


Non-Executive Report of the:	 <b>TOWER HAMLETS</b>
<p style="text-align: center;"><b>Licensing Committee</b></p> <p style="text-align: center;">14<sup>th</sup> March 2019</p>	
<b>Report of:</b> David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	<b>Classification:</b> Unrestricted
<b>Redbud (London) Limited T/A Oasis Spa, 1 Whites Row, London, E1 7NF</b>	

<b>Originating Officer(s)</b>	Natalie Thompson, Principal Environmental Health Officer
<b>Wards affected</b>	Spitalfields and Banglatown

## 1. EXECUTIVE SUMMARY

Licence Holder:	<b>Redbud (London) Limited</b>
Name and Address of Premises:	<b>Oasis Spa 1 Whites Row London E1 7NF</b>
Licence sought to refuse to renew:	<b>Special Treatment Licence under The London Local Authorities Act 1991 Application to renew a Special Treatment Licence</b>
Objectors:	<b>Charlotte Basten, Environmental Health Officer, Licensing and Safety Team</b>

## 2. RECOMMENDATIONS

- 2.1 The Licensing Committee is recommended to consider the objection to the renewal of the special treatment licence and then adjudicate accordingly.

## 3. BACKGROUND

- 3.1 This is a report by the Licensing and Safety Team to object to the renewal of the special treatment licence for Redbud (London) Limited trading as Oasis Spa, 1 Whites Row, London, E1 7NF following evidence obtained that services of a sexual nature are being offered by the business at the premises. The business is currently being prosecuted by the Council for breaching

section 14 (2) of the London Local Authorities Act 1991, for allowing the premises to be used otherwise than in accordance with the terms of their licence and breaches of regulation 7 (B) of the Regulations made by the London Borough of Tower Hamlets under section 10 (1) of the London Local Authorities Act 1991 - for allowing the premises to be used by prostitutes, for soliciting or other immoral purposes. The business is also being prosecuted for breaching condition 6 and condition 12 of their licence- failing to notify the Council of therapists and allowing female therapists to massage male clients without prior approval from the Council.

- 3.2 A licence from the Council is required for the use of a premise 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.
- 3.3 An application to renew a special treatment licence may be refused under The London Local Authorities Act 1991 Section 8.
- 3.4 Rebud (London) Limited has applied to renew its special treatment licence which expired on the 19<sup>th</sup> December 2018. A copy of the licence can be found at **Appendix 1**.

#### **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 2**.
- 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 3**.
- 4.4 Section 8 of the London Local Authorities Act 1991, says that the Council may refuse to renew 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 licence;

- (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 a licence, the applicant may within twenty one days of being notified of the Council's refusal appeal to a Magistrates Court. The Court may grant such an order as it sees fit.

4.6 An appeal by either party against the decision of the magistrates' court may be brought to the Crown Court.

4.7 Where any licence renewal is refused under section 13(5) (Enforcement of Part II) of this Act the licence shall be deemed to remain in force –

- (a) until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and
- (b) where an appeal relating to the refusal of an application for such a renewal is successful until the licence is renewed by the borough council.

## **5. Grounds for refusal of the renewal of the Licence**

5.1 The Environmental Health Department has requested the hearing with the Licensing Committee to refuse to renew the licence. The report detailing the

reasons for this can be found at **Appendix 4**. Find below a summary of the comments.

- The Licensing and Safety team obtained evidence that Oasis Spa was being used as an establishment for special treatments otherwise than in accordance with the terms, conditions or restrictions to which the licence was held by allowing the premises to be used for the purposes of soliciting services of prostitution in breach of Condition 7B of the prescribed regulations.
- An operative contracted by the Council to carry out test purchase visits, visited Oasis Spa on the 27<sup>th</sup> of March 2018 and requested a deep tissue massage. The therapist asked him to undress completely, but he left his underwear on. Towards the end of the massage, she started touching him below the waist and asked him if he wanted any extras and to turn over and lay on his back for a cost of £40.00. The operative declined these services.
- An online surveillance report found that the premises had been advertising on gumtree, with the massage therapists being described as young, attractive and open minded. Other deep web searches located a punting forum where it was mentioned that a female therapist called “Stephanie” offered services of a sexual nature at Oasis Spa and her prices were £30 for a service called 30 and hand relief for £20; while another therapist who charged £30 for 30, £40 for topless and £30 for hand relief
- These matters have been brought to the courts for prosecution by the council. On the 15<sup>th</sup> of November 2018 at Thames Magistrates’ Court, Redbud (London) Limited pleaded guilty to using Oasis Spa as an establishment for special treatments otherwise than in accordance with the terms, conditions or restrictions to which the licence is held in that treatment was given by a person who was not approved by the London Borough of Tower Hamlets (the Council).
- Redbud (London) Limited pleaded not guilty to the remaining charges: -
  - (a) Using the premises for the purpose of soliciting services of prostitution,
  - (b) the offence of allowing female therapists to massage male clients without the Council’s prior approval These are the subject of a trial to take place at Thames Magistrates’ Court on the 27<sup>th</sup> of March 2019.

## **6. Recommendations**

- 6.1 Following the objection for the renewal of the licence, Members are asked to consider the representation when determining whether to refuse to renew the licence.

## **7. Summary of Premises and Licence History**

- 7.1 The applicant Redbud (London) Limited was first issued with a Massage and Special Treatment Licence on the 15<sup>th</sup> March 2017.

## 8. Complaints and Enforcement History

8.1 The premises has received the following visits from the Local Authority since the licence has been in place:

Date	Authority	Nature of visit
02/03/17	Licensing and Safety	Routine visit for a new licence. Additional information was required for the officer to authorise therapists to carry out special treatments. One qualification and one statement of comparability from UK Naric.
05/01/18	Licensing and Safety	Routine visit for the renewal of the licence. A statement of comparability was required for one therapist. They were also asked to remove sports massage from their price list as they were not qualified to carry out this treatment.
27/03/18	Licensing and Safety	Test purchase visit where a male was given a full body massage at the premises by a female masseuse. The test purchaser was offered 'extras'. This is the subject of the current pending prosecution referred to at paragraph 5 of this report.
13/04/18	Licensing and Safety	Test purchase visit where a male was given a full body massage at the premises by a female masseuse.
31/01/19	Licensing and Safety	Routine visit for the renewal of the licence.

8.2 The licence holder is being prosecuted under the London Local Authorities Act 1991. The case is to be heard by the Thames Magistrates Court on 27<sup>th</sup> March 2019. The Company pleaded guilty to the charge of breaching its special treatment licence conditions by allowing therapists not authorised by the council to carry out special treatments but not for other charges including offering services of a sexual nature.

## 9. Special Treatment Licences and Determination

9.1 Members should consider the relevant legislation and Standard Conditions (see **Appendix 2** and **Appendix 3** respectively).

## 10. EQUALITIES IMPLICATIONS

10.1 There are no equalities implications with the specific case.

## 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 licensing objectives of the Council 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 and imposing conditions on relevant premises licences. 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 there are no direct financial implications emanating from this report. However, there are possible cost implications if the Decision was appealed to the Magistrates' Court or Crown Court. The Licence fees would be expected to cover the cost of administration and compliance.

## **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 There are a number of standard conditions to a London Borough of Tower Hamlets special treatment licence (Appendix 2 to this report). 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. The London Borough of Tower Hamlets made such regulations which are produced as Appendix 3 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."
- 13.3 Section 8 of the London Local Authorities Act 1991 sets out a number of grounds under which the Council can refuse to renew a special treatments licence, as set out in paragraph 4.4 of this report.
- 13.4 As stated in paragraphs 5 & 8.2 of this report, there is a pending prosecution of Redbud (London) Limited for breaching its special treatment licence conditions by allowing therapists not authorised by the council to carry out special treatments, and in relation to the offering of services of a sexual nature

as well as allowing female therapists to massage male clients without prior approval from the Council.

- 13.5 The Company pleaded guilty to the charge of breaching its special treatment licence conditions by allowing therapists not authorised by the council to carry out special treatments. Although the company pleaded not guilty to the remaining charges of using the premises for the purpose of soliciting services of prostitution, and the offence of allowing female therapists to massage male clients without the Council's prior approval, the Licensing Committee can still decide on this matter without waiting for the trial of these remaining two charges, for the reasons set out in paragraph 13.7 below.
- 13.6 The Magistrates' Court must be satisfied beyond reasonable doubt that the company is guilty of the matters complained of, however, the Licensing Committee only has to be satisfied on the balance of probabilities that the company failed to comply with the law, a lesser standard of proof than in the criminal courts. As stated in paragraph 5.1 of the report, the company has already pleaded guilty in court to one of the three charges in the prosecution.
- 13.7 The Council may refuse to renew the special treatment licence on the grounds that 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 licence; and the premises have been or are being improperly conducted.

#### 14. **APPENDICES**

<b>Appendix 1</b>	A copy of the current special treatment licence.
<b>Appendix 2</b>	A copy of the standard conditions for special treatment licences.
<b>Appendix 3</b>	Regulations for annual special treatment licences under section 10 (1) of the London Local Authorities Act 1991
<b>Appendix 4</b>	Report from the Environmental Health Department
<b>CHB.OS.1</b>	Special treatment licence renewal application and supporting documents.
<b>CHB.OS.2</b>	Court Attendance note detailing guilty plea to one of the charges.
<b>CHB.OS.3</b>	Witness Statement detailing test purchase carried out on 27 <sup>th</sup> March 2018.
<b>CHB.OS.4</b>	Witness Statement detailing information obtained from deep web searches.
<b>CHB.OS.5</b>	Court Summons.
<b>CHB.OS.6</b>	List of Appointed officers on Companies House.
<b>CHB.OS.7</b>	2017 Special Treatment Licence Application form showing Ying Zhou as director
<b>CHB.OS.8</b>	List of persons with significant control of the company on 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:**

Natalie Thompson, Environmental Health Officer

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