

Non-Executive Report of the:  <b>Licensing Committee</b>  28 <sup>th</sup> November 2018	 <b>TOWER HAMLETS</b>
<b>Report of:</b> David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	<b>Classification:</b> Unrestricted
<b>London Local Authorities Act 1991 Hearing to consider an application for the new special treatment licence for Little Jasmine Centre, 56 Skylines Village, E14 9TS</b>	

<b>Originating Officer(s)</b>	Natalie Thompson, Principal Environmental Health Officer
<b>Wards affected</b>	Blackwall and Cubitt Town

## 1. EXECUTIVE SUMMARY

Applicant:	<b>Acu &amp; Herbs Limited</b>
Name and Address of Premises:	<b>Little Jasmine Centre 56 Skylines Village London E14 9TS</b>
Licence sought:	<b>Special Treatment Licence under The London Local Authorities Act 1991 Application for a new Special Treatment Licence</b>
Objectors:	<b>Lekan Olomo, Health and Safety Officer, Licensing and Safety Team</b>

## 2. RECOMMENDATIONS

The Licensing Committee is recommended to consider the application and objections and then adjudicate accordingly.

## 3. BACKGROUND

- 3.1 This is an application made on the 29<sup>th</sup> August 2018 by Acu & Herbs Limited for a new special treatment licence under section 6 (2) of the London Local Authorities Act 1991 for Little Jasmine Centre, 56 Skylines Village, London, E14 9TS.
- 3.2 A licence from the Council is required for the use of a premises as an establishment for special treatments. An establishment for special treatment is defined in the Act as any premises in the borough used, intended to be used or represented as being used for the reception or treatment of persons

requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other special treatment of a like kind or vapour, sauna or other baths. A special treatment licence may be refused under grounds in section 8 of The London Local Authorities Act 1991.

- 3.3 The current application is to permit the premises to operate as an establishment for special treatments offering massage and reflexology.

#### **4. Legal Powers and Advice**

- 4.1 Licences are granted subject to standard conditions.
- 4.2 Those Standard Conditions of the London Borough of Tower Hamlets were made under the London Local Authorities Act 1991, Section 10 (1). It is the duty of any licence holder to be aware of and abide by those conditions. A copy of the standard conditions can be found at **Appendix 1**.
- 4.3 The council has made Regulations for annual special treatment licences under section 10 (1) of the London Local Authorities Act 1991. These are available as **Appendix 2**.
- 4.4 Under section 8 of the London Local Authorities Act 1991 the borough may refuse to grant a licence on the following grounds:
- (a) the premises are not structurally suitable for the purpose;
  - (b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
  - (c) the persons 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 license;
  - (d) the persons giving the special treatment are not suitably qualified;
  - (e) the premises have been or are being improperly conducted;
  - (f) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
  - (g) the means of heating the premises are not safe;
  - (h) proper precautions against fire on the premises are not being taken;
  - (i) they are not satisfied as to the safety of equipment used in the special treatment or as to the manner in which the treatment is to be given;

- (j) they are not satisfied as to the safety of the special treatment to be given;
- (k) satisfactory means of escape in case of fire and suitable means for fighting fire are not provided on the premises;
- (l) the applicant has, within the period of five years immediately preceding the application to the borough council, been convicted of an offence under this Part of this Act.

4.5 Legislation provides that where an applicant is aggrieved at the Council refusing to grant, or renew a licence or at any condition or restrictions imposed, the applicant may within twenty one days of being notified of the Council's refusal, appeal to a Magistrates Court. The Court may grant an order for the issue of a licence or may remove any condition or restriction imposed. Should the applicant still feel aggrieved at the court's decision there is a right of appeal to the Crown Court.

## **5. Consultation**

- 5.1 The application has been consulted on in accordance with the London Local Authorities Act 1991. This has included:
- 5.2 A site notice at the premises displayed by the applicant during the required period.
- 5.3 A press advert was placed in the Docklands and East London Advertiser on the 6<sup>th</sup> September 2018 by the applicant.
- 5.4 The following is a list of those also consulted in regards to the application:
  - The Police
  - The Fire Brigade
  - Environmental Health

## **6. Objections/ Responses to the Consultation**

- 6.1 On the 6<sup>th</sup> September 2018 an objection to the grant of the licence was received from an anonymous member of the public stating that the premises was being improperly conducted.
- 6.2 The Environmental Health- Licensing and Safety Team are objecting to the new application on the grounds that the premises have been or are being improperly conducted. Please see **Appendix 3**. The objections have already been made available to the licence holder. Find below a summary of the comments.
  - The premises was observed trading and advertising special treatments without a licence on 17<sup>th</sup> and 20<sup>th</sup> September 2018.

- A test purchase was conducted at the premises on the 20<sup>th</sup> September 2018, which found that the test purchaser was offered services of a sexual nature at the end of a massage at the premises. Therefore the business is being improperly conducted which is a basis for refusal to grant a licence: section 8(e) of the London Local Authorities Act 1991 and paragraph 7 (B) of the London Borough of Tower Hamlets regulations for special treatment licences set out at **Appendix 2**.
- During an inspection of the premises therapists who were not notified to the council were carrying out special treatments at the premises.

## **7. Recommendations**

- 7.1 Following objection from the Environmental Health, Licensing and Safety Team and an anonymous objection from a member of the public, Members are asked to consider the representations when determining whether to grant the new application.

## **8. Summary of Premises and Enforcement History**

- 8.1 On the 10<sup>th</sup> August 2018 the Licensing and Safety team visited the premises following a report that the premises was offering and advertising special treatments without a licence. Officers then spoke with one of the therapists there, who was instructed that special treatments must cease immediately and advertisements of special treatments must be taken down until a licence was in place. The officer noted on the council's database that the therapist was wearing a red mini skirt and revealing top which is unusual for a massage therapist.
- 8.2 On the 29<sup>th</sup> August 2018 the special treatment licence application was received. A public notice was placed in the newspaper on the 6<sup>th</sup> September 2018.
- 8.3 On the 17<sup>th</sup> September an inspection of the premises was carried out by an officer in the Licensing and Safety Team. The premises was found to be trading without a licence and to have undeclared therapists working at the establishment.
- 8.4 On the 20<sup>th</sup> September 2018 a test purchase was carried out at the premises. The test purchaser was offered services of a sexual nature by the therapist.

## **9. Special Treatment Licences and Determination**

- 9.1 Members should consider the relevant legislation and Standard Conditions (see **Appendix 1** and **Appendix 2** respectively).

## **10. EQUALITIES IMPLICATIONS**

- 10.1 There are no equalities implications.

## **11. OTHER STATUTORY IMPLICATIONS**

- 11.1 Best Value implications: There are no best value implications.
- 11.2 Environmental considerations: There are no environmental implications.
- 11.3 Crime reduction: One of the key objectives of the Council is to ensure that it does not licence premises that are liable to be a source of crime and disorder. The Council supports and assists with crime and disorder reduction by controlling those who manage premises open to members of the public. Illegal activity has been proven to occur at the premises.
- 11.4 Safeguarding: There are no proven safeguarding impacts; however premises that are managed in this way may employ underage persons or vulnerable adults. Therefore there may be a positive safeguarding impact.
- 11.5 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.

## **12. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 12.1 The Chief Finance Officer has been consulted on this report and has no additional comments to make.

## **13. COMMENTS OF LEGAL SERVICES**

- 13.1 Section 10 of the London Local Authorities Act 1991 enables the local authority to make regulations prescribing standard conditions applicable to all licenses for special treatment premises.
- 13.2 The London Borough of Tower Hamlets made such regulations which are produced as Appendix 2 to this report, and one of those regulations, 7(B) says, "The licensee shall ensure that no part of the premises are used by prostitutes, for soliciting or any other immoral purposes." There are a number of standard conditions to a London Borough of Tower Hamlets special treatment licence. One of those is condition 6, which says that all treatments shall be given only by persons approved by the Council or, provided that the written consent of the Council has been obtained, under the personal supervision of a person approved by the Council.
- 13.3 Section 8 of that Act sets out a number of grounds under which an application for a special treatments licence can be refused by the Council, as set out in paragraph 4.4 of this report.
- 13.4 As shown in Appendix 3, on 17<sup>th</sup> September 2018, the premises were offering special treatments without a licence being in place.
- 13.5 As shown in the document appendixed as LOL.LJC.001, on 20<sup>th</sup> September 2018, not only were the premises providing special treatment without a licence

for that yet being in place, but a masseuse working at the premises offered services of a sexual nature.

- 13.6 The Licensing Committee can therefore refuse to grant this application for a special treatment licence on the grounds that as set out in paragraph 8(e) of the London Local Authorities Act 1991, the premises have been or are being improperly conducted.

#### 14. **APPENDICES**

<b>Appendix 1</b>	A copy of the standard conditions for special treatment licences
<b>Appendix 2</b>	Regulations for annual special treatment licences under section 10 (1) of the London Local Authorities Act 1991
<b>Appendix 3</b>	Objection from the Environmental Health Department
<b>LOL.LJC.001</b>	Witness statement of test purchase conducted on the premises including the typed notes of the test purchaser referred to in his statement
<b>LOL.LJC.002</b>	Copy of anonymous letter objecting to the new licence application.
<b>LOL.LJC.003</b>	A copy of the received application and supporting documents
<b>LOL.LJC.004</b>	A copy of a record of visit sheet for the premises inspection.
<b>LOL.LJC.005</b>	List of directors from Companies House

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#### **Local Government Act, 1972 Section 100D (As amended)**

#### **List of “Background Papers” used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- NONE

#### **Officer contact details for documents:**

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