

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING COMMITTEE

HELD AT 6.30 P.M. ON WEDNESDAY, 28 NOVEMBER 2018

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

Members Present:

Councillor Shad Chowdhury
Councillor Peter Golds
Councillor Mohammed Ahbab Hossain
Councillor Tarik Khan
Councillor Eve McQuillan
Councillor Leema Qureshi
Councillor Dan Tomlinson
Councillor Puru Miah

Apologies

Councillor Zenith Rahman
Councillor Faroque Ahmed
Councillor Sabina Akhtar
Councillor Shah Ameen
Councillor Ehtasham Haque
Councillor Ayas Miah

Others Present:

Mr Wei Lin	– Applicant China Five Elements – Item 3.1
Ms Li Wa Hodgkinson	– Applicant – Little Jasmine Centre – Item 3.3
Mr Keith Hodgkinson	– Applicant's Representative – Little Jasmine Centre – Item 3.3

Officers Present:

David Wong	– (Legal Services)
Charlotte Basten	– (Environmental Health Officer)
Lekan Olomo	– (Health & Safety Officer)
Natalie Thompson	– (Environmental Health Officer)
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 the 4th September 2018 and the 13th September 2018 were agreed and approved as an accurate record of the meeting.

3. ITEMS FOR CONSIDERATION

3.1 London Local Authorities Act 1991 Hearing to consider the objection to China Five Elements Limited, 35 Artillery Lane, London E1 7LP renewing their Special Treatment Licence

Ms Charlotte Basten, Environmental Health Officer informed members the application before them was to consider the renewal of a Special Treatment Licence for China Five Elements Limited, 35 Artillery Lane, London E1 7LP.

Ms Basten stated that the Licensing Authority was objecting to the renewal of the licence following a successful prosecution of the Licence Holder at Stratford Magistrates' Court on the 27th September 2018. Ms Basten 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 Basten also referred Members to point 4.4 which listed the grounds for refusal, as per the London Local Authorities Act 1991.

Ms Natalie Thompson, Principal 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 8.2 of the report, showed the number of visits made in the last seven years. Ms Thompson stated a test purchase carried out on 13th April 2018, showed services of a sexual nature were being offered by the premises. Ms Thompson referred members to page 24 of the agenda which gave details of the test purchase and appendix NAT.CFE.2 pages 89-91 which gave further detail on the test purchases.

Ms Thompson stated the Licence Holder was prosecuted at Stratford Magistrates' Court on the 27th September 2018, on which occasion the defendant (i.e. the Licence Holder – Mr Wei Lin) pleaded guilty to breaching the conditions of the licence. The court found China Five Elements Limited guilty of breaching the condition of the licence and fined the company a total of £1,836.50 made up of £500 fine, £1286.50 costs and £50.00 victim surcharge.

Ms Thompson said that following the prosecution, the Environmental Health team carried out a further inspection on the 12th October 2018, on which occasion an officer overheard a male customer at the premises asking if the therapist was 'Chinese or European'. The officer recalled online customer

comments suggested staff of European origin were offering services of a sexual nature. Furthermore of the eight therapists listed on the application only two had provided evidence that they had the level of qualification required to carry out massage treatments in special treatment premises in Tower Hamlets. Ms Thompson drew the attention of Members to the internet searches appendix NAT.CFE.3 which provided further evidence that services of a sexual nature were being offered by the premises.

Ms Thompson stated the Licence Holder, Mr Wei Lin was listed as the Director of the business and the application for the renewal of the licence had been made by Mr Wei Lin.

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

Mr Wei Lin, the Licence Holder was also present at the meeting. Mr Lin stated that his understanding of English was not particularly good but in defence he did not know the some of the certificates held by the therapists were not correct. He said that he had only received a new list of permitted qualifications from the Council a few weeks ago and was preparing to recruit therapists with the right qualifications.

Members of the Committee asked questions in relation to the application and in response the following was noted:

- Mr Lin confirmed he was unaware that the previously submitted qualifications of the therapists he employed were not valid.
- Mr Lin was asked if he wanted to say anything about the allegations that services of a sexual nature were being provided from his premises. In response Mr Lin said he tells his staff to follow the council rules but if the masseurs break the rules, he fires them.
- Mr Lin was asked what other measures he had taken other than firing the masseuses so that services of a sexual nature are not offered. Mr Lin said there were notices in the treatment rooms but some of the masseuses did not have good English so cannot understand the notice.

Members adjourned the meeting at 18:58 hours for deliberations and reconvened at 19:20 hours.

Under paragraph 17.6 of the Council Procedure Rules, Councillors Eve McQuillan and Puru Miah asked that it be recorded that they abstained from the vote.

Decision

Accordingly, the Licensing Committee made a majority decision, with two members abstaining.

RESOLVED

That the application for the renewal of a Special Treatment Licence, under the London Local Authorities Act 1991 for China Five Elements Limited, 35 Artillery Lane, London E1 7LP be **REFUSED**

As the licence holder has been found to have improperly conducted its business on 13th April 2018 and 12th October 2018 as per the test purchase evidence, in breach 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 and:

As per paragraph 4.4 of the report, the following grounds for refusal applied under section 8 of the London Local Authorities Act 1991:

- (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;
- (d) the persons giving the special treatment are not suitably qualified; and
- (l) the applicant has, within a period of five years immediately preceding the application to the borough council, been convicted on an offence under this Part of the Act.

3.2 London Local Authorities Act 1991 Hearing to consider the objection to China Health Spa Ltd, Unit 1-2 Horizon Building, 15 Hertsmere Road, London E14 4AW renewing their Special Treatment Licence

Ms Charlotte Basten, Environmental Health Officer informed members the application before them was to consider the renewal of a Special Treatment Licence for China Health Spa Limited, Unit 1-2 Horizon Building, 15 Hertsmere Road, London E14 4AW.

Ms Basten stated that the Licensing Authority was objecting to the renewal of the licence following the test purchases carried out on the 23rd March and 21st May 2018. Ms Basten referred members to paragraph 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 Basten also referred Members to point 4.4 which listed the grounds for refusal, as per the London Local Authorities Act 1991.

Ms Natalie Thompson, Principal 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 8.2 of the report, showed the number of visits made in the last twenty four months. Ms Thompson stated a test purchase carried out on 23rd March 2018 showed the masseuse behaving in a sexually suggestive manner and the

second test purchase on the 21st May 2018 showed services of a sexual nature were being offered by the premises. Ms Thompson referred members to pages 153 to 156 of the agenda which gave details of the test purchases.

Ms Thompson stated a prosecution was pending, which was to be heard on the 13th December 2018 at Thames Magistrates' Court in relation to the breaches of the licence. In addition the Environmental Health Team had received an anonymous letter appended at NAT.CHS.2, page 149, from a former employee which stated services of a sexual nature were being provided from the premises.

Ms Thompson stated the application for the renewal of the licence had been received from Mr Bud Klair (appendix NAT.CHS.1 at pages 137-148 of the agenda papers) who was the Director of the company and that the Companies House search (appendix NAT.CHS.6, page 159) showed Mr Bud Klair as the company secretary and Ying Zhou as a Director.

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

Mr Bud Klair, the Applicant was not present at the meeting.

Members of the Committee asked questions in relation to the application and in response the following was noted:

- Ms Basten confirmed that needles used for tattooing and acupuncture would require specialist disposal and the Environmental Health team would expect a contract in place for the disposal of used needles.
- The statement from the former employee was unsigned as the witness feared she would be recognised due to the small Chinese community in the area and because the area remains her place of work.

Members adjourned the meeting at 19:35 hours for deliberations and reconvened at 19:49 hours.

Decision

Accordingly, the Licensing Committee unanimously -

RESOLVED

That the application for the renewal of a Special Treatment Licence, under the London Local Authorities Act 1991 for China Health Spa Limited, Unit 1-2 Horizon Building, 15 Hertsmere Road, London E14 4AW be **REFUSED**

As the licence holder has been found to have improperly conducted its business on 23rd March 2018 and 21st May 2018 as per the test purchase evidence and is in breach of Section 10 (1) of the London Local Authorities Act 1991 and:

As per paragraph 4.4 of the report, the following grounds for refusal applied under section 8 of the London Local Authorities Act 1991:

- (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 license;
- (e) the premises have been or are being improperly conducted; and
- (j) they are not satisfied as to the safety of the special treatment to be given.

3.3 London Local Authorities Act 1991 Hearing to consider an application for a new Special Treatment Licence for Little Jasmine Centre, 56 Skylines Village, London E14 9TS

Ms Natalie Thompson, Principal Environmental Health Officer informed members the application before them was to consider a new application for a Special Treatment Licence for Little Jasmine Centre, 56 Skylines Village, London E14 9TS.

Ms Thompson stated that the Licensing Authority was objecting to the granting of a new licence based on the evidence the Environmental Health Team had evidenced in the agenda pack. Ms Thompson referred members to paragraphs 3.1, 3.2 and 3.3 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, as per the London Local Authorities Act 1991.

Mr Lekan Olomo, Environmental Health Officer provided Members with a detailed account of the investigation he had undertaken. He said the team had received an objection to the granting of the licence on the 6th September 2018 from an anonymous member of the public. The Environmental Health Team had followed up this objection by observing the premises on the 17th and 20th September 2018, whereby the premises were observed trading and advertising special treatments without a licence.

Mr Olomo continued stating a test purchase was conducted on the 20th September 2018 which found the test purchaser being offered services of a sexual nature. Mr Olomo also referred members to evidence at Appendix 3 of the agenda pack, pages 195 to 201. He stated that during an inspection, it was apparent the therapists, who were carrying out special treatments at the premises, had not been declared to the Council in order for the Council to consider whether the therapists had the level of qualification required to carry out massage treatments in special treatment premises in Tower Hamlets.

Mr Olomo stated the Applicant, Ms Li Wa Hodgkinson was listed as the Director of the business and the application for a new licence had been made by Ms Li Wa Hodgkinson.

Mr Olomo asked Members of the Licensing Committee to refuse the granting of a Special Treatment Licence based on the evidence before them.

Ms Li Wa Hodgkinson was present at the meeting and was represented by her husband Mr Keith Hodgkinson, who addressed the Committee on behalf of his wife.

Mr Hodgkinson stated that his wife was a qualified practitioner who had worked for the previous owner of the business and had been in business for the last three years. Mr Hodgkinson stated his wife had received no communication from the Council until the point they were informed a Special Treatment Licence was required. Mr Hodgkinson said his wife duly applied for a licence and continued to operate as she had a contract in place with the Landlord for the premises. Ms Li Wa Hodgkinson said she did not know that she was required to employ Level 3, NVQ qualified masseurs and therapists. She said she had now advertised for therapists who were qualified to that level and grade.

On the day of the test purchase, Mr Hodgkinson stated his wife had left the premises to attend a meeting and was away for about ninety minutes. Therefore the allegation that services of a sexual nature were offered to the test purchaser could not be substantiated, especially as the treatment rooms cannot be monitored whilst clients are being treated. Mr Hodgkinson stated his wife would ensure all new employees signed a contract to say no services of a sexual nature would be provided by them.

Members of the Committee asked questions in relation to the application and in response the following was noted:

- Mr Hodgkinson confirmed his wife Ms Li Wa Hodgkinson was not present when the test purchaser visited on the 20th September 2018. Ms Li Wa Hodgkinson explained she was trialling a new employee who did not have the level 3 NVQ qualification, when the alleged incident took place
- In response to who provided training and how many therapists worked in the shop, Ms Li Wa Hodgkinson confirmed two people were working alongside her. She said she had advertised for therapists with the correct qualifications.
- In response to opening hours, Ms Li Wa Hodgkinson confirmed the business operated seven days a week, Mon to Fri 10:30 a.m. to 9:00 p.m. and Saturday between 07:00 a.m. to 8:00 p.m. and opened on Sunday as well.
- Ms Li Wa Hodgkinson stated her business was a viable business and she only offered professional massage.
- Ms Li Wa Hodgkinson had acquired the business from its previous owner.

- Members asked if Ms Li Wa Hodgkinson, had enquired what the legal requirements were, for operating premises offering special treatments, before taking over the business. Ms Li Wa Hodgkinson stated that she had not checked. She assumed everything had been put in place by the previous owner.
- Ms Li Wa Hodgkinson reaffirmed she was unaware that she was required to employ Level 3 NVQ certified staff. Ms Thompson clarified that previously the business had an exemption as the therapists employed were members of a professional body. However the onus is on the Applicant to inform the Council of changes in staff, as that exemption no longer applied.
- In response to how the business would guarantee services of a sexual nature were not offered by the masseuses, Ms Li Wa Hodgkinson said she would either fire employees or train them to only offer massage.

Members adjourned the meeting at 20:14 hours for deliberations and reconvened at 20:30 hours.

Decision

Accordingly, the Licensing Committee unanimously

RESOLVED

That the application for a new Special Treatment Licence, under the London Local Authorities Act 1991 for Little Jasmine Centre, 56 Skylines Village, London E14 9TS be **REFUSED**

As the licence holder has been found to have improperly conducted its business on 17th and 20th September 2018 as per the test purchase evidence, and is in breach of Section 10 (1) of the London Local Authorities Act 1991 and:

As per paragraph 4.4 of the report, the following grounds for refusal applied under section 8 of the London Local Authorities Act 1991:

- (e) the premises have been or are being improperly conducted.

The meeting ended at 8.40 p.m.

Vice-Chair in the Chair, Councillor Shad Chowdhury
Licensing Committee