

Report of the Assistant Director, Corporate Services (City Solicitor) to a Hearing before the Bradford Area Licensing Panel to be held on 16 April 2008

AA

Subject:

Consideration of an objection notice received from West Yorkshire Police with respect to a proposed Temporary Event notified with regard to Funkys, 14-18 Ivegate, Bradford.

Summary statement:

Temporary Event Notice for provision of late night refreshment, regulated entertainment and the sale of alcohol at the premises on the 27th April 2008.

Suzan Hemingway
Assistant Director Corporate Services (City Solicitor)

Report Contact: Melanie McGurk
Senior Licensing Officer
Phone: (01274) 431873
E-mail: melanie.mcgurk@bradford.gov.uk

Portfolio:

Corporate

Improvement Committee Area:

**Corporate Improvement Committee
Safer and Stronger Communities**



2006-2007
Improving Rural Services
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



1. **Summary**

1.1 **The Premises User**

Derek Greenaway. A copy of the temporary event notice is included at Appendix 1.

1.2 **The Premises**

Funkys, 14 – 18 Ivegate, Bradford.

1.3 **Details of Notice**

The notice is with regard to an event organised at the premises on 27th April 2008 for the following licensable activities:-

- Provision of late night refreshment
- Provision of regulated entertainment
- Supply of alcohol

Hours of licensable activities:

Provision of late night refreshment

23.00 to 05.00

Provision of regulated entertainment

02.00 to 09.00

Sale of alcohol

02.00 to 08.30 (no off-sales)

2. **Background**

2.1 Five Temporary Event Notices have already been given which are in respect of the premises indicated in the notice and which specify as the event period a period wholly within the same calendar year as the event specified in the notice. No premises may be used more than 12 times per calendar year.

3. **Counter Notices Received**

3.1 **West Yorkshire Police**

West Yorkshire Police have submitted a notice objecting to the proposed temporary event on crime prevention grounds, due to an incident being reported on the date of the last temporary event, 30 March 2008, involving the possible use of firearms, which was possibly linked to an incident which took place either at the premises or in the immediate vicinity on the previous evening.

A copy of the Police Objection Notice is attached at Appendix 2.

4. Legal Appraisal

- 4.1 The Licensing Act 2003 facilitates, subject to certain limits, the holding of temporary events at premises that are not otherwise licensed for proposed licensable activities or an existing premises licence or club certificate is restricted by conditions that normally would restrict the proposed temporary event.
- 4.2 The main precondition is that the proposed event should not involve more than 499 at any one time (including customers and participants in the event). There are also limits to the number of such temporary events that can take place at any premises or can be organised by a premises user in a calendar year. For the purpose of this hearing, members can assume that the statutory limits on numbers of events will not be exceeded.
- 4.3 A licence is not required for such temporary events. The premises holder merely has to serve a notice on the Council and the Police no less than ten working days before the event is due to take place.
- 4.4 Only the Police have power to object to a Temporary Event Notice. However, they can only do so where they have well founded grounds to fear prejudice to the objective of preventing crime if the event goes ahead. The Police then have 48 hours to serve an objection notice specifying the relevant crime prevention issues.
- 4.5 On receipt of a valid objection notice from the police the Council must hold a hearing to decide whether to uphold the Police objection. The hearing must take place at least 24 hours before the event. If the Police notice is upheld, the Council can serve a Counter Notice preventing the event from taking place. If the Police notice is not upheld the event can take place without further formality.

5. Legal Options

- 5.1 Members may:
 - (a) Uphold the Police objection and then serve a Counter Notice on the Premises User preventing the event.
 - (b) Decide not to uphold the Police; therefore allowing the event to take place.
- 5.2 Should the Premises User or the Police feel aggrieved at any decision with regard to the Notice either of them may appeal to the Magistrates Court no more than 5 days before the event is due to take place.

6. Financial and resource appraisal

- 6.1 There are no apparent finance or resource implications.

7. Other implications

7.1 Equal Rights

There are no apparent equal rights implications.

7.2 **Community safety implications**

There are no apparent community safety implications.

7.3 **Human Rights Act**

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As service of a Counter Notice by the Licensing Authority is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. Reasons should be given for any decision.

8. **Not for publication documents**

8.1 None

9. **The Role of the Panel**

9.1 Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related notice(s).

10. **Appendices**

1. Notice received on 8th April 2008. In the interests of economy this document has been sent to Members of the Panel only. A public inspection copy is available in Committee Secretariat, Room 112, City Hall, Bradford or on www.bradford.gov.uk).
2. Objection Notice from West Yorkshire Police.

11. **Background documents**

Notice, etc

Temporary Event Notice

Information on the Licensing Act 2003 is available on the website of the Department for Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment/default.htm) or from your local licensing authority.

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

You should keep a copy of the completed notice for your records. You must send two copies of this notice to the licensing authority and an additional copy must be sent to the chief officer of police for the area in which the premises are situated. The licensing authority will endorse one of the two copies and return it to you as an acknowledgement of receipt.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	Greenaway		
Forenames	Derek		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth	Day07	Month12	Year1962
4. Your place of birth	Bradford		
5. National Insurance Number	NA203142B		
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
5 Bolton Hall			
Post town Bradford		Post code BD2 1BE	
7. Other contact details			
Telephone numbers	07872 629783		
Daytime			
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail Address (optional)			
8. Alternative address for correspondence (If you complete the details below, we			

will use this address to correspond with you)	
M P Maguire ABII 35 Waterloo Road	
Post town Leeds	Post code LS28 8DF
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	0113 2909 686
Evening (optional)	
Mobile (optional)	07780 640734
Fax number (optional)	
E-Mail Address (optional)	

2. The premises
Please give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references) (Please read note 2)
Funkys 14/18 Ivegate Bradford BD1 1Sw
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)
N/A
Please describe the nature of the premises below. (Please read note 4)
Public House and Night Club
Please describe the nature of the event below. (Please read note 5)
Speciality Disco and Theme Night

--

3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please mark an "X" next to the licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	<input checked="" type="checkbox"/>	
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>	
The provision of regulated entertainment	<input checked="" type="checkbox"/>	
The provision of late night refreshment	<input checked="" type="checkbox"/>	
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 7)		
Sunday 27 th April		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 8)		
0200hrs to 0900hrs Finish serving alcohol at 0830hrs		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 9)	499	
If the licensable activities will include the supply of alcohol, please state whether the supplies will be for consumption on or off the premises, or both (please mark an "X" next to the appropriate box). (Please read note 10)	On the premises only	<input checked="" type="checkbox"/>
	Off the premises only	<input type="checkbox"/>
	Both	<input type="checkbox"/>

4. Personal licence holders (Please read note 11)		
Do you currently hold a valid personal licence? (Please mark an "X" in the box that applies to you)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	Bradford	

Licence number	BD/PER1310
Date of issue	
Date of expiry	24/11/2015
Any further relevant details	

5. Previous temporary event notices you have given (Please read note 12)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If answering yes, please state the number of temporary event notices you have given for events in that same calendar year	6	
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

6. Associates and business colleagues (Please read note 13)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your associate(s) have given for events in the same calendar year		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice? (Please mark an "X" in the box that applies to you)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

7. Checklist (Please read note 14)	
I shall (Please mark the appropriate boxes with an 'X')	
Send two copies of this notice to the licensing authority for the area in which the premises are located	<input checked="" type="checkbox"/>
Send a copy of this notice to the chief officer of police for the area in which the premises are located	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, send two copies of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, send a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
Make or enclose payment of the fee for the application	<input checked="" type="checkbox"/>
Sign the declaration in Section 9 below	<input checked="" type="checkbox"/>

8. Condition (Please read note 15)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 16)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence:	
(i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and	
(ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both.	
Signature	
Date	03/04/2008
Name of Person signing	M P Maguire ABII

For completion by the Licensing Authority

10. Acknowledgement (Please read note 17)	
I acknowledge receipt of this temporary event notice.	
Signature	On behalf of the Licensing Authority
Date	
Name of Officer signing	



WEST YORKSHIRE POLICE

Bradford South Licensing Department

funky5 APPENDIX 2 (PUBLIC)

Bradford South Licensing Department
Trafalgar House
Nelson Street
Bradford
BD5 0DX

Tel: 01274 376 695
Fax: 01274 376 787
Email: bradford.licensing@westyorkshire.pnn.police.uk
Website:

Your ref:
Our ref : JT/SD

Date 9th April 2008

To – Derek Greenaway, *the premises user*

cc. Tracy McLuckie, Licensing Manager, City of Bradford Metropolitan District Council
Licensing Team, City Hall, Bradford BD1 1HY.

NOTICE OF OBJECTION – TEMPORARY EVENT NOTICE
SECTION 104(2) – PART 5 - LICENSING ACT 2003

Your copy notice was received by the police on at 10.00am on Tuesday 8th April 2008.

I John Tyson, Licensing Officer for Bradford District on behalf of the West Yorkshire Police, hereby give you notice that I intend to object to your temporary event notice. The police are satisfied that allowing the premises to be used in accordance with the notice would undermine the crime prevention objective.

The reasons why West Yorkshire Police are so satisfied are that:-

The application is for an event to take place between 02:00hrs and 09:00hrs on Sunday 27th April 2008.

Mr Greenaway has in the current period applied for six similar events for times up until 06:00hrs, four have taken place without problems and one is scheduled to take place on the 5th May 2008. The police did not raise any objection to those applications.

However on the date of the last event (30th March 2008) an incident involving the possible use of firearms was reported which was possibly linked to an incident which took place either at the premises or in the immediate vicinity on the previous evening

Recent observations of the premises reveal that Mr Greenaway may not employ registered Door Supervisors and it is suspected that unregistered staff are being employed covertly in that capacity.

It is felt in the light of the above information that if this event were to take place, which is a similar event to the previous ones, then the prevention of crime and disorder objective would be seriously compromised.

John Tyson
Licensing Officer