

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING COMMITTEE

HELD AT 6.30 P.M. ON THURSDAY, 14 MARCH 2019

**COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Zenith Rahman (Chair)
Councillor Shad Chowdhury (Vice-Chair)
Councillor Faroque Ahmed
Councillor Sabina Akhtar
Councillor Shah Ameen
Councillor Peter Golds
Councillor Ehtasham Haque
Councillor Mohammed Ahbab Hossain
Councillor Tarik Khan
Councillor Puru Miah
Councillor Leema Qureshi
Councillor Dan Tomlinson

Apologies

Councillor Eve McQuillan
Councillor Ayas Miah
Councillor Victoria Obaze

Others Present:

Mr David Hislop	– Counsel for Applicant Item 3.1
Ms Ying Zhou	– Applicant Item 3.1
Hsin-Yi Ching	– Interpreter Item, 3.1
Joey	– Applicant's Friend

Officers Present:

Charlotte Basten	– (Environmental Health Officer)
Tom Lewis	– (Team Leader - Licensing Services)
Natalie Thompson	– (Environmental Health Officer)
David Tolley	– (Head of Environmental Health and Trading Standards)
Vivienne Walker	– (Senior Prosecution Lawyer)
Farhana Zia	– Senior Committee Services Officer

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of disclosable pecuniary interest.

2. MINUTES OF THE PREVIOUS MEETING(S)

The minutes from 13th December 2018 were agreed and approved as an accurate record of the meeting.

3. ITEMS FOR CONSIDERATION**3.1 The London Local Authorities Act 1991 Application to renew a Special Treatment Licence Redbud (London) Limited t/a Oasis Spa**

Ms Natalie Thompson, Principal Environmental Health Officer informed members the application before them was to consider the renewal of a Special Treatment Licence for Redbud (London) Ltd t/a Oasis Spa, 1 Whites Row, London E1 7NF.

Ms Thompson stated that the Licensing Authority was objecting to the renewal of the licence following evidence obtained that services of a sexual nature were being offered by the business at the premises. Ms Thompson stated the business was being prosecuted by the Council for breaching the conditions of the licence and the matter was listed for trial for the 27th March 2019 at Thames Magistrate Court. Ms Thompson referred members to paragraphs 3.1, 3.2, 3.3 and 3.4 of the report which gave further details of the circumstances for which a Special Treatment Licence is required. Ms Thompson also referred Members to paragraph 4.4 which listed the grounds for refusal, in accordance with the London Local Authorities Act 1991.

Ms Charlotte Basten, Environmental Health Officer provided Members with a detailed account of the investigation she had undertaken. She said the team had conducted an investigation of the premises and had employed a test purchasing company to conduct test purchases. The table at 8.1 of the report was amended and copies were handed to Members and the Applicants at the meeting. This document showed the number of visits made since the licence had been in place.

Ms Basten stated three test purchases had been carried out, of which the one conducted on the 27th March 2018, showed services of a sexual nature were being offered at the premises. Ms Basten referred members to her report at page 53 and drew attention to the test purchaser's witness statement at page 95 of the agenda which gave details of the test purchase.

Ms Basten stated further breaches had been observed, with the company not employing any female masseuses that were registered with a professional body approved by the Council. Therefore masseuses, without the correct qualifications are not allowed to massage anyone of the opposite sex below the neck and above the knee. In addition to this further evidence from an

online website confirmed services of a sexual nature were being offered at the premises.

Ms Basten stated the Licence Holder, Ms Zhou was listed as the Director of the business and the application for the renewal of the licence had been made by Ms Zhou.

Ms Basten asked Members of the Licensing Committee to refuse the renewal of the Licence based on the evidence before them.

Ms Zhou, the Licence Holder was also present at the meeting and was represented by Mr David Hislop QC with the assistance of an interpreter.

Mr Hislop cross-examined Ms Thompson and Ms Basten on the evidence submitted before proceeding to present his clients application. The following was noted from the cross-examination:

- Ms Thompson in reference to page 20 of the agenda pack, and the bullet points summarising the events, confirmed she had not made independent enquiries to verify the alleged occurrences.
- In respect to Appendix 4, page 53 of the agenda pack and the supplementary agenda page 29, Ms Thompson was asked if she had queried this with the Council's legal team. Ms Thompson stated she could not say why there was a contradiction in the statement at paragraph one and the screenshot of the plea entered. Ms Vivienne Walker, Legal Advisor to the Committee interjected stating that the screenshot did not conclusively state which of the three charges Ms Zhou was pleading not guilty to. She said that the charges would be put again to Ms Zhou at the trial hearing on the 27th March 2019 and questioned the relevance of Mr Hislop's questioning.
- Counsel asked Ms Basten why at paragraph three, page 53 of the agenda pack she had described the following, as to what had occurred. "*The therapist ... towards the end of the massage started grazing his crotch area*" when the Test Purchaser had stated in his statement page 95 that "*the female began to service the tops of my thighs, grazing my underwear as she did so.*" Mr Hislop argued that the statements were contradictory because the 'crotch area' was not mentioned in the Test Purchaser statement just 'his underwear'. The Test Purchaser was present at the meeting and was asked to verify what had indeed occurred. The test purchaser confirmed the masseuse massaged the backs of his legs but continued further up his boxer shorts pushing them up. At this point members queried the relevance of this questioning. Ms Walker stated these matters would be for the trial judge to decide and reiterated the Licensing Committee was a quasi-judicial body who were meeting to decide if the application for the renewal of the licence should be granted or refused.
- Counsel for the Applicant also enquired if the Licensing Authority would accept further conditions to be added to the licence if it were to be

granted. Ms Basten made clear this would be the decision of the Committee and therefore could not express a view.

Mr Hislop QC then proceeded to make his submission to the Committee. Mr Hislop asked questions of his client Ms Zhou through her interpreter.

- Mr Hislop asked his client Ms Zhou to confirm her witness statement in the supplement agenda at pages 39 to 45. Ms Zhou answered it was her statement and that it was a true and correct record.
- Mr Hislop asked his Client to confirm if the letter at page 47 was from her accountant, in which Ms Zhou is described as a reliable and efficient person. Ms Zhou confirmed 'yes'.
- Mr Hislop asked his client if she knew about condition 12 of the Licence that she must employ therapists who are on the Council's approved list of professional bodies. Mr Hislop asked his client if she had approached a professional body with the view of getting her employees registered with them. Ms Zhou confirmed she had made enquiries.
- Mr Hislop asked his client if she would agree to an extra condition being placed on the licence that two female members of staff, who are certified by the professional bodies are present on the premises at all times, if the Council were minded to grant the licence. Again Ms Zhou stated she would be happy to have this condition placed on the licence if it was granted.
- Mr Hislop asked Ms Zhou to confirm the photographs in the supplement agenda were that of her premises, to which Ms Zhou said 'yes'
- Ms Zhou also confirmed she was present at the case management hearing on the 15th November 2018 and had pleaded not guilty to the charges.

Upon the Applicant's Counsel completing his submission, Members of the Committee asked questions in relation to the application and in response the following was noted. The responses were received via the Applicant's interpreter.

- Ms Zhou confirmed other services such as acupuncture, waxing and make-up services were also provided at the premises.
- Ms Zhou was asked if she was aware that she required female therapists for female customers and male therapists for male customers, in accordance with the conditions of her current licence. Ms Zhou was asked if she had a male therapist. Ms Zhou responded to say "no she did not have any male therapists."

- Ms Zhou was asked why she booked male customers for massage services if she did not have any male therapists. Ms Zhou answered there was a male doctor who could provide the massage.
- The test purchaser was asked if he had been offered a male therapist when he booked his massage. The test purchaser confirmed he was not offered a male masseuse.
- Ms Zhou confirmed that she was the Director of the company since December 2017 and had held the licence for some time. Ms Zhou was unable to answer why she did not know she required male therapists for male customers. She failed to understand she had contravened the conditions of the licence and had not conducted her premises properly. On further questioning Ms Zhou said she had not employed a male masseuse because there were not many male masseuses. Mr Hislop asked his client to confirm if she knew unapproved female masseuses were not allowed to give massages between the neck and the knee. Ms Zhou said she was aware of this however on the day in question, namely the 27th March 2018 she was not at the premises. Mr Hislop referred his client to the photographs in the supplement agenda and asked her to confirm what the notices said and if she had been responsible for putting up the notices in the premises. Again Ms Zhou confirmed she had put up the notices.
- Members enquired why in the supplement agenda, only photographs of the front of the premises had been provided. Members said the side of the building had photographs and/or posters that were not suitable for the passing public to view.
- Ms Zhou confirmed she had an average of five female customers and three or four male customers visiting the premises on any given day.

Mr Hislop was then given an opportunity to sum up his submission. Mr Hislop referred members to the supplement agenda and the evidence therein.

He said the guilty plea was incorrect however acknowledged this would be decided by the Court at the trial hearing on the 27th March 2019. He said the alleged incidents referred to and the breaches of the conditions of the licence would be argued against at the trial. He asked members to bear in mind the steps Ms Zhou had taken the remedy the situation and the safeguards she had put in place. Mr Hislop stated that of the three test purchases, only one was of a sexual nature. The rouge employee was dismissed.

Mr Hislop stated his client had introduced an 'open door' policy whereby a curtain could be drawn over the doorway. However the door remained open during a massage. He said his client was willing to accept an additional condition to be added to her licence; namely, two female therapists who are approved by the professional body would be present at the premises at all times and asked that the licence be granted to his client.

Members adjourned the meeting at 19:54 hours for deliberations and reconvened at 20:25 hours.

Under paragraph 17.6 of the Council Procedure Rules, Councillor Ehtasham Haque asked that it be recorded that he abstained from the vote to agree with the Officer recommendations at paragraph 6.1 of the report. Councillor Puru Miah asked that it be recorded that he disagreed with the officer recommendation at 6.1. Nine Members voted in favour of the recommendation, with one voting not in favour and two members abstaining.

Decision

Accordingly, the Licensing Committee made a majority decision, with one member disagreeing and two members abstaining.

RESOLVED

That the application for the renewal of a Special Treatment Licence, under the London Local Authorities Act 1991 for Redbud (London) Limited t/a Oasis Spa, 1 Whites Row, London E1 7NF be **REFUSED**

As the licence holder has been found to have improperly conducted its business on 27th March 2018, in breach of Condition 7 (b) of the prescribed standard conditions made by the London Borough of Tower Hamlets under section 10 (1) of the London Local Authorities Act 1991:

The refusal to grant the licence was in accordance with paragraph 4.4 of the report as set out under section 8 of the London Local Authorities Act 1991, namely:

- (c) the person concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence; and
- (e) the premises have been or are being improperly conducted.

3.2 Late Night Levy: Annual Review

Mr Tom Lewis, Team Leader for Licensing and Safety presented his report on the Late Night Levy: Annual Review. Mr Lewis stated report was to note the work achieved by the levy. Mr Lewis said the Late Night Levy had come into effect in January 2018 whereby licence premises holders who were permitted to sell alcohol between the hours of 00:00 hours (midnight) and 06:00 hours (6am) were required to pay the Late Night Levy.

Mr Lewis referred members to paragraph 6.1 of the report which showed the income generated and paragraphs 7.1 and 7.2 which gave further information of the initiatives introduced. Mr Lewis also explained the outcomes as set out at paragraph 7.3 of the report.

In response to questions from Members the following was noted:

- New initiatives had been identified for the surplus monies of £111,335 and this would be spent by next year.
- Mr Lewis confirmed he expected the budget for the Late Night Levy to remain the same.
- Members of the Committee congratulated Mr Lewis and his team for what they had achieved.

Members of the Sub-Committee **RESOLVED** to **NOTE**:

1. The work achieved via the levy revenue, the income and the expenditure.

The meeting ended at 9.36 p.m.

Chair, Councillor Zenith Rahman
Licensing Committee