

Non-Executive Report of the: Licensing Committee 11 th July 2019	 TOWER HAMLETS
Report of: David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	Classification: Unrestricted
London Local Authorities Act 1991 Hearing to consider an application for a new special treatment licence for Boonsara, 87 Whitechapel High Street, E1 7QX	

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

1. EXECUTIVE SUMMARY

Applicant:	Genesis New World London Limited
Name and Address of Premises:	Boonsara 87 Whitechapel High Street London E1 7QX
Licence sought:	Special Treatment Licence under The London Local Authorities Act 1991 Application for a new Special Treatment Licence
Objectors:	Daron Pike Craig Hutchinson Nando Messias

2. RECOMMENDATIONS

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

3. BACKGROUND

- 3.1 This is an application received on the 21st February 2019 for a new special treatment licence under Section 6 (2) of the London Local Authorities Act 1991 for Boonsara, 87 Whitechapel High Street, London, E1 7QX. A copy of the application can be found at **Appendix 1**.

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

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 Under 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 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 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 such 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 public notice was placed in the docklands and East London Advertiser by the applicant.

5.4 The following is a list of those also consulted in regards to this application.

The Police
The Fire Brigade
Environmental Health

6. Objections/ Responses to the Consultation

6.1 Representations have been made by the below members of the public on the grounds that there is a likelihood of nuisance being caused by the management of the premises and the character of the relevant locality of the vicinity of the premises and that the means of escape are not suitable. The Representations have been made available to the applicant and to Members.

Mr Daron Pike	Appendix 4
Mr Craig Hutchinson	Appendix 5
Dr Nando Messias	Appendix 6

- 6.2 Please find a summary of their comments.
- Likelihood of a nuisance being caused by using Gunthorpe Street as an entrance to the premises.
 - Concerns that Gunthorpe Street is not a suitable entrance as it is residential in nature.
 - The proposed entrance is a fire escape which is often blocked.
 - Concerns that the premises is in close proximity to another business that has been shown to be operating improperly (1 Gunthorpe Street).
 - Concern that other premises licenced by the council are being used as a cover for brothels (1 Gunthorpe Street).
- 6.3 The applicant has responded to these objections. Please find the response at **Appendix 7**.
- 6.4 Please find a summary of their comments.
- The application is for a family run business with a good reputation which already runs similar businesses in other locations.
 - Gunthorpe Street has a number of commercial buildings, a school and light industrial units. It has 2 residential blocks. Gunthorpe Street is also a destination on the Jack the Ripper tours all year round.
 - The proposed entrance is the only possible entrance as the other entrance on Whitechapel High Street will require clients to go through other businesses.
 - Rubbish was stacked neatly to one side of the fire exit area and this was due to a tenant moving out. No rubbish is usually placed here.
- 6.5 A further representation to the application was received by Mr Daron Pike, together with attachments. Please see this at **Appendix 8**.
- 6.6 Please find a summary of their comments.
- The entrance would be via a caged fire escape. 87 Whitechappel High street should be accessible via Whitechappel High Street.
 - A planning application for the premises stating the 1st and second floors would be let together. The agent has let them separately and this renders the premises unfit for purpose.
- 6.7 The Licensing and Safety Team has also received a response from the landlord of the premises. This can be found at **Appendix 9**.
- 6.8 Please find a summary of their comments.
- It is common for buildings with a large footprint to have multiple entrances. This entrance has been used in the past by the landlord and tenants.
 - The access has had gates erected for security reasons as it used to be used as a toilet area for vagrants and the building also suffered burglaries.

- The use of the entrance as a fire escape is in addition to an entrance. This is common place.
- The landlord also details his history with the objectors.

6.9 The council's planning enforcement team were contacted to clarify one point. They confirmed that there was nothing in the planning permission preventing access via Gunthorpe Street but says that it is not ideal. This can be found at **Appendix 10**.

7. Recommendations Following Consultation

7.1 Following objection from local residents Members are asked to consider the representations when determining the new application.

8. Summary of Premises and Licence History

8.1 On the 21st February 2019 a new application was received by the council for a special treatment licence. The Premises was previously unoccupied. The premises is located on the 2nd floor of a building and is accessible via an entrance on Gunthorpe Street.

8.2 Following receipt of the application, the premises was visited by an environmental health officer for advice prior to the renovation of the premises.

9. Complaints and Enforcement History

9.1 The premises has received the following visits from the Local Authority 24 months:

Date	Authority	Nature of visit
22/02/2019	Environmental Health	Meeting with applicant to discuss special treatment licence application requirements and renovation of the premises. A revisit would need to take place following refurbishment of the premises prior to issuing any licence.

10. Special Treatment Licences and Determination

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

11. EQUALITIES IMPLICATIONS

10.1 There are no equalities implications.

11. OTHER STATUTORY IMPLICATIONS

- 11.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
 - Data Protection / Privacy Impact Assessment
- 11.2 Best Value Implications: There are no best value implications.
- 11.3 Consultations: These have been described at points 5 and 6 of the report.
- 11.4 Environmental considerations: There are no environmental implications.
- 11.5 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.
- 11.6 Crime Reduction: There are no proven crime reduction impacts.
- 11.7 Safeguarding: There are no proven safeguarding impacts.
- 11.8 Data Protection/ Privacy Impact Assessment: The application has been processed in line with the council's data protection policy. Some aspects of the appendices have been redacted for data protection purposes. No Privacy Impact Assessment required.

12. COMMENTS OF THE CHIEF FINANCE OFFICER

- 12.1 Should the license be issued the Council will receive income of £338 excluding IPL. This income is revenue in nature and covers the cost of administration and compliance.
- 12.2 There are no other direct financial implications emanating from this report. However, cost implications could arise if any decision were to be appealed through the Magistrates or Crown Courts.

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 3 to this report.

- 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 In relation to the objections received, if the Licensing Committee is satisfied after the hearing, that there is sufficient evidence of a likelihood of nuisance being caused by any of the reasons in Section 8(b) of the London Local Authorities Act 1991, the Committee can refuse to grant this application for a special treatment licence.
- 13.5. Section 8(b) states that 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 .
- 13.6 The Licensing Committee may also consider whether to rely on Section 8(h) of the Act which states that if proper precautions against fire on the premises are not being taken, they can refuse to grant the application.

14. **APPENDICES**

Appendix 1	A copy of the special treatment licence application.
Appendix 2	A copy of the standard conditions for special treatment licences.
Appendix 3	Regulations for annual special treatment licences under section 10 (1) of the London Local Authorities Act 1991
Appendix 4	Objection to the application from member of the public Mr Daron Pike
Appendix 5	Objection to the application from member of the public Mr Craig Hutchinson
Appendix 6	Objection to the application from member of the public Dr Nando Messias
Appendix 7	Applicant response to objections
Appendix 8	Further representation form Mr Daron Pike
Appendix 9	Response from Landlord of premises Mr Bobby Nagpal
Appendix 10	Response from Planning Enforcement

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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