

Non-Executive Report of the: Licensing Committee 26th October 2023	 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 Thai Garden Massage Therapy, 35 Artillery Lane, London E1 7LP	

Originating Officer(s)	James Doherty, Health & Safety Officer, Licensing and Safety
Wards affected	Spitalfields and Bangla Town

1. EXECUTIVE SUMMARY

Proposed licence holder:	Thai Garden Ltd
Name and Address of Premises:	Thai Garden Massage Therapy 35 Artillery Lane, London E1 7LP
Licence sought:	Special Treatment Licence under The London Local Authorities Act 1991
Objector:	Mehboob Ahmed, Health & Safety Officer, Licensing and Safety Team

2. RECOMMENDATIONS

- 2.1 The Licensing Committee is recommended to consider the request to refuse the grant of the special treatment licence and then adjudicate accordingly.

3. DETAILS OF THE REPORT

- 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 Thai Garden Massage Therapy, 35 Artillery Lane, London E1 7LP. The application states the treatments to be provided is Massages. The application form and supporting documents supplied by applicant can be found in **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.
- 3.2.1 The application has been consulted on in accordance with the London Local Authorities Act 1991 and Tower Hamlets Regulations made under 10(1) of the Act.

This has included:

- a) A notice at the premises displayed by the applicant during the required period.
- b) A press advert placed in The East London Advertiser on 24th August 2023 by the applicant. This can be found at **Appendix 2**
- c) The application being sent to the Police and London Fire Brigade on 14th August 2023.

Objection

- 3.3 Mehboob Ahmed Health and Safety Officer, Licensing and Safety Team has objected to the granting of this application. This objection has already been made available to the applicant. The objection is due to the following reasons, and can be found in **Appendix 3**:
- The premises has a history of being improperly conducted because it has previously been found offering services of a sexual nature. This has resulted in Council revoking a previous licence on 14th July 2022. This printed decision for this hearing are attached to the objection in appendix 3.
 - Premises found appearing to provide special treatments without a licence (during application consultation period). Please see the onsite report and PACE Notebook entry attached to the objection in appendix 3.

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 4**.
- 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 license;
- (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. EQUALITIES IMPLICATIONS

7.1 There are no equalities implications.

8. OTHER STATUTORY IMPLICATIONS

8.1 Best Value implications: There are no best value implications.

8.2 Environmental considerations: There are no environmental implications.

8.3 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.

8.4 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.

8.5 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.

9. COMMENTS OF THE CHIEF FINANCE OFFICER

9.1 There are no material financial implications arising from the recommendation. If the special treatment licence is not granted, the council will forego the license income and this will be managed within existing budget provision.

10. COMMENTS OF LEGAL SERVICES

10.1 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.

10.2 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.

10.3 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)).

10.4 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.

10.5 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.

11. **APPENDICES**

Appendix 1	Application form and supporting documents
Appendix 2	Newspaper Advert – Public notice
Appendix 3	Objection letter and supporting evidence (including: Printed Licensing Committee Decision – 14 th July 2022 and Onsite Report/Pace Notebook entries).
Appendix 4	Copy of standard conditions

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