Reports Funky Brownz 63 – 65 The Hyde London NW9 6LE"

Signature of applicant:

Date: 23rd March 2009

Capacity: Licensing Officer

Contact details for matters concerning this application:

Address: Whetstone Police Station 1170 High Road Whetstone London N20 0LW

Telephone number(s): 0208 733 5261

Email: sx-licensing@met.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

DECISIONS OF THE LICENSING SUB-COMMITTEE

25 MARCH 2008

Sub-Committee:

*Councillor Joanna Tambourides (Chairman)

*Councillor Hugh Rayner

*Councillor Mukesh Depala

*denotes Member present

Officers to the Panel

Debra Allday – Legal Services

Nick Musgrove – Democratic Services

Licensing Officer

Michelle Rudland

Metropolitan Police

Sgt Mark Altman

Inspector Simon Roberts

Council Officer attending as observer

Victoria Gray – Legal Services

Also in attendance as observers only were Messrs Patel snr. & jnr., family members representing the licence holders, accompanied by their legal representative Sally Hills of Turbervilles, solicitors.

1. **ABSENCE OF MEMBERS:**
All Members were present.
2. **DECLARATION OF MEMBERS' PERSONAL AND PREJUDICIAL INTERESTS:**
No interests were declared.
3. **THE ASH BAR/FUNKY BROWNZ, 63 THE HYDE, WEST HENDON, LONDON NW9 6LE:**

The Sub-Committee had before it an application by the Metropolitan Police Service for an expedited review of a premises licence under section 53A of the Licensing Act 2003.

The Chairman introduced the parties present and explained the procedure which would be followed at the meeting. The purpose of the meeting was to consider whether interim measures were necessary pending the licence review, to be held within 28 days of receipt of the application.

The Sub-Committee then considered the application and the evidence submitted by the Metropolitan Police Service. Sgt Altman outlined the incidents which had led to an Action Plan being agreed between the Police and the License holders' representatives on 2nd March 2009 to address the problems experienced and supplied a copy of the Plan at the meeting. He then

- outlined the further incidents that had resulted in the Action Plan being breached and prompted the application now under consideration;
- submitted a list of suggested conditions that if attached to the licence during the interim period leading to the full licence review, would in the opinion of the Police, permit the premises to operate during this period.

4. EXCLUSION OF THE PRESS AND PUBLIC:

RESOLVED – That, under Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the meeting for the following item of business:

Consideration of decision

5. RE-ADMISSION OF THE PRESS AND PUBLIC:

RESOLVED – That the press and public be re-admitted.

6. ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE:

RESOLVED – That the Sub-Committee, having considered the representations of the Police in the case of the expedited review of a premises licence for the Ash Bar/Funky Brownz agree that the Licence be amended in accordance with the conditions requested by the Police subject to variations to the first two points so as to read as follows:

1. Terminal hour for all Licensable Activity to be no later than 1am (01:00hrs) on any Thursday, Friday, or Saturday with the premises being closed and cleared by 1:30am (01:30hrs) of all persons with the exception of staff employed at the premises. No admission or readmission after 12.30am (00:30hrs) on those nights
2. A ' calm down ' period of 20 minutes in the nightclub prior to closing.

The remaining conditions to be as submitted by the Police, namely

3. All licensable activity in the restaurant/bar area of the premises will end 30 minutes prior to any current terminal hour of the club. The restaurant/bar area will also close 30 minutes earlier than any current terminal hour for the club
4.
 - SIA door supervisors will be employed on Thursday, Friday and Saturday from 8:30pm (20:30hrs) until 30 minutes after the premises have closed
 - The SIA door supervisors will wear a clearly identifiable jacket with high visibility (light reflective) panels

- 5 SIA door supervisors will be employed at any time when the club is open.
 - If the club is closed then the requirement for SIA door supervisors may be reduced to 2 at the discretion and risk assessment of the premises licence holder.
 - If the club is hired for a private function the number of SIA door supervisors may be reduced in agreement with the Police. This will require completion and submission of an approved Police risk assessment form 14 days prior to the event.
5. There will be no external promotions at the venue. All functions at the premise will be controlled by the premises licence holder including the advertising and promotion of these events.
 6. There shall be no direct access to the public by the intercommunicating doors between the bar/restaurant area and the club.

The Sub-Committee also recommended that the action plan dated 2nd March 2009 should be implemented.

The reason for the conditions and recommendation is to comply with the Licensing Objectives, in particular: Crime & Disorder, and Public Safety

The Chairman announced these decisions and recommendation in the presence of the license holders' representatives and reminded them of their right to make representations against the decisions.

DECISIONS OF THE LICENSING SUB-COMMITTEE

27 MARCH 2008

Sub-Committee:

*Councillor Kate Salinger (Chairman)

*Councillor Andreas Tambourides

*Councillor Jim Tierney

*denotes Member present

Officers to the Panel

Bob Huffam – Legal Services

Nick Musgrove – Democratic Services

Licensing Officer

Michelle Rudland

Metropolitan Police

Sgt Mark Altman

Also in attendance were the following members of the Patel family, accompanied by their legal representative Sally Hills of Turbervilles, solicitors:

Raj Patel

Ash Patel

Vaishali Patel

Avinash Patel

1. **ABSENCE OF MEMBERS:**
All Members were present.
2. **DECLARATION OF MEMBERS' PERSONAL AND PREJUDICIAL INTERESTS:**
No interests were declared.
3. **THE ASH BAR/FUNKY BROWNZ, 63 THE HYDE, WEST HENDON, LONDON NW9 6LE:**

The Sub-Committee had before it representations against the decisions of the Licensing Sub-Committee which, on 25 March, had heard the Police request for an expedited review of the licence for these premises under section 53A of the Licensing Act 2003.

The Chairman introduced the parties present and explained the procedure which would be followed at the meeting.

The Sub-Committee were informed of the background to the case, and of the decision taken by the Sub-Committee on 25 March. This decision was now the subject of representations on behalf of the licence holders, via Ms Hills of Turbervilles, namely that

- (a) *The interim steps were disproportionate in all the circumstances*
- (b) *That the premises licence holders were not given an opportunity of addressing the Licensing Sub-Committee [and] therefore feel that the Committee were not made fully aware of the circumstances.*
- (c) *That the premises cannot trade effectively without the extended hours on a Friday and Saturday until 2.00am due to the very nature of the club which opens at 10pm*
- (d) *Lastly that full co-operation with the Police has been given by our clients following the Closure Order and police have not instigated a suspension of the terminal hour on either a Friday or Saturday night"*

Sgt Altman submitted the attached slightly revised version of the suggested conditions that he had sought from the hearing on 25 March: he had agreed these with the licence holders and stated that the Police would be happy for the premises to continue to trade under these conditions in the interim period until the full licence review takes place.

The Licence holders, both directly and through Ms Hills in a verbal submission on their behalf, indicated their acceptance of the revised conditions proposed by the Police.

The Sub-Committee questioned the license holders and Sgt Altman, paying particular regard to

- the additional restrictions on Friday and Saturday nights imposed by the 25 March hearing;
- The contention that the problems experienced on Thursdays were due to the hosting of external promotions at the venue which would be precluded under the police proposals, had now been terminated by the management, and did not apply to the other nights.

The Chairman sought clarification of the definition of closure times proposed in sections 1 and 2 of the Police conditions, and all parties agreed that to avoid ambiguity these should read

1. *Terminal hour for all Licensable Activity to be no later than 1am (01:00hrs) on any Thursday evening/Friday morning with the premises being closed and cleared by 1:30am (01:30hrs) of all persons with the exception of staff employed at the premises*
2. *A ' calm down ' period of 20 minutes in the nightclub on any Friday evening/Saturday morning or Saturday evening/Sunday morning prior to closing at 2.00 am.*

4. EXCLUSION OF THE PRESS AND PUBLIC:

RESOLVED – Under Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, that the public be excluded from the meeting for the following item of business:

Consideration of decision

5. RE-ADMISSION OF THE PRESS AND PUBLIC:

RESOLVED – That the press and public be re-admitted.

6. ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE:

RESOLVED – That the Sub-Committee agree to replace the decision taken by the Sub-Committee on 25 March with the points proposed by the Police on 27 March, subject to the amendment agreed above.

Final agreed points for Summary Review as submitted by Police (see amendments agreed above)

1. Terminal hour for all Licensable Activity to be no later than 1am (01:00hrs) on any Friday with the premises being closed and cleared by 1:30am (01:30hrs) of all persons with the exception of staff employed at the premises
2. A ' calm down ' period of 20 minutes in the nightclub prior to closing at 2.00 am.
3. All licensable activity in the restaurant/bar area of the premises will end 30 minutes prior to any current terminal hour of the club. The restaurant/bar area will also close 30 minutes earlier than any current terminal hour for the club
4. Condition 18 in annexe 2 of the premises licence was volunteered by the applicant and states that "six SIA registered door supervisors are employed at busy times". I would suggest that the following is applied as an interim step:
 - SIA door supervisors will be employed on Thursday, Friday and Saturday from 8:30pm (20:30hrs) until 30 minutes after the premises have closed
 - The SIA door supervisors will wear a clearly identifiable jacket with high visibility (light reflective) panels
 - 5 SIA door supervisors will be employed at any time when the club is open.
 - If the club is closed then the requirement for SIA door supervisors may be reduced to 2. This reduction in doors supervisors is at the discretion and risk assessment of the premises licence holders and the Designated Premises Supervisor (DPS).
 - If the club is closed and the bar/restaurant also closes no later than 12:30am (00:30hrs) there shall be no requirement for door supervisors. This decision is at the discretion and risk assessment of the premises licence holders and the Designated Premises Supervisor (DPS).
 - If the any part of the premises are hired for a private function, the number of SIA door supervisors may be reduced or increased in agreement with the Police. This will require completion and submission of an approved Police risk assessment form 14 days prior to the event.
5. There will be no external promotions at the venue. All functions at the premise will be controlled by the premises licence holders and the Designated Premises Supervisor (DPS). This includes the advertising and promotion of these events
6. There shall be no direct access for the public via the intercommunicating doors between the bar/restaurant area and the club.



Hill House
118 High Street
Uxbridge
Middlesex
UB8 1JT
tel 01895 201700
fax 01895 273519
dir 45116 Uxbridge
e-mail solicitors@turbervilles.co.uk
www.turbervilles.co.uk

SH/sjh/133990-3

FAO: Michelle Rudland
London Borough of Barnet
Licensing Team
Building 4, North London Business Park
Oakleigh Road South
London
N11 1NP

25 March 2009

By Fax Only: 0208 361 7650

Dear Madam

Ash Bar/Funky Brownz, 63 The Hyde, West Hendon, London, NW9 6LE
Application for Summary Review of Premises Licence
Section 53(B)(6) Licensing Act 2006

We write further to our emails of today and confirm that we act on behalf of the Ash Bar Limited, the proprietors and Premises Licence Holders of the above property.

Following the hearing on 25th March 2009 we should be grateful if you would accept this letter as notice of representation against the interim measures imposed by the Licensing Sub-Committee by way of ex-parte application by the Metropolitan Police. Our Clients reasons for the representation are:

- (a) That the interim steps were disproportionate in all the circumstances
- (b) That the Premises Licence Holders were not given an opportunity of addressing the Licensing Sub-Committee therefore feel that the Committee were not made fully aware of the circumstances.
- (c) That the premises cannot trade effectively without the extended hours on a Friday and Saturday until 2 am due to the very nature of the club which opens at 10 pm
- (d) Lastly, full co-operation with Police has been given by our Clients following the Closure Order and Police have not instigated a suspension of the terminal hour on either a Friday or a Saturday night.

Commercial Property	Conveyancing	Corporate Commercial	Debt Recovery	Employment	Family	Licensing	Litigation and Dispute Resolution	Probate, Wills and Trusts	Real Estate
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22 High Street - Uxbridge | 2A Western Parade - Hillingdon | 11 Crescent Parade - Hillingdon | Wilson House - Chorleywood
 partner: Saeed Sighe • David Smith • Russell Hallett • Robert Dixon • John Clement • Diane Stevens • Mert Jones • Andrew Cameron
 associate solicitors: Sanju Kotecha • Dominic Gamble-Kemp • Julian Mullins • Lydia Jenkins • Celia Whitlock • Kate Ryan • Maria Endal
 legal executives: Andrew Dunkey • Peter Moynihan • estate agency manager: Derek O'Hanrahan
 Member of: Solicitors for the Elderly • Resolution • The Law Society's Children Panel • The Employment Lawyers Association
 The Association of Lawyers for Children • The Chartered Institute of Arbitrators • Affiliate of the British Institute of Arbitrating
 Society of Trust & Estate Practitioners (STEP) • The European Employment Lawyers Association
 REGULATED BY THE SOLICITORS REGULATION AUTHORITY



26/03 2009 THU 11:16 FAX 01895274557

002/002

We understand that arrangements have now been made for a hearing to take place tomorrow at 10.30 am at Barnet House. Please do not hesitate to contact Sally Hills should you have any queries.

Yours faithfully



direct dial 01895 201746
direct fax 01895 274557
email sally.hills@turtvilles.co.uk

Annex 1 - Mandatory Conditions

1-8 all fine

1. No supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. Each individual employed in the role of guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage must be licensed by the Security Industry Authority.
4. The admission of a child or young persons under the age of 18 to the exhibition of any film shall be restricted in accordance with any recommendations made by any film classification body and or persons designated as such by the Secretary of State under section 4 of the Video Recordings Act 1984.

Annex 2 – Conditions consistent with the operating schedule

5. This licence is granted in accordance with the published terms and conditions set out in the London Borough of Barnet's Entertainment Licensing Rules of Management for Places of Public Entertainment dated the 15th May 1989
6. The Premise Licence Holder and Premises Supervisor shall ensure that music provided at the premises shall not create any disturbance or annoyance to residents in the area. The Premise Licence Holder and Premises Supervisor shall monitor the music noise levels outside the premises, whenever the premises is in use under this licence, and take immediate action to reduce music levels so that music is inaudible in any residential premises.
7. There shall be no new admission or re-admission to the premises after 01.00 hours on Thursdays, Fridays and Saturdays
8.
 - a) The total number of persons present at any one time in the Function Room shall not exceed 150.
 - b) The total number of persons present at any one time in the Main Bar shall not exceed 100.
 - c) The premises shall be provided with adequate facilities to monitor and control the number of people present.
9. Staff are trained as appropriate in respect of relevant licensing law, the implementation of licence conditions, health safety, first aid, alcohol and drug awareness and conflict management.
to be removed and changed to "all staff are trained in licensing law and their social responsibilities as a retailer of alcoholic products".
10. Customers will not be permitted to take open glass containers outside the premises, as defined in the plan submitted with the operating schedule and approved by the Licensing Authority.
11. The consumption of alcohol will be restricted to those parts of the premises identified on the plan submitted with the operating schedule and approved by the Licensing Authority.

12. A summary of the Premises Licence will be displayed at each public entrance to the premises.
13. Notices will be displayed at each public entrance to the premises, which clearly state the premises policy on admission and searching.
14. The applicants will ensure that the premises are responsibly managed and supervised at all times to ensure that appropriate steps are taken to promote the four licensing objectives.
15. The applicant monitors the need for door supervisors and in so doing takes into account any advice given by the Police.
to be removed as replaced by interim steps condition 18
16. Where existing, CCTV systems will continue to operate during the additional hours.
to be removed and replaced with "a digital CCTV system is installed to the requirements of the Crime Prevention Officer"
 - **Digital recording colour CCTV comprising a multi camera system.**
 - **The head unit (recorder) for storing the images will store such data on a hard drive or a similar quality medium.**
 - **A CD or DVD burner will also form part of the system to facilitate making copies of the images.**
 - **If the head unit (recorder) is kept on the premises it must be located in a secure cabinet or other secure area, preferably out of the sight and reach of the public. The unit must be further secured by physical means to prevent anyone from merely picking up and removing the unit, e.g. a secure metal boot, or metal case strap, bolted to an immovable object like a wall or floor.**
 - **The quality of the images must be of a sufficiently high standard to allow identification of the subject matter.**
 - **Cameras will cover key areas identified by the operator and Police. These will include external cameras covering any outside area used by patrons of the premises, the external entrance and exit doors, clear headshots of persons entering the premises, approach route to the toilets, the bar and till areas and other areas not in full view from the bar.**
 - **Images must be retained for a period of 31 days before overwriting.**
 - **The images will be made available on reasonable demand by the Police and authorised officers of the London Borough of Barnet.**
 - **At all times when the premises are open there shall be at least one person who is capable of operating the CCTV system if required to do so by the Police or authorised officers of the London Borough of Barnet.**
 - **This system will be fully maintained at all times to ensure correct operation.**
17. In line with our Alcohol and Social Responsibility Policy there will be no promotions that encourage illegal, irresponsible or immoderate consumption.
18. Six SIA registered door supervisors are employed at busy times.
see interim steps
19. Bag searches are conducted at random
to be removed
20. Incidents are logged and recorded in a log book.
21. There is an established procedure for the confiscation of drugs agreed with local police.
22. Known troublemakers are barred.
22-33 to be removed and replaced with:
"No entry to the premises one hour before the end of the licensable activities".
"When the premises are open staff will carry out security checks to the premises including the toilet areas. A log will be kept of those checks."
Regular checks of the toilets are to be made and recorded, with intervals being no greater than one hour.

Police and LBB approved signs to be clearly displayed. The signs will be worded to advise clients that CCTV covers the premises and that there is zero tolerance to drugs and any other criminal activity. Besides any prosecution for offences anyone barred from these premises will also be barred from all of the other premises in the pubwatch scheme.

23. Signs are put up throughout the premises alerting customers to possible theft.
24. A burglar alarm is installed with red care.
25. Toilets are checked an average of 1/2 hourly daily and a log kept of the times/dates they are visited.
26. The premises operate the current local authority or similar 'proof of age' scheme and display the relevant literature.
27. Signs are displayed, warning customers about using drugs on the premises.
28. That the premises do not allow entry to the premises one hour before the end of licensable activities.
29. The Designated Premises Supervisor and their staff will at all times remain aware of their responsibilities for the prevention of crime and disorder on the premises and demonstrate a responsible attitude to the marketing and sale of alcohol.
30. There will be at least one Personal Licence Holder on duty during permitted hours.
When the "Club" section of the premises is open there shall be at least one Personal Licence Holder on duty during the hours, as shown on the licence, where the premises are open to the public
31. Safety signs and notices are in place.
32. Free drinking water is available to customers.
33. Floor staff conduct physical sweeps inside the premises to remove hazardous objects/waste.
34. Public transport information (including night time travel options) is available to customers.
34 & 35 change to "Public transport information and taxi cab numbers will be available to all customers".
35. Phone number of an allocated taxi firm displayed on the premises.
36. We will at all times observe the law and ensure that alcohol is not served to people who are under 18 years of age. The manager and staff are briefed in the importance of their responsibilities in ensuring customers are over 18.
36-38 to be removed and replaced with
"acceptable forms of ID are (but not limited to) valid passport, photocard driving licence, PASS approved proof of age card."
37. No adult entertainment (paid for by the company of a nude physical nature) is permitted at these premises. Any children under 16 remain the responsibility of the accompanying adult when using the premises (and/or exterior area). Staff are not allowed to be in sole supervision of children which remains the responsibility of the accompanying adult at all times.
38. The Designated Premises Supervisor/ Personal Licence Holder and staff will at all times remain aware of their responsibilities under this objective, including that alcohol shall not be sold to anyone under the age of 18. Staff on duty have been trained and made aware of these requirements and the need to demand an acceptable form of age I.D. (i.e. an accredited 'Proof of Age' card or 'new type' driving licence with a photograph or passport with (photograph) where considered appropriate.

39. Children under the age of 18 will only be allowed on the premises as long as they are accompanied by their parents or other adults as part of a 'family' taking a table meal **or they are attending a pre booked function other than one where the nature of the function and entertainment is of an adult nature, and or, primarily involving the consumption of alcohol**
40. Challenge 21 Scheme will be adopted. Customers who appear to be 21 years or less are to be challenged when attempting to purchase alcohol.

Annex 3 – Conditions attached after hearing by the licensing authority

41. No patrons allowed in the northern access area of the premises next to 69 The Hyde NW9 at any time.
42. No patrons to be admitted or readmitted to rear smoking area after 11pm on Sunday, Monday, Tuesday, and Wednesday or after midnight on Thursday, Friday and Saturday.
43. Security staff to regularly monitor rear smoking area after 9pm each night to ensure no noise from patrons is clearly audible at nearest residential premises situated at Malvern Court and 69 The Hyde NW9. The partition of the smoking area connected to the premises structure is to be extended (by the 9th October 2007) so there are no gaps from the doors, roof or partition where it connects to the site perimeter fence to minimise noise break out from patrons in the smoking area.
44. The applicant must ensure that the amplified music system in use at the premises includes a noise limiting device which:
41 to 51 all fine but change 44 to read
"44. The Applicant must ensure that the amplified music system in use at the premises includes a noise limiting device which:
 - a) = 45
 - b) = 46
 - c) = 47
 - d) = 48
 - e) = 49
 - f) = 50
45. Measures the sound level in the premises by use of a tamper proof device permanently sited at the premises. Such sound pressure levels are to be measured in octave band frequencies of 16, 32, 63, 125, 250 and 500 Hz
46. Immediately withdraws power to the amplifier in the event that preset sound levels of any or all of the individual octave bands which have previously been agreed by the Group Manager, Public Health and Nuisance at the London Borough of Barnet are exceeded. Such levels will be based upon inaudibility in residential properties between the hours of 2300 and 0700 hours. Outside of these times noise must not be at a level which causes a nuisance.
47. Is permanently fixed in the premises and cannot be altered, bypassed or tampered with in any way.
48. Is correctly installed by a competent person, being an electrician who is enrolled with NICEIC.
49. Includes electrical contact point switches fitted on all open able windows to the property; such switches to be fitted in series in a single electrical circuit loop such that in the event of the electrical contact switches becoming separated (by a window being opened) then the power to the amplifier is withdrawn immediately.

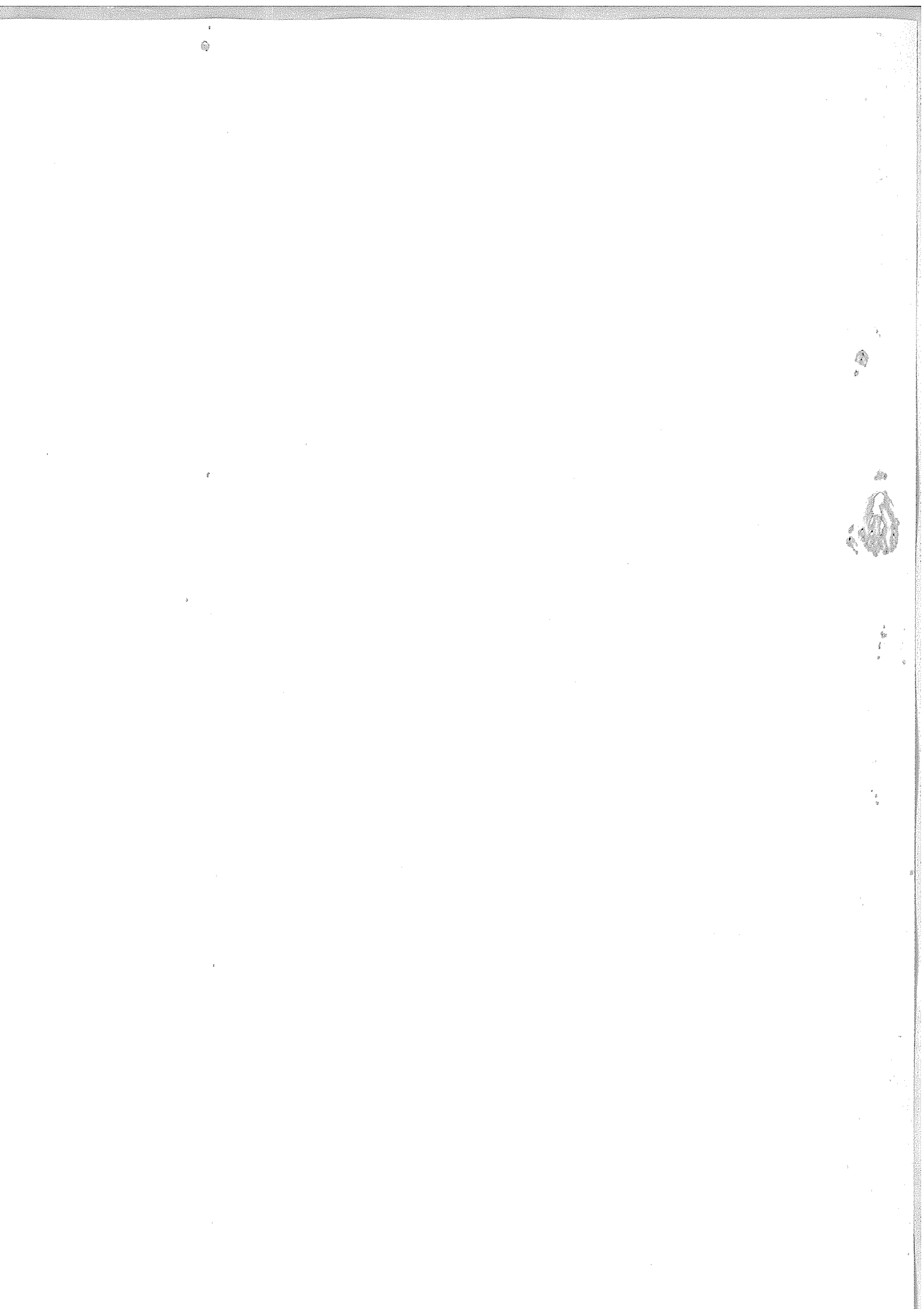
50. Includes electrical contact point switches fitted on all openable doors which are fire doors used other than to enter or leave the premises under normal circumstances; such switches to be fitted in series in a single electrical circuit loop together with the electrical contact switches fitted to the windows, such that in the event of the electrical contact switches becoming separated (by a fire door being opened) then the power to the amplifier is withdrawn immediately.
51. No empty bottles to be disposed of until after 10am the following morning.
52. The License holder is to attend all pub watch meetings and arrange meetings with the Area residents Association on a quarterly (3-monthly) basis.
change to "Management staff will endeavour to attend regular Pubwatch meetings"

Annex 4 - Plan

As submitted to the Council with the application for the variation of the premises licence under Section 34 of the Licensing Act 2003 and titled Licensing Plan.

Interim Steps

1. Terminal hour for all Licensable Activity to be no later than 1am (01:00hrs) on any Friday with the premises being closed and cleared by 1:30am (01:30hrs) of all persons with the exception of staff employed at the premises
2. A ' calm down ' period of 20 minutes in the nightclub prior to closing at 2.00 am.
3. All licensable activity in the restaurant/bar area of the premises will end 30 minutes prior to any current terminal hour of the club. The restaurant/bar area will also close 30 minutes earlier than any current terminal hour for the club
4. Condition 18 in annexe 2 of the premises licence was volunteered by the applicant and states that "six SIA registered door supervisors are employed at busy times". I would suggest that the following is applied as an interim step:
 - SIA door supervisors will be employed on Thursday, Friday and Saturday from 8:30pm (20:30hrs) until 30 minutes after the premises have closed
 - The SIA door supervisors will wear a clearly identifiable jacket with high visibility (light reflective) panels
 - 5 SIA door supervisors will be employed at any time when the club is open.
 - If the club is closed then the requirement for SIA door supervisors may be reduced to 2. This reduction in doors supervisors is at the discretion and risk assessment of the premises licence holders and the Designated Premises Supervisor (DPS).
 - If the club is closed and the bar/restaurant also closes no later than 12:30am (00:30hrs) there shall be no requirement for door supervisors. This decision is at the discretion and risk assessment of the premises licence holders and the Designated Premises Supervisor (DPS).
 - If any part of the premises are hired for a private function, the number of SIA door supervisors may be reduced or increased in agreement with the Police. This will require completion and submission of an approved Police risk assessment form 14 days prior to the event.
5. There will be no external promotions at the venue. All functions at the premise will be controlled by the premises licence holders and the Designated Premises Supervisor (DPS). This includes the advertising and promotion of these events
6. There shall be no direct access for the public via the intercommunicating doors between the bar/restaurant area and the club.



Licensing Act 2003**Part A:
Premises Licence**Premises Licence Number:
LN/199906627**Licensing Authority:**London Borough of Barnet,
Building 4, North London Business Park
Oakleigh Road South
New Southgate,
London,
N11 1NP**Part 1 – Premises details****Postal address of premises, or if none, ordnance survey map reference or description**

63 – 65 The Hyde

Post Town

London

Post code

NW9 6LE

Telephone number

0208 205 6266

Where the licence is time limited the dates

This premises licence is not time limited

Licensable activities authorised by the licenceThe sale by retail of alcohol,
The provision of regulated entertainment and
The provision of late night refreshment**The times the licence authorises the carrying out of licensable activities****Sale by retail of alcohol****Standard Days and Timings:**

Sunday to Wednesday

10:00 to 00.00 hrs

Thursday to Saturday

10:00 to 02.00 hrs

Non-standard timings:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.**The provision of regulated entertainment**

The exhibition of films indoors only

The performance of live music indoors only

The playing of recorded music indoors only

The performance of dance indoors only

The performance of entertainment of a similar description to performance of live music, the playing of recorded music or performances of dance indoors only.

The provision of facilities for making music indoors only.

The provision of facilities for dancing indoors only.

The provision of facilities of a similar description to that of the provision of facilities for making music or the provision of facilities for dancing indoors only.

Standard days and timings:

Sunday to Wednesday	10:00 to 00.00 hrs
Thursday to Saturday	10:00 to 02.00 hrs

Non-standard timings:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The provision of late night refreshment indoors only

Standard Days and Timings:

Sunday to Wednesday	23:00 to 00.00 hrs
Thursday to Saturday	23:00 to 02.00 hrs

Non-standard timings

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The hours that the premises are open to the public

Standard days and timings:

Sunday to Wednesday	10:00 to 00.30 hrs
Thursday to Saturday	10:00 to 02.30 hrs

Non-standard timings

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

Both on and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Vaishali Patel and Ragini Patel
51 Heber Road
Cricklewood
London
NW2 6AB

Tel: 07939192487

Registered number of holder, for example company number, charity number (where applicable)

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Avinash Patel
89 Hazelville Road
London
N19 3NB

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

88421 - London Borough of Islington

Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. Each individual employed in the role of guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage must be licensed by the Security Industry Authority.
4. The admission of a child or young persons under the age of 18 to the exhibition of any film shall be restricted in accordance with any recommendations made by any film classification body and or persons designated as such by the Secretary of State under section 4 of the Video Recordings Act 1984.

Annex 2 – Conditions consistent with the operating schedule

5. This licence is granted in accordance with the published terms and conditions set out in the London Borough of Barnet's Entertainment Licensing Rules of Management for Places of Public Entertainment dated the 15th May 1989
6. The Premise Licence Holder and Premises Supervisor shall ensure that music provided at the premises shall not create any disturbance or annoyance to residents in the area. The Premise Licence Holder and Premises Supervisor shall monitor the music noise levels outside the premises, whenever the premises is in use under this licence, and take immediate action to reduce music levels so that music is inaudible in any residential premises.
7. There shall be no new admission or re-admission to the premises after 01.00 hours on Thursdays, Fridays and Saturdays
8.
 - a) The total number of persons present at any one time in the Function Room shall not exceed 150.
 - b) The total number of persons present at any one time in the Main Bar shall not exceed 100.
 - c) The premises shall be provided with adequate facilities to monitor and control the number of people present.
9. Staff are trained as appropriate in respect of relevant licensing law, the implementation of licence conditions, health safety, first aid, alcohol and drug awareness and conflict management.
10. Customers will not be permitted to take open glass containers outside the premises, as defined in the plan submitted with the operating schedule and approved by the Licensing Authority.
11. The consumption of alcohol will be restricted to those parts of the premises identified on the plan submitted with the operating schedule and approved by the Licensing Authority.
12. A summary of the Premises Licence will be displayed at each public entrance to the premises.

13. Notices will be displayed at each public entrance to the premises, which clearly state the premises policy on admission and searching.
14. The applicants will ensure that the premises are responsibly managed and supervised at all times to ensure that appropriate steps are taken to promote the four licensing objectives.
15. The applicant monitors the need for door supervisors and in so doing takes into account any advice given by the Police.
16. Where existing, CCTV systems will continue to operate during the additional hours.
17. In line with our Alcohol and Social Responsibility Policy there will be no promotions that encourage illegal, irresponsible or immoderate consumption.
18. Six SIA registered door supervisors are employed at busy times.
19. Bag searches are conducted at random
20. Incidents are logged and recorded in a log book.
21. There is an established procedure for the confiscation of drugs agreed with local police.
22. Known troublemakers are barred.
23. Signs are put up throughout the premises alerting customers to possible theft.
24. A burglar alarm is installed with red care.
25. Toilets are checked an average of 1/2 hourly daily and a log kept of the times/dates they are visited.
26. The premises operate the current local authority or similar 'proof of age' scheme and display the relevant literature.
27. Signs are displayed, warning customers about using drugs on the premises.
28. That the premises do not allow entry to the premises one hour before the end of licensable activities.
29. The Designated Premises Supervisor and their staff will at all times remain aware of their responsibilities for the prevention of crime and disorder on the premises and demonstrate a responsible attitude to the marketing and sale of alcohol.
30. There will be at least one Personal Licence Holder on duty during permitted hours.
31. Safety signs and notices are in place.
32. Free drinking water is available to customers.
33. Floor staff conduct physical sweeps inside the premises to remove hazardous objects/waste.
34. Public transport information (including night time travel options) is available to customers.
35. Phone number of an allocated taxi firm displayed on the premises.
36. We will at all times observe the law and ensure that alcohol is not served to people who are under 18 years of age. The manager and staff are briefed in the importance of their responsibilities in ensuring customers are over 18.

37. No adult entertainment (paid for by the company of a nude physical nature) is permitted at these premises. Any children under 16 remain the responsibility of the accompanying adult when using the premises (and/or exterior area). Staff are not allowed to be in sole supervision of children which remains the responsibility of the accompanying adult at all times.
38. The Designated Premises Supervisor/ Personal Licence Holder and staff will at all times remain aware of their responsibilities under this objective, including that alcohol shall not be sold to anyone under the age of 18. Staff on duty have been trained and made aware of these requirements and the need to demand an acceptable form of age I.D. (i.e. an accredited 'Proof of Age' card or 'new type' driving licence with a photograph or passport with (photograph) where considered appropriate.
39. Children under the age of 18 will only be allowed on the premises as long as they are accompanied by their parents or other adults as part of a 'family' taking a table meal.
40. Challenge 21 Scheme will be adopted. Customers who appear to be 21 years or less are to be challenged when attempting to purchase alcohol.

Annex 3 – Conditions attached after hearing by the licensing authority

41. No patrons allowed in the northern access area of the premises next to 69 The Hyde NW9 at any time.
42. No patrons to be admitted or readmitted to rear smoking area after 11pm on Sunday, Monday, Tuesday, and Wednesday or after midnight on Thursday, Friday and Saturday.
43. Security staff to regularly monitor rear smoking area after 9pm each night to ensure no noise from patrons is clearly audible at nearest residential premises situated at Malvern Court and 69 The Hyde NW9. The partition of the smoking area connected to the premises structure is to be extended (by the 9th October 2007) so there are no gaps from the doors, roof or partition where it connects to the site perimeter fence to minimise noise break out from patrons in the smoking area.
44. The applicant must ensure that the amplified music system in use at the premises includes a noise limiting device which:
45. Measures the sound level in the premises by use of a tamper proof device permanently sited at the premises. Such sound pressure levels are to be measured in octave band frequencies of 16, 32, 63, 125, 250 and 500 Hz
46. Immediately withdraws power to the amplifier in the event that preset sound levels of any or all of the individual octave bands which have previously been agreed by the Group Manager, Public Health and Nuisance at the London Borough of Barnet are exceeded. Such levels will be based upon inaudibility in residential properties between the hours of 2300 and 0700 hours. Outside of these times noise must not be at a level which causes a nuisance.
47. Is permanently fixed in the premises and cannot be altered, bypassed or tampered with in any way.
48. Is correctly installed by a competent person, being an electrician who is enrolled with NICEIC.
49. Includes electrical contact point switches fitted on all open able windows to the property; such switches to be fitted in series in a single electrical circuit loop such that in the event of the electrical contact switches becoming separated (by a window being opened) then the power to the amplifier is withdrawn immediately.
50. Includes electrical contact point switches fitted on all openable doors which are fire doors used other than to enter or leave the premises under normal circumstances; such switches to be fitted

51. No empty bottles to be disposed of until after 10am the following morning.
52. The License holder is to attend all pub watch meetings and arrange meetings with the Area residents Association on a quarterly (3-monthly) basis.

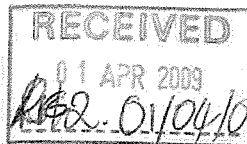
Annex 4 - Plan

As submitted to the Council with the application for the variation of the premises licence under Section 34 of the Licensing Act 2003 and titled Licensing Plan.

Michelle Rudland
Community Protection Group
London Borough of Barnet
Oakleigh Road South N11 1NP

28/3/09

Stephen Curry
53 Kingsbury Rd
London NW9 7hu



ANNEX 8

Dear Madam,

I am writing in as requested to let you know of the psychological impact the customers the Funky Brownz have had on my well being.

Over the space of several months I have been awoken by loud abusive swearing and bins being kicked over, In the Month of March I finally decided enough was enough and started reporting these incidents to the Police I made 3 calls to the Police on 1/3/09 Cad 1355, 14/3/09 Cad 10067 and 20/3/09 Cad 751.

I made a further Police report on the 20/3/09 regarding Criminal damage that had been done to my vehicle on the 20/3/09 Cad 3652.

These incidents would always happen in the early hours of Friday, Saturday and Sunday at around 2.45 AM which is around the same time customers make their way home from Funky Brownz therefore it is my belief that the perpetrators are from this late night Bar.

I have recently been prescribed anti-depressants due to the stress this Late Night Bar has caused me, It is not acceptable for my health to suffer through being awoken and feeling under siege therefore something has to be done.

Yours Sincerely

Stephen Curry

Michelle Rudland
Community Protection Group
London Borough of Barnet
Oakleigh Road South N11 1NP

28/3/09

Dawn Fawdon
53 Kingsbury Rd
London NW9 7hu

Dear Madam,

I am writing to let you know I have had my sleep broken on a number of occasions by what I would consider as violence, I have seen a number of Asian men shouting throwing wheelie bins at each other, Also on 20/3/09 I heard a car being Vandalised.

This would normally happen on the weekends, I think this is being done by the customers of Funky Brownz.

Yours Sincerely

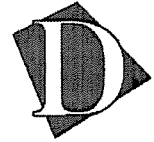


Dawn Fawdon

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Devonshires
Solicitors



Michelle Rudland
Licensing Officer
The London Borough of Barnet
Licensing Team
One Building
North London Business Park
Oakleigh Road South
London N11 1NP

Our Ref: JRHWES4\22\2779881

Also by fax: 020 8361 7650

6 April 2009

Dear Madam

Re: The Ash Bar and Funky Brownz, 63-65 The Hyde, West Hendon, London NW9 6LE

We refer to the above matter and to a forthcoming review hearing of the license to operate a pub to be heard in April 2009 by your offices.

We act for the Landlord of a tenant at 8 Rhodan Gordon Court, The Hyde, London NW9 6LE, the Westway Housing Association. The Westway Housing Association is an adjoining land owner of the Ash Bar and Funky Brownz at 63-65 The Hyde.

We have been instructed to address a letter to you for your consideration ahead of the above mentioned review of the Ash Bar and Funky Brownz licence to operate a pub.

Please be advised that our client and its tenants are concerned about noise nuisance emanating from the pub at all hours, particularly late at night. They are also concerned about dogs housed at the pub barking at all hours of the day and night, thereby disturbing our client's tenants.

On 28 August 2008 our client applied to the Barnet County Court for an Injunction Order pursuant to Sections 153(a) or (d) of the Housing Act 1996. We enclose herewith a copy of this application and attached witness statements for your attention.

The Order that our client sought in relation to the above mentioned hearing was an Injunction requiring the owners of the Ash Bar and Funky Brownz pub to place noise monitors near a cage, which at that stage had accommodated dogs at the property in order to detect the level of noise caused by them and also amongst other things, prohibiting the owners of the pub from threatening residents or otherwise engaging in activities that may affect the quiet enjoyment of anyone residing in the vicinity of 3-65 The Hyde, West Hendon, NW9 6LE.

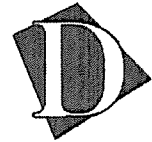
At a hearing in the Barnet County Court on 28 August 2008, the owners of the pub gave the court an Undertaking promising to move the dogs inside the pub after 9pm until 12 noon at weekends and 7.30am during weekdays.

At a further hearing on 3 October 2008, the owners of the pub agreed to continue to house the dogs in the enclosure within the boundaries of the pub, between the hours of 9pm until



Partners: Allan Hudson, Duncan Brown, Jane Spencer, Andrew Cowan, Gareth Hall, Julie Bradley, Philip Barden, Nick Billingham, Daniel Clifford, Amanda Harvey, Paul Buckland, Sharon Kirkham, Mark London, Jane Mogollon, Andrew Crawford, Susan Hall, Nicola Philp, Andrew Cassiles, James Dunn, Jonathan Passman, Jonathan Ebsworth, Julian Barker, Antony Power, Paul Skellon, Andrew Thompson, Nick Grant, Jonathan Hulley, Helen Joyce.

THIS FIRM DOES NOT ACCEPT SERVICE BY ELECTRONIC MAIL OR FACSIMILE. THIS FIRM IS REGULATED BY THE SOLICITORS REGULATION AUTHORITY.



12 noon at weekends and 9pm until 9.30am on weekdays. A copy of both County Court Orders are attached for your ease of reference.

We have been instructed that a resident of our client at Rhodan Gordon Court, 69-71 The Hyde, London NW9 6LE has between the period 12 November 2008 and 26 January 2009 complained to our client about further noise nuisance caused by the dogs at the pub, and in particular complaining about the dogs barking at all hours of the day and night, so that she is unable to sleep.

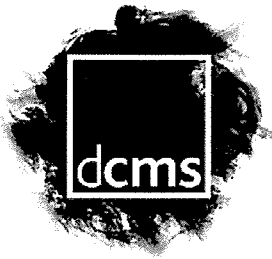
We were also instructed to advise that our client's tenants are concerned about noise nuisance emanating from the pub at all hours of the day and night, and also patrons urinating in public places near the pub, so as to cause a disturbance to our client's tenants.

Given the above circumstances, we are instructed to request that at the forthcoming hearing, you review the operating licence of the pub known as the Ash Bar and Funky Brownz, 63-65 The Hyde, West Hendon, London NW9 6LE so that the licence to operate is either revoked so that our client's neighbours are not disturbed after 10pm on weekdays and on weekends or the conditions of house amended.

Yours faithfully

Devonshires

Direct tel: 020 7880 4308
Direct fax: 020 7880 4265
e-mail: jonathan.hulley@devonshires.co.uk



department for
culture, media
and sport

LICENSING ACT 2003

(as amended by the Violent Crime
Reduction Act 2006)

EXPEDITED/SUMMARY LICENCE REVIEWS GUIDANCE

October 2007

improving
the quality
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

INTRODUCTION

1.1 This Guidance explains how to use new provisions in the Licensing Act 2003 (the 2003 Act) which allow a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both). These provisions were inserted at section 53A of the 2003 Act by the Violent Crime Reduction Act 2006 and came into force on 1 October 2007. This guidance has no statutory basis but is intended to assist police forces and licensing authorities when considering using the new procedures.

1.2 The new powers apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, nor to those operating under a club premises certificate. The purpose of the new powers is to complement existing procedures in the Licensing Act 2003 for tackling crime and disorder associated with licensed premises. The existing powers, in Part 8 of the 2003 Act, provide for the instant closure of premises by the police in some circumstances, and the review of premises' licences by the licensing authority. The new powers, which are in Part 3, are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.

1.3 The new powers will allow:

- the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with **serious** crime or **serious** disorder (or both); and
- the licensing authority to respond by taking interim steps quickly, **where appropriate**, pending a full review.

1.4 In summary, the process is:

- a local chief officer of police may apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both);
- on receipt of the application and the certificate the licensing authority must within 48 hours consider whether it is necessary to take interim steps pending determination of the review of the premises licence – the authority must in any event undertake a review within 28 days of receipt of the application.

1.5 The range of options open to the licensing authority at the interim steps stage are:

- modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- removal of the designated premises supervisor from the licence; and
- suspension of the licence.

1.6 Following the full licence review the Licensing Authority may do any of the above or may revoke the licence.

1.7 The purpose of this guidance is to:

- set out the circumstances where the power might be used; and
- outline the process and the steps at each stage.

1.8 The process is set out in the diagram at Annex A.

THE STEPS

2. Triggering the expedited review

2.1 Section 53A of the Licensing Act 2003 determines who may apply for an expedited review and the circumstances where it might be used.

Application for expedited review

2.2 The chief officer of police for the local area may apply to the relevant licensing authority for an expedited licence review if a **senior member** of the force has issued a **certificate** that in his/her opinion a licensed premises is associated with **serious crime or serious disorder (or both)**.

2.3 The key definitions used above are:

- **Senior member of the force:** this must be an officer of the rank of superintendent or above.
- **Certificate:** this is a formal note which identifies the licensed premises and includes a signed statement by a senior officer that he believes the premises is associated with serious crime, serious disorder or both. **This form is not prescribed in legislation. However, a sample form which forces may wish to adopt is attached at annex B to this guidance.**
- **Serious crime:** The tests to determine the kinds of conduct that amount to serious crime are set out in Section 81(3)(a) and (b) of the Regulation of Investigatory Powers Act (2000). Those tests are: (a) that the conduct constitutes an offence for which a person 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 or more years or (b) that the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
- **Serious Disorder:** There is no definitive list of behaviours that constitute serious disorder, and the matter is one for judgment by the local police. The phrase should be understood in its ordinary English sense, as is the case under section 12 of the Public Order Act 1986, where it is also used.
- **The Application for a summary or expedited review:** this is an application made by, or on behalf of, the Chief Officer of Police under s.53A of the Licensing Act 2003. The application must be made on a form prescribed by Schedule 8A to the

Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). Schedule 8A was inserted by the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007 (SI 2007/2502), and must be accompanied by the certificate issued by a senior officer. The form which must be used is reproduced in annex C of this guidance.

2.4 In deciding whether to sign a certificate the senior officer will want to consider the following (as applicable):

- the track record of the licensed premises concerned and whether the police have previously had cause to give advice about serious criminal or disorderly conduct (or the likelihood of such conduct) attributable to activities taking place on the premises – it is not expected that this power will be used as a first response to a problem;
- the nature of the likely crime and/or disorder – is the potential incident sufficiently serious to warrant using this power?
- should an alternative power be deployed? Is the incident sufficiently serious to warrant use of the powers in Sections 161 – 165 in Part 8 of the Licensing Act 2003 to close the premises? Or could the police trigger a standard licence review to address the problem? Alternatively, could expedited reviews be used in conjunction with other powers? For example modifying licence conditions following the use of a closure power.
- what added value will use of the expedited process bring? How would any interim steps that the licensing authority might take effectively address the problem?

2.5 It is recommended that these points are addressed in the Chief Officer's application to the licensing authority. In particular, it is important to explain why other powers or actions are not felt to be appropriate. It is up to the police to decide whether to include this information in the certificate or in section 4 of the application for summary review. The police will also have an opportunity later to make representations in relation to the full review.

2.6 In triggering the process, the police will wish to take into account the fact that an intended use of the power is to tackle the use of dangerous weapons and the violence they fuel. For example, in appropriate circumstances the police might wish to make representations to the licensing authority suggesting that they modify the conditions of premises' licence to require searches of customers for offensive weapons upon entry. Under the new power this could be done on an interim basis, pending a full hearing of the issues within the prescribed 28-day timeframe.

2.7 Similarly, the power could, **where appropriate**, be used to reduce the risk of injury caused by glass by requiring the adoption of a safer alternative (but see paras 3.6 and 3.7 below).

2.8 However, as the explanatory notes that accompanied the Violent Crime Reduction Act state: 'These are selective measures. It is not the aim to require all licensed premises to undertake these searches or use toughened glass. Rather, the policy aim is to provide a selective tool, to be used proportionately, to limit this condition to those pubs that are at

risk either because police intelligence shows there is a risk of knives/guns being carried or because crime and disorder has occurred on the premises'.

3. The Licensing Authority and the interim steps

3.1 Within 48 hours of receipt of the chief officer's application, the Licensing Authority must give the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate, and must also consider whether it is necessary to take interim steps. When calculating the 48 hour period any non-working day can be disregarded.¹

3.2 The licensing authority may wish to consult the police about the steps that it thinks necessary, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. (This does not, of course mean that the authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances).

3.3 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions must be taken by the relevant licensing sub-committee, or by the authority acting as a whole (see new section 10(4)(via) of the 2003 Act). It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.

3.4 The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

Modification of the conditions of the premises licence can include altering or modifying existing conditions or adding any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the Guidance to Licensing Authorities issued by the Secretary of State under section 182 of the Licensing Act 2003.

3.5 If the licensing authority decides to take steps at the interim stage then:

¹ This means that, for example, if the application was received at 3pm on a Friday, the 48 hour period would cover the remaining 9 hours on that Friday and the remaining 39 hours starting on the Monday morning (provided it was not a bank holiday). In this case the licensing authority would have to decide on interim steps by 3pm on the Tuesday.

- the decision takes effect immediately, or as soon after then as the licensing authority directs; but
- the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application. The Act does not specify that the immediate notice has to be in writing. However, in an individual case the licensing authority may consider that the need for immediate communication at least initially requires a non-written approach, such as a telephone call. This may happen when, for example, the authority decides that the decision should have immediate effect. In such a case, the decision and the reasons for it should be explained clearly and in full to the licence-holder (or someone who is empowered to act for the licence-holder), and the call followed up as soon as possible with a written version of the decision and the reasons (for example by email or fax) which is identical, or not significantly different from the version given by phone.

3.6 The licensing authority in deciding when its decision on interim steps should take effect should consider the practical implications of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to a premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

4. Making representations against the interim steps

4.1 The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which would have to be completed within 28 days of the application being received by the licensing authority. On receipt of the representations the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of receipt. When calculating the 48 hour period any non-working day can be disregarded.

4.2 The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) are disapplied in order to streamline the hearing process. One result of this is that licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend at the scheduled time, as is the case under the

normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified Hearings regulations, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford him or her the maximum practicable opportunity to attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.

4.3 At the hearing the licensing authority must:

- consider whether the interim steps are necessary for the promotion of the licensing objectives; and
- determine whether to withdraw or modify the steps taken.

4.4 When considering the case the licensing authority must take into account:

- the senior officer's certificate that accompanied the application;
- the chief officer's representations (if any); and
- any representations made by the premises licence holder.

4.5 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

5. The review of the premises licence

5.1 The licensing authority must hold a review of the premises licence within 28 days of receipt of the chief officer's application. This must take place even if the chief officer asks to withdraw his application or representations. At the hearing, the licensing authority must consider:

- what steps it considers necessary for the promotion of the licensing objectives; and
- consider what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent.

5.2 The steps the licensing authority can take are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.

Modification of the conditions of the premises licence can include altering or modifying existing conditions or adding any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the Guidance to Licensing Authorities issued by the Secretary of State under section 182 of the Licensing Act 2003.

5.3 The licensing authority must:

- advertise the review inviting representations from interested parties² for no less than seven consecutive days, by notice as described in regulation 38 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42), and, if applicable, on the authority's website (see regulation 38(1)(b) of the above Regulations). The relevant notices should be published on the day after the day of receipt of the chief officer's application.
- advertise that any representations made by the premises licence holder, responsible authority and interested parties should be submitted to the licensing authority within 10 working days of the advertisement of the review appearing.
- give formal notice of the hearing no later than five working days before the day or first day on which the hearing is to be held to the premises licence holder and to every responsible authority³.

5.4 A party shall give to the authority a notice no later than two working days before the day or the first day on which the hearing is to be held stating –

- whether he intends to attend or be represented at the hearing;
- whether he considers a hearing to be unnecessary.
- whether he would like permission for any other person (other than the person he intends to represent him at the hearing) to appear at the hearing and, if so, explain on which points that person will be able to contribute.

5.5 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). These Regulations apply to final hearings under the new power in a similar way to hearings following closure orders under section 167 of the Licensing Act (it should be emphasised that the truncated version of the Regulations described in paragraph 4.2 above applies to interim hearings only). The issues dealt with by the Regulations include who can make representations and what those representations can be about. It is therefore possible for interested parties or responsible authorities to make representations in relation to any of the licensing objectives, not just crime and disorder. Similarly, where it is in the public interest, the regulations relating to the exclusion of individuals from hearings, or conducting the hearing in private, will apply.

5.6 The licensing authority must take into account any relevant representations made. Relevant representations are those that:

² Interested parties are defined under section 13 (3) of the Licensing Act 2003.

³ Responsible authorities are defined under section 13(4) of the Licensing Act 2003.

- relate to one or more of the licensing objectives;
- have not been withdrawn; and
- are made by the premises licence holder, a responsible authority or an interested party (who is not also a responsible authority).

5.7 The licensing authority must notify its decision and the reasons for making it to:

- the holder of the premises licence;
- any person who made relevant representations; and
- the chief officer of police who made the original application.

6. Right of Appeal

6.1 An appeal may be made within 21 days of the licence holder being notified of the licensing authority's decision to a magistrates' court. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.

6.2 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of. Any interim steps taken will remain in force over these periods.

