


Non-Executive Report of the: Licensing Committee 4th October 2022	 TOWER HAMLETS
Report of: David Tolley, Head of Environmental Health and Trading Standards	Classification: Unrestricted
London Local Authorities Act 1991 Hearing to consider refusal to grant a special treatment licence for Vanilla Thai Massage, 1 Whites Row, London E1 7NF	

Originating Officer(s)	Kamal Miah, Environmental Health Officer, Licensing and Safety
Wards affected	Spitalfields and Bangla Town

1. **EXECUTIVE SUMMARY**

Proposed licence holder:	Redbud (London) Ltd
Name and Address of Premises:	Vanilla Thai Massage 1 Whites Row, London E1 7NF
Licence sought:	Special Treatment Licence under The London Local Authorities Act 1991
Applicant:	Kamal Miah, Environmental Health Officer, Licensing and Safety Team

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 application for the grant of a new special treatment licence for Redbud (London) Ltd trading as Vanilla Thai Massage, 1 Whites Row, London E1 7NF.

- 3.2 The reason for the objection is that the premises has a history of offering services of a sexual nature. A previous licence for this premises was revoked by the Licensing Committee on the 14th July 2022 and that licence holder was a previous director of the current applicant (Redbud (London) Ltd). Furthermore, the current applicant (Redbud (London) Ltd) was convicted on 27th March 2019 of three offences contrary to section 14(2) of the London Local Authorities Act 1991. A renewal application for a special treatment licence for the same applicant (Redbud (London) Ltd) was refused by the Licensing Committee on 14th March 2019.
- 3.3 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.

4. Legislative provisions

- 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 blank copy of the standard conditions is exhibited as **Appendix 1**.
- 4.3 Under section 8 of the London Local Authorities Act 1991 the Council 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.

5. Licence Refusal Request

5.1 Licensing and Safety Team, of the Environmental Health and Trading Standards Service have objected to the application for this new special treatment licence. The grounds for the objection are that the premises have been improperly conducted, and the applicant is not fit and proper to hold a licence. Please see the representation from the Licensing and Safety Team in **Appendix 2**. Below is a summary of the reasons why the Licensing and Safety Team believe that the application should be refused:

- a) Redbud (London) Ltd previously held a special treatment licence which was granted on 23rd March 2016 and renewed annually until 14th March 2019 when its renewal application was refused by Licensing Committee of this Authority for offering services of a sexual nature.
- b) On the 23rd March 2019, Redbud (London) Ltd was convicted at Thames Magistrates Court of an offence under the London Local Authorities Act 1991 Section 14(2). This was due to the offering of services of a sexual nature was in breach of its special treatment licence conditions.
- c) On the 16th of October and 29th of October 2021, test purchases were carried out by a professional surveillance company and found services of a sexual nature were being offered during the massage treatment on both occasions. Ms. Kwan was the licence holder at this time.
- d) Ms Cheung Lai Kwan's special treatment licence was revoked by Licensing Committee on the 14th July 2022. She was listed as a director of Redbud (London) Ltd at the time of the test purchases.
- e) Two massage therapists listed in the new application made by Redbud (London) Ltd are the same therapists listed under the previous licence held by Ms Kwan at the test purchases.

For these reasons above, the Licensing and Safety Team has concerns that the premises has been operated improperly. Furthermore, the proposed licence

holder, Redbud (London) Ltd, cannot reasonably be regarded as fit and proper to hold a special treatment licence given the previous recent conviction for breaches of the London Local Authorities Act 1991 for similar issues that occurred in October 2021.

6. Recommendations

- 6.1 Members are asked to consider the objection to the granting of this new special treatment licence when concluding to a decision.

7. EQUALITIES IMPLICATIONS

- 8.1 There are no equalities implications.

9. OTHER STATUTORY IMPLICATIONS

- 9.1 Best Value implications: There are no best value implications.
- 9.2 Environmental considerations: There are no environmental implications.
- 9.3 Crime reduction: One of the key licensing 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 and imposing conditions on relevant premises licences. Illegal activity has been proven to occur at the premises.
- 9.4 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.
- 9.5 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.

10. COMMENTS OF THE CHIEF FINANCE OFFICER

- 10.2 There are no material financial implications emanating from the decision to not grant a special treatment license for Redbud (London) Ltd, trading as Vanilla Thai Massage. The Council will forego the license income, however this will be managed within existing budget provision.

11. COMMENTS OF LEGAL SERVICES

- 11.1 Section 6 of the London Local Authorities Act 1991 ("the Act) requires that any premises to be used for special treatments is licensed ("a special treatment licence") by the Council. Special treatment covers a wide range of activities including body piercing, tattooing, acupuncture, massage, and sauna.
- 11.2 The application process for a special treatment licence is not prescribed in statute and may be (but need not be) the subject of regulations made by the

Authority under s.7(4) of the Act. The application must be sent to the Commissioner of Police and to the London Fire Brigade, both of whom may object within 28 days. The Act expressly allows for late representations to be considered, at the Authority's discretion. Any other person may nonetheless object to the application.

11.3 As set out in paragraph 4 above, there are a number of statutory reasons upon which the Authority may refuse to grant a special treatment licence. These reasons include that:

the persons concerned or intended to be concerned in the management of the premises could be reasonably regarded as not being fit and proper persons to hold such a licence (s.8(c));

the premises have been or are being improperly conducted (s.8(e));

the applicant has, within the five years immediately preceding the application, been convicted of an offence under Part II of the Act (s.8(l)).

11.4 S.10 gives an Authority power to make regulations providing for standard conditions that will be deemed to apply to all licences granted under the Act, unless expressly amended or excluded. This power is in addition to the general power to impose appropriate conditions to individual licences under s.6.

11.5 Section 149 of the Equality Act 2010 requires the authority, in the exercise of its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act, to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between those who share a relevant protected characteristic and those who do not. The relevant protected characteristics are age; disability gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. Members are required to have regards to the Act when making their decision.

12. APPENDICES

Appendix 1	Copy of Standards Conditions
Appendix 2	Objection from the Environmental Health and Trading Standards Department – Licencing and Safety Team

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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