

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE LICENSING COMMITTEE**

**HELD AT 5.30 P.M. ON TUESDAY, 8 SEPTEMBER 2020**

**ONLINE 'VIRTUAL' MEETING - [HTTPS://TOWERHAMLETS.PUBLIC-I.TV/CORE/PORTAL/HOME](https://towerhamlets.public-i.tv/core/portal/home)**

**Members Present:**

Councillor Ehtasham Haque (Chair)  
Councillor Rajib Ahmed (Vice-Chair)  
Councillor Faroque Ahmed  
Councillor Sufia Alam  
Councillor Shah Ameen  
Councillor Shad Chowdhury  
Councillor Mohammed Ahabab Hossain  
Councillor Victoria Obaze  
Councillor Mohammed Pappu  
Councillor Leema Qureshi  
Councillor Gabriela Salva Macallan  
Councillor Dan Tomlinson

**Apologies**

Councillor Peter Golds  
Councillor Eve McQuillan  
Councillor Zenith Rahman

**Others Present:**

Richard Barca – (Legal Representative - Item 3.1)

**Officers Present:**

Charlotte Basten – (Environmental Health Officer)  
Tom Lewis – (Team Leader - Licensing Services)  
Venky Ramakrishnan – (Principal Enforcement Lawyer)  
Simmi Yesmin – (Democratic Services Officer, Committees, Governance)

**1. DECLARATIONS OF INTEREST**

There were no declarations of disclosable pecuniary interest made.

**2. MINUTES OF THE PREVIOUS MEETING(S)**

The minutes of the Licensing Committee held on 19 December 2019 and 23 June 2020 were agreed as a correct record of proceedings.

**3. ITEMS FOR CONSIDERATION**

The order of business was varied by the Chair, for ease of reference the minutes are in the agenda order.

**3.1 Application to consider the objection to Sunflower London Ltd, 21 Wentworth Street, London E1 7TB renewing their Special Treatment Licence**

At the request of the Chair, Mr Kamal Miah, Environmental Health Officer introduced the report and explained that the Licensing and Safety Team were objecting to the application to renewal of the special treatment licence for Sunflower London Ltd, trading as Healthcare, 21 Wentworth Street, London E1 7TB following evidence obtained that services of a sexual nature were being offered by the business at the premises.

It was noted that the business was prosecuted by the Council for breaches of their special treatment licence. The case was considered by the Thames Magistrates Court on 10 April 2019 when the Company pleaded guilty to the two charges of breaching its special treatment licences.

Mr Miah briefly referred to the reasons for the objection and explained that these would be further explained by the Environmental Health Officer during her submission. Members were then referred to the grounds in which the Council can refuse a renewal application under the London Local Authorities Act 1991.

Members then heard from Mr Richard Barca, Legal representative on behalf of the Applicant and stated that he wished to seek an adjournment on the basis that the Applicant Ms Xiao Qin Song was still in China due to the Coronavirus pandemic, as well as this Ms Song was also having issues with renewing her visa to enter the UK as the consulate were not processing any visa applications currently. On that basis he requested for an adjournment for the hearing of this application as the applicant would not be present to make a submission or answer any questions.

In response to questions from Members the following was noted;

- That this application had been adjourned once before during March 2020 as the Applicant was in China (during the pandemic outbreak)
- That other means of participating in the meeting were offered to the Applicant, i.e. video call, telephone call, written submission or have a representative to participate on her behalf.
- That the Applicant was currently limited to accessing IT applications from China.
- That the application was to determine if the applicant was a fit and proper person so it was important for the applicant to be present.

- Mr Barca was unable to give assurance to the Committee on when Ms Song would return as there was no date for return.
- It was noted that the premises was currently operating in the applicant's absence.

Members deliberated and took a vote and the decision was unanimous. The Licensing Committee **AGREED** to proceed with the hearing in the Applicant's absence.

At the request of the Chair, Ms Charlotte Basten, Environmental Health Officer referred to her objection statement on page 41-42 of the agenda and explained that Sunflower London Limited was prosecuted at Thames Magistrates Court on 19<sup>th</sup> April 2019. The Company pleaded guilty to the two charges of breaching its special treatment licence conditions.

The business has been investigated and found to be offering services of a sexual nature to customers. A test purchase operative from a company hired by the council to carry out the visit took place on the 9<sup>th</sup> of January 2020. The operative wrote that during the massage, a female massage therapist called Cindy had asked him to take off his underwear, which he declined. The therapist had then bent down close to his ear and whispered to ask if he wanted something extra. The operative asked what she meant and the therapist made a movement with her hand in a manner indicating masturbation. She then said £20-£30 for a hand job and £50-£60 for a 'hand job' with no clothes on. The operative declined saying he didn't have enough money, but was told he could pay by card, which he declined as well. This was a clear offering of a sexual service in addition to the massage.

Cindy the therapist who offered the sexual services to the test purchase operative is also known as Ms Liyan Guan was not listed as one of the therapists working at Healthcare and therefore had not been approved by the Council to provide massage services at the premises.

Ms Basten stated that the director of the company Xiao Qin Song was responsible for the management of the business and therefore the person concerned in the conduct and management of the premises. Therefore, she should be reasonably regarded as not being fit and proper persons to hold such a licence given the prosecution.

It was noted that under The London Local Authorities Act 1991 the Council may refuse to renew a licence held by a person for grounds mentioned in Section 8 of the Act which include the licence holder not being a fit and proper person to hold a licence (c) the persons giving the treatment not being suitably qualified (d) the premises being improperly conducted (e).

At this point Mr Barca wished to make a submission, The Chair asked Mr Barca if he was presenting in his capacity as a Legal Representative on behalf of the Applicant in her absence. It was initially noted that Mr Barca was only present to make a request for adjournment.

Mr Barca confirmed that he wished to speak on behalf of Ms Song as her Legal Advisor but had limited instructions but was able to make some representations in relation to the application.

Mr Bara stated that it was unfair and unwise to take into account an anonymous email complaint, that the previous convictions and fines had been paid and therefore should not be taken into account. This was as matters had already been presented to the Court and dealt with. He also explained that since the prosecution the premises had been renewed without any objections.

In response to questions the following was noted;

- It was confirmed that since the prosecution in 2019 this was the first renewal application.
- That the applicant had the opportunity to participate in the meeting through the options made available to her.
- That there were difficulties in participating from China.
- Concerns raised that about the history of breaches, and how would members be reassured that this would not happen again.
- Mr Barca stated that it would have been for the Applicant to convince the Members of this, however she was not present to do this.
- Legal powers and advice to the Committee were on pages 14-15 of the agenda.
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The Committee deliberated in private and the following decision was made;

### **Decision**

Accordingly, the Committee unanimously

### **RESOLVED**

That the Application for the renewal of a Special Treatment Licence, under the London Local Authorities Act 1991 for Sunflower London Ltd, trading as Healthcare, 21 Wentworth Street, London E1 7TB be **REFUSED**.

Upon hearing representations from the instructed solicitor for the applicant for an adjournment as the applicant is abroad and could not attend the committee, the licensing committee unanimously rejected the application.

The Licensing Committee considered the lengthy history of this application (this being an adjourned hearing), the representations made by the objectors, the mediums available for the applicant to attend virtually (notwithstanding the difficulties of doing so from abroad), the interest of justice and public interest test, the human rights act and any prejudice the applicant may have in the absence of her attending. On balance however, the licensing committee considered that adjourning the proceedings would cause further delay and there was no given time in which the applicant was returning to the UK, which was exacerbated by the applicant having visa difficulties. The applicant was represented by a solicitor whom could make representations on the applicant's behalf.

The application for a renewal of a special treatment licence was heard in the absence of the applicant, but with the attendance of the applicant's solicitor whom was given the opportunity to make representations on her behalf.

In reaching their decision the licensing committee unanimously refused to renew the application for a special treatment licence, it not meeting the relevant standard conditions as set out in the London Local Authorities Act 1991.

The Licensing Committee considered the representations made by the applicant's solicitor and the representations made by the objector(s). The committee however, noted that Sunflower London Ltd has been the subject of a criminal prosecution at Thames Magistrates Court on 10.4.19, for breaching their licensing conditions by the offering of sexual services (two charges). The company was sentenced to a fine of £500 with associated costs. The director of the company whom has made the application for renewal, was also the director at the time of the criminal proceedings.

There were further incidents of breaches of licensing conditions on 9.1.20 in which a test purchase officer from the Council was offered services of a sexual nature. There has also been a history of previous incidents of concern which the committee gave some consideration to in the preceding five years,

The Licensing Committee therefore refused the applicant's application for a renewal of a special treatment licence on the following grounds:

- (a) There was 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 are put.
- (b) The persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could reasonably be regarded as not being fit and proper person to hold such a licence.
- (c) The premises have been or are being improperly conducted.
- (d) The applicant has, within a period of five years immediately preceding the application to the borough council, been convicted of an offence under London Local Authorities Act 1991.

### **3.2 Alcohol Licensing – temporary off-sales permissions**

Mr Tom Lewis, Team Leader, Licensing, introduced the report and explained that the new off-sales permission will permit off-sales to be made at a time when the licensed premises are open for the purposes of selling alcohol for consumption on the premises, subject to a cut off time of 11pm or the cut off time of the current licensed hours stated on the license, whichever would be

earlier. Measures also temporarily suspended existing licence conditions in so far that they are inconsistent with the new off-sales permission.

It was noted that the temporary off sale permission will apply to all licensed premises that are permitted to sell alcohol for consumption on the premises. However, the premises that have had following action in the last 3 years preceding 22 July 2020 would not be eligible for this temporary permission:

- a) a premises licence application where permission for off sales was refused;
- b) a variation of a premises licence seeking permission for off sales refused
- c) a variation seeking to exclude off sales permission granted
- d) a premises license varied or modified by a review hearing to exclude off sales.

Mr Lewis explained that there was no requirement for licensed premises to inform the Council that they intend to use this temporary permission. However, the Government Guidance did state that premises should inform Local Authorities. It was noted that arrangements had been made to record this temporary condition when the Council is informed. It had also been made clear on the Council website the premises should inform the Licensing Team.

In response to questions from Members the following was noted;

- The automatic temporary permission would end on 30<sup>th</sup> September 2021 unless the legislation is changed by the Secretary of State
- That licensed premises do have to complete a statement that off-sales are authorised under section 172F(2) of the Business and Planning Act 2020 and must have it displayed together with the Licence Summary at the premises.
- That a database had been created to capture and record those premises that have informed Licensing Services that they will be using the temporary permission.
- That there would be a cost element in arranging a letter drop etc to all premises licence holders in Tower Hamlets.
- Members asked that officers explore different ways of informing premises licence holders about this temporary permission.

The Committee welcomed the report.

The Chair moved and it was **RESOLVED**;

1. The report be noted.
2. An update report on the take up of the temporary off-sales permission is reported back to the Licensing Committee at its meeting in March 2020.

**3.3 Update in relation to Prosecutions and Appeals – Quarters 3-4  
2019/2020 Quarters 1-2 2020/2021**

Mr Venky Ramakrishnan, Principal Enforcement Lawyer, briefly introduced the regular noting report which detailed licensing related prosecutions and appeals for Quarters 3 & 4 for 2019-2020 and Quarters 1 & 2 for 2020/2021.

The number of prosecutions over the quarters was noted and it was also noted that two appeals had been dismissed and during Quarters 1 & 2 for 2020/21 no proceedings were concluded due to the Covid-19 pandemic.

Members welcomed the report.

**RESOLVED**

That the report be noted.

The meeting ended at 8.15 p.m.

Chair, Councillor Ehtasham Haque  
Licensing Committee