

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE  
HELD ON WEDNESDAY, 3 JULY 2013**

**COUNCILLORS**

**PRESENT** (Chairman)Derek Levy, Elaine Hayward and George Savva  
MBE

**ABSENT**

**OFFICERS:** Mark Galvayne (Principal Licensing Officer), Dina Boodhun  
(Legal Services Representative), Ellie Green (Principal  
Trading Standards Officer), PC Martyn Fisher (Police  
Licensing Officer) Jane Creer (Democratic Services)

**Also Attending:** Rauf Khalilov (solicitor for the applicant), Cristina Teixeira  
(applicant) and Nick Panayiotou (partner)  
Sergeant Lorna Taylor (Bowes Ward Safer Neighbourhood  
Team)  
Councillor Alan Sitkin (Bowes Ward Councillor)

**111**

**WELCOME AND APOLOGIES**

The Chairman welcomed all those present, introduced the Members, and explained the order of the meeting.

**112**

**DECLARATION OF INTERESTS**

NOTED that there were no declarations of interest.

**113**

**FUNKY LOUNGE, 111 GREEN LANES, PALMERS GREEN, N13 4SP**

RECEIVED an application made by Ms Cristina Teixeira for a Premises Licence for the premises known as and situated at Funky Lounge, 111 Green Lanes, Palmers Green, London, N13 4SP.

1. The opening statement of Mark Galvayne, Principal Licensing Officer, including the following points:
  - a. The application was made by Ms Cristina Teixeira for a new Premises Licence for Funky Lounge.
  - b. The application was subject to representations from three parties: the Metropolitan Police, the Licensing Authority, and local residents.
  - c. The local residents' objection was set out on pages 34-37 of the agenda pack. Residents had confirmed they were unable to attend this

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meeting in person, but wished their written representation to be considered.

- d. All three objectors considered it necessary to reject this application.
  - e. If the Licensing Sub-Committee (LSC) were minded, having heard all representations, to grant the application in full or in part, proposed conditions were set out on pages 39-41.
2. In response to the Chairman's query, it was advised that this premises did not have any licence under the Licensing Act.
  3. PC Martyn Fisher, on behalf of the Metropolitan Police, advised that late evidence had been received by Licensing Team yesterday, which coincided with his evidence, and which had been shared with representatives of Funky Lounge. He wished to submit this evidence as part of the Metropolitan Police representation.
  4. The solicitor representing Funky Lounge expressed a strong objection to the submission of the evidence referred to above.
  5. The Chairman did not agree to receive any written papers at the meeting.
  6. The opening statement of Ellie Green, Principal Trading Standards Officer, including the following points:
    - a. The Licensing Authority had considered the application and noted the content of the letter to neighbours written by the applicant in response to the representations. The Licensing Authority still considered it was appropriate to object to the application in its entirety.
    - b. The premises was in a busy commercial area and backed onto residential properties.
    - c. The premises had planning permission to operate as a coffee lounge from 10:00 to 22:00, to safeguard the amenities of nearby residential properties. The opening hours requested in this licensing application exceeded those granted by planning permission.
    - d. The Licensing Authority representation was set out on pages 30-33.
    - e. Officers had visited the premises in 2011, and observed evidence of alcohol and smoking.
    - f. The premises had a significant history of complaints, mainly in relation to noise and customer activity late at night. There were also a number of drug-related complaints. Since the application was submitted on 2 May 2013, Police had visited and drugs were found.
    - g. The Licensing Authority supported the Police representation and their reports of drug-related allegations, smoking and gambling activities.
    - h. The Licensing Authority supported the residents' representation letter and their concerns.
    - i. Since the report was completed, the premises seemed to have been closed for refurbishment, so no further observations had been able to take place.

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- j. From the letter of Cristina Teixeira and Nick Panayiotou to neighbours (included on page 38), it appeared that supply of alcohol and late night refreshment was a minor part of their business.
  - k. At the current time, officers had no confidence that a licence would be complied with and the premises had not been operating under Cristina Teixeira and Nick Panayiotou, so they were unable to make a decision on their management.
  - l. Officers were not persuaded by the letter to neighbours that there would be full compliance with a licence. They would recommend that in advance of submitting a licence application, the premises be operated as a coffee shop for a reasonable amount of time to demonstrate responsible ownership and a trouble-free premises, and in time the Licensing Authority may have a different opinion.
  - m. All the information available led to serious concerns on the part of officers. They did not consider that the licensing objectives would be supported and they wished the application to be rejected.
  - n. If LSC were minded to grant the application in part or in full, officers requested consideration be given to proposed conditions, set out on pages 40-41. They would also request a closing time no later than 22:00, as that would reflect the planning permission.
7. Ellie Green responded to questions as follows:
- a. In response to the applicant's representative's query, it was confirmed that the premises had not had a licence since 2005.
  - b. In response to queries about any complaints when his clients were operating the premises in 2009-11, it was advised that officers considering an application would generally collect the most up-to-date information, from the last two to three years. Information from further back would not be considered relevant history. Officers however had not been aware there were different tenants at the time this application was made.
8. The opening statement of PC Martyn Fisher, Police Licensing Officer, on behalf of the Metropolitan Police Service, including the following points:
- a. The applicant had yet to contact him or Enfield Council regarding this application.
  - b. The applicant did not reside at the address given in the application, as confirmed by Nick Panayiotou.
  - c. The recent history of the venue was very poor in respect of the prevention of crime and disorder licensing objective. The details were documented in his submission within the agenda pack.
  - d. The opening hours applied for were not necessary for the operation of the business as set out in the letter to neighbours from the applicant.
  - e. Although they had leafleted neighbours, Cristina Teixeira and Nick Panayiotou remained unknown quantities to the Police.
  - f. It was questioned why, if Nick Panayiotou was the business owner, he had not made a licensing application personally.
  - g. Police considered that granting this application would undermine the prevention of crime and disorder objective.

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h. He introduced Sergeant Lorna Taylor, Bowes Ward Safer Neighbourhood Team (SNT) who orally reported concerns, including the following points:

- (i) She apologised for her late arrival at the hearing.
- (ii) She had been the sergeant of the Bowes SNT for just over three years.
- (iii) For the last six to nine months the SNT had been receiving quite a lot of complaints regarding the premises from residents in the area. There were complaints about noise at 02:00, and that a man was always standing outside the premises keeping a lookout and when approached went back into the premises.
- (iv) Police therefore made some visits, the first on 16 May 2013, when they saw evidence of people smoking, and facilities for gambling including a £70 jackpot game machine. There was also a strong smell of cannabis at the back of the shop. People also ran from the front and back doors of the premises and officers were not able to catch up with them. Police spoke to a female who said she was in charge for the night. Police gave advice in relation to smoking, and gaming machines. She made several attempts, but was unable to contact the owners on her mobile phone.
- (v) More Police officers visited the premises the following evening 17 May. Again people were seen leaving the premises when officers arrived. The same female was present and was asked again to contact business owners and ask them to attend. One of the officers noticed a wrap of cocaine on top of a fridge and the female was arrested on suspicion of being in possession of a class 'A' drug.

9. PC Fisher responded to questions, including the following:
  - a. In response to a query as to why Police had requested proposed Condition 10, PC Fisher advised that he recommended highlighting responsibilities to licence holders so that they could not claim not to have been aware. Licence holders needed to be aware of the maximum stakes and it was up to the DPS to inform customers.
  - b. In response to Councillor Savva's query, it was confirmed that class 'A' drugs were found within the premises, which led to an arrest.
  - c. In response to the Chairman's queries, PC Fisher confirmed that Police would normally check applicants' details against the electoral register, and that licence applicants would normally seek a conversation with the Police. This application form was bereft of all contact numbers, and the applicant's name did not match the voter registration records. PC Fisher was only contacted by Nick Panayiotou a week before the due date for the application, approximately the third week of May.
  - d. The applicant's legal representative highlighted the CRIS report in relation to the arrest at the premises and asked for confirmation it had been marked 'NFA' for no further action. It was advised that 'no further action' referred to the intelligence report, meaning that all information had been dispersed as required. It was confirmed that the female in question had received a caution for the offence.
  - e. In response to queries from the applicant's legal representative about when complaints had been received, Sergeant Taylor advised that the

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majority of complaints to the Police had been received in 2013. She could not remember if there had been complaints in 2010, but agreed that the atmosphere was different when the premises had been run as an ice cream parlour. The premises had caused concern for the local SNT since the club opened in its present form, but Sergeant Taylor did not know the specific dates when it was sub-let.

10. The opening statement of Rauf Khalilov, solicitor for the applicant, including the following points:
  - a. Support was expressed for the Police and responsible authorities and that recent activities at the premises had been utterly reprehensible. His clients supported Police and authorities in condemning them. The people who were responsible were not the applicant and her partner but a tenant who was leased the premises on account of the ill health of Nick Panayiotou.
  - b. Mr Panayiotou had been diagnosed with cancer and undergone operations in 2010, 2011 and 2012, and had this year undergone an operation to remove a kidney. This had been a very stressful and unfortunate situation for the applicant and her partner. They were forced to sub-let the property to another tenant to ensure the business survived.
  - c. The incidents related by the Police and authorities happened when the applicant and her partner were not in charge so could not be used against them. They did not encourage or cover up the activities.
  - d. The atmosphere at the premises in 2010 was very different. It was a successful family business: a place where the Police held meetings and which local schools and families visited and enjoyed. It was that business that his clients represented.
  - e. If the licence was granted, the applicant would address the licensing objectives as follows:
    - (i) The applicant agreed to all the suggested conditions.
    - (ii) Seven CCTV cameras would be installed – one to cover the front, one the rear alley and five inside.
    - (iii) Police and authorities would be given access to an app to see the CCTV coverage 24/7 and ensure there were no unscrupulous people or activities on site.
    - (iv) In respect of the gates to the rear alley, the owners of nine properties held keys but had all agreed the gates should be kept closed. This measure had been effective in the past. There would be no access for customers to the premises from the rear and no congregating of people in the alleyway.
    - (v) In terms of public safety, the clientele would be different. The business would be mainly family oriented, as in 2010.
    - (vi) The applicant agreed to proceed on the basis of the current hours of operation, and to close at 22:00 and thus revised the terminal hour applied for from 00:00 to 22:00 and fully consistent with operating hours granted under planning permission.
  - f. His clients were part of the community and had invested heavily in their business. They had been taken advantage of and their reputation

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damaged and their relationship with the authorities destroyed, through no fault of their own.

g. The premises would be a family place. Supply of alcohol would be incidental to the business and was only pursued because of suggestions received from customers. Clients would be with families and would drink responsibly and would not be expected to cause any nuisance.

h. His clients intended to engage actively with the community. If there were any concerns from neighbours, these would be taken into account and policies would be adjusted.

i. His clients would work with the Police and authorities. If the licence was granted, the conditions would have to be complied with, and the authorities would have greater control. If the premises were left in their current form they would be likely to cause more problems. By putting their name forward, the applicant was agreeing to be regulated and this would assist objectors more than leaving the premises in its current state.

j. The atmosphere at the premises was completely different in 2010, and that was what the clients wished to regain. They were asking for help to build the business and better the place.

11. The applicant and representatives responded to questions as follows:
- a. The Chairman highlighted Mr Khalilov's reference to 'clients' though it was noted that the application was in the name of Cristina Teixeira only. It was advised that the terms used earlier in the meeting had been adopted to help the panel. It was also confirmed that Ms Teixeira was the holder of a personal licence.
  - b. In response to the Chairman's further queries, Cristina Teixeira confirmed she would be the DPS, as she had been before, and that it was intended that Nick Panayiotou would obtain a personal licence too in order to help cover the opening hours.
  - c. In response to the Chairman's queries regarding timing of the sub-letting, this happened in November 2011 after Mr Panayiotou's second operation, on the basis as a running business. Mr Panayiotou advised he did not know the people well that he sub-let to, but was checking up with them for the first few months and got to know them.
  - d. Mr Panayiotou advised that he did not have concerns until the last six months when he was aware of incidents going on and he then took action.
  - e. In response to Councillor Savva's questions regarding changes at the premises, Mr Khalilov advised that the clientele was different in 2010 and then changed completely, but his clients had the experience and the measures capable of reversing the situation.
  - f. The Chairman asked further about the licence application, given that the business had not sold alcohol in the past. It was advised that the only reason for the application to sell alcohol now was a result of feedback from customers.
  - g. In response to the Chairman highlighting that alcohol supply was not referred to as ancillary to meals and was not necessarily consistent with a family friendly environment, it was advised that the application had been filled out by a lay person without awareness of subtleties of the form. Mr

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Khalilov had not assisted with the application form, which had been completed by an agent prior to his involvement with the client. Ms Teixeira confirmed she had signed the form.

h. Noting that the application form appeared to contain rather standard statements, the Chairman asked for comments about specific measures this business would take to promote the licensing objectives. Mr Khalilov advised that his oral submission tallied with information included in the application form: their proposals for cctv, dealing with noise and public safety issues had been described.

i. The Chairman asked for comments on Ms Green's remark that officers' confidence would be greater if the applicant submitted a licence application in a few months' time having demonstrated management competence. Mr Khalilov advised that his clients had proved themselves when operating in 2010 with no problems. The persons associated with recent problems were not this applicant. The applicant was also agreeable to all conditions.

j. The Chairman highlighted that the premises was sub-let by Mr Khalilov's clients and questioned whether they should have had better control to try to protect their business. Mr Khalilov advised that it was a family business which had been built up and invested in highly and had not been the subject of any complaints. Mr Panayiotou's health had been a priority and led to the sub-letting in 2011. In 2013 when problems occurred, his clients acted and gave notice to the tenant. His clients were happy to comply with conditions to the licence and had already invested money in advertising and printing menus. Customers wanted alcohol, which was reasonable and why this application was submitted.

k. In response to queries from Licensing Authority officers, Mr Panayiotou confirmed that he had a formal lease with the tenant he sub-let to, and that they could be removed with one month's notice. Mr Panayiotou advised that he started to hear of undesirable activities at the premises a few months before he gave notice to the tenant, but had no proof at that stage. In February the evidence was hearsay and phone calls from a neighbouring shopkeeper, but Mr Panayiotou also had a six-week hospital stay at the time and could not act personally. Once he found out for sure, he issued one month's notice in April. More incidents had then taken place in May, during the tenant's last weeks.

l. In response to Licensing Authority officers' queries regarding difficulties those on site had in contacting anyone responsible for the premises, Mr Panayiotou commented that it was not the applicant's fault if tenants did not pass on appropriate contact details to workers.

m. In response to officers' queries regarding the proposed outdoor seating area and confidence in management of potential congregation of people or incidents, it was advised that this was a small area semi outside and this business would not have the same clients who had recently caused problems. The operators had close contact with the Police before and ran the business successfully in the past without incident.

n. In response to the Chairman's query as to whether gaming machines were still on the premises, it was advised that builders were on site and

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everything had been taken out of the premises, and there was no intention of retaining that activity.

o. In response to the Principal Licensing Officer's queries regarding potential for the premises to be sub-let in the future and repetition of problems, it was advised that if the application was granted, this would ensure there was a DPS on the premises and all conditions would have to be complied with irrespective of who was running the business, or the licence could be revoked.

p. Licensing Authority officers asked about the timing of sub-letting, and observations from officer visits in October and November 2011. It was confirmed that the tenant was in the premises from the beginning of September for an eight to nine week trial and the sub-let formally signed on 14/11/11. Mr Panayiotou advised he was not aware that Council officers had visited on 14/10/11.

q. In response to further queries from PC Fisher, Mr Panayiotou advised that rent payments were made into his account or via a property agent in Southgate and he did not personally visit the premises to collect rent. He was in hospital for 18 months through this period. In February 2013 he was called by a neighbouring shopkeeper with concerns, but he had no hard evidence, and he was also in hospital at that time. He had not received a call from the Police and was not aware that issues were serious. He confirmed that the landlord and the property agency had contact numbers, but he had only been alerted to issues when the next door shop keeper had phoned him personally. Once out of hospital, he investigated further and spoke to other shop keepers in the vicinity and ended the tenancy straight away. The most serious incidents occurred in May, after notice had been served.

r. In response to the Chairman's queries regarding sparse provision of applicant contact details and lack of confidence this generated, Ms Teixeira advised she was between addresses and that given on the application form was her future mother-in-law's home, where she stayed occasionally. The agent completing the application form had been provided with email and phone numbers, but had not included them on the form, for which the applicant apologised.

12. The closing statement of Mark Galvayne, Principal Licensing Officer, including the following points:
  - a. He confirmed that no licence was required to operate the premises as a coffee shop and ice cream parlour.
  - b. The LSC's decision today, having heard all the submissions and the applicant's evidence regarding promotion of the licensing objectives, was to consider the application for supply of alcohol Sunday to Saturday from 10:00 to 22:00 at Funky Lounge, 111 Green Lanes.
  - c. Procedural matters were set out in his covering report.
  
13. The closing statement of Ellie Green, Principal Trading Standards Officer, including the following points:

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- a. She noted that since the start of the hearing, the requested hours for supply of alcohol had been reduced to 22:00 daily. That may alleviate some of the problems, but she still did not have full confidence in the applicant or the management of the premises.
  - b. She remained concerned that opening this premises with supply of alcohol may still attract the same customers that had caused problems in recent months, and she remained concerned about the affect on amenities of local residents.
14. The closing statement of PC Martyn Fisher, Police Licensing Officer, that he noted that according to the applicant, the premises had been well run by them in the past and that alcohol would not be a mainstay of the business, but that nothing he had heard today had given him confidence that the premises would be responsibly run with an alcohol licence.
15. The closing statement of Rauf Khalilov, solicitor for the applicant, including the following points:
- a. He asked LSC to take into account the relevant considerations in law.
  - b. Incidents which had happened had nothing to do with his clients. As far as this application was concerned, they were not relevant considerations.
  - c. The business was successfully run in the past. The only addition requested was to serve alcohol. The applicant had reduced the hours applied for and agreed all suggested conditions.
  - d. There was no reason they should not operate well.
  - e. There was no evidence that the activities complained of would arise again.

#### RESOLVED that

1. In accordance with the principles of Section 100(A) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Licensing Sub-Committee retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Licensing Sub-Committee RESOLVED that the application be refused.
3. The Chairman made the following statement:

“Having read all the written submissions, and then listened to the oral evidence and contributions at the hearing itself, the Licensing Sub-Committee (LSC) resolved that rejecting the application was the most appropriate step in terms of promoting the Licensing Objectives.

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The panel felt that the Metropolitan Police Service and the Licensing Authority, in particular, made their cases sufficiently to persuade the LSC of their lack of confidence in the applicant to operate a licence in accordance with its conditions or to manage the premises appropriately or effectively.

We acknowledged the yielding (at the hearing) of the applicant, through the representative, on the day, in terms of reigning back to hours sought to bring them into line with those conditioned through planning permission. As such, the need for late night refreshment automatically fell.

In addition, we took note of the applicant's agreement to all the additional conditions sought by the Police and the Licensing Authority, and saw this as a move in the right direction in terms of managing a premises under licence.

However, much of the evidence provided by the applicant focused on "returning back to trade as a family-run coffee shop / ice cream parlour that I am sure you remember"; and presenting a family and community oriented business. In this regard, the LSC felt that the addition of an alcohol licence did not completely reflect this aspiration.

Given also the extent of the sometimes illegal and often detrimental activities undertaken in the premises when it had been sub-let by the applicant and business partner, the LSC felt that to introduce alcohol into the premises, through an application that originally sought opening hours till midnight and alcohol sales till 23:30 might well attract the same kinds of customers as when the premises allowed smoking and gambling, and contained evidence associated with drug taking – which featured in the evidence we heard.

Through the application form itself, and from answers to questions posed by the sub-committee, the panel were not persuaded that the applicant was able to demonstrate sufficient diligence in addressing or demonstrating what specific steps they intended to take to promote the four licensing objectives, or to manage a premises that sold alcohol, effectively.

The LSC, as we were asked to consider by the Licensing Authority, took the view that reduced hours may alleviate some of the problems more recently associated with the premises, but it needed more assurances that the limited actions proposed by the applicant would be able to prevent further episodes of crime and disorder, public nuisance, or that public safety would not be compromised.

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To grant a licence allowing the sale of alcohol at this time would be, in the view of the LSC, an inappropriate step as we had insufficient confidence in the applicant to discharge her intended responsibilities as a licence holder. Indeed, licensing the premises, designed as a coffee bar and ice cream parlour, would seem to undermine the worthy aspirations of the applicant to restore the business to its former reputation.”

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#### **MINUTES OF PREVIOUS MEETINGS**

RECEIVED the minutes of the meetings held on 30/1/13 and 17/4/13, with apologies that three dates were erroneously listed on the agenda front page.

**AGREED** that the minutes of the meetings held on 30 January 2013 and 17 April 2013 be confirmed and signed as a correct record.