

Decisions of the Licensing Sub-Committee

21 March 2022

Members Present:-

Councillor Val Duschinsky
Councillor Lachhya Gurung

Councillor Zakia Zubairi

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Lachhya Gurung be appointed Chairman for this Licensing Sub-Committee meeting.

2. ABSENCE OF MEMBERS (IF ANY)

None.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)

None.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

The Chairman explained the procedure that would be followed at the meeting.

5. SPECIAL TREATMENT LICENCE RENEWAL - HEATHPARK HB LTD, EDGWARE HEALTH & BEAUTY, 96 HIGH STREET, EDGWARE, HA8 7HF

The Sub-Committee considered an application for the renewal of a Special Treatment Licence pursuant to Part II of the London Local Authorities Act 1991 (the "**Act**") for the premises known as Heathpark HB Ltd T/A Edgware Health & Beauty, 96 High Street, Edgware HA8 7HF ("**the Premises**").

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

RESOLVED that the parties be excluded from the meeting, together with the press and public.

Prior to exclusion, parties were notified that the decision of the Sub-Committee would be announced within 5 working days.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The Sub-Committee deliberated in private session, accompanied by the Officer from HB Public Law and the Governance Officer.

8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE

1. The Sub-Committee is asked to consider an application for the renewal of a Special Treatment Licence pursuant to Part II of the London Local Authorities Act 1991 (the “**Act**”) for the premises known as Heathpark HB Ltd T/A Edgware Health & Beauty, 96 High Street, Edgware HA8 7HF (“**the Premises**”).
2. The renewal application seeks to use the Premises for the provision of massages and aromatherapy treatments. A copy of the Application is shown in full in Annex 1.
3. Following receipt of the application an inspection was carried out by two Officers from Barnet Council’s Licensing Team on 22nd February 2022, both of whom were present at this hearing. A copy of the Inspection Report shown at Annex 2 and according to the Officers’ report, various issues were identified at the Premises concerning the management and sanitation of the Premises, the manner in which the treatments are provided and privacy concerns for customers. Issues were also raised about the fire safety of the Premises and therefore the application was remitted to the Sub-Committee for its consideration.
4. Section 8 of the Act lists the various grounds under which a borough council may decide to refuse to grant, renew or transfer a licence. According to the Inspection Report as summarised in the Officer’s Report, the Inspecting Officer considers the manner in which the Premises are being conducted breach four different grounds of Section 8, namely grounds 8(e), (f), (i) and (k). These are: that the Premises have been or are being improperly conducted; that the Premises are not provided with satisfactory means of lighting, sanitation and ventilation; that there are issues with the safety of equipment used in the special treatment or as to the manner in which the treatment is to be given; and concerns about a satisfactory means of escape in case of fire and suitable means for fighting fire are not provided on the Premises. In addition, it is said that these issues also breach conditions 19, 25a, 25b, 26, 27a, 27b and 37 of the Council’s conditions and regulations. These conditions are also set out in Appendix 1 of the Council’s Special Treatment Licensing Policy 2022-2027, albeit renumbered as conditions 9, 15a, 15b, 16, 17a, 17b and 27.
5. The specific issues that are believed to fall foul of the grounds in Section 8 are set out in full in the Inspection Report at Annex 2 and summarised in the Officer’s Report at pages 14-17 of the Agenda. The issues raised include insufficient recording of appointments, insufficient client consultation forms, insufficient privacy in place for clients, spyholes in the doors to the treatment rooms, insufficient labelling of items intended for use during treatment, towels not being washed at the recommended temperature, chewing gum on the base of a massage table, the massage beds not being capable of being raised or lowered, and a smell of damp. It is also stated that an online search of the Premises reveal that improper conduct may be taking place at the Premises and that, according to the manager of the Premises, the fire exit is usually kept locked during the day and that the front door

can only be buzzed open to let people in or out and that would hamper people escaping out through the front door in the case of an emergency.

6. At the hearing the Applicant, Mr Steven Peters, was in attendance along with his brother who was assisting him. Amy Nathan and Zeikiel Cudjoe were in attendance for the Licensing Authority.
7. The Sub-Committee heard from Ms Nathan and Mr Cudjoe who went through their report and confirmed that the Premises licence being sought for was for the provision of massages and aromatherapy. They informed the Sub-Committee that there was insufficient client information being recorded at the Premises, which was also a breach of the Council's special treatment conditions. Customers names and dates of appointments were recorded, but there was no record of any medical issues that might be relevant to know before giving a treatment, the time of their appointment(s) or which therapy they received. They also said there was insufficient privacy for customers with showers located behind a curtain, and peep holes in the treatment room doors. The Officers reported that they were informed during their inspection that the peepholes were there to ensure nothing wrong was being carried out.
8. They also stated that the treatment rooms they inspected had large jars in each room for massages, but the jars were not labelled so it was not clear what was in there. There were also locked cupboards under the storage beds that they were unable to access and so unable to inspect. They also reported there being a cushion layer over the massage table, which is not an impervious material so not as easy to wipe down and clean. The height of the massage beds was not capable of being raised and lowered to assist the therapists providing the treatments and in one room the treatment table was up against the wall, thereby causing further issues of ease of access to therapist.
9. Whilst the Premises advertises itself as also provides aromatherapy treatment, it was reported that only one aromatherapy bottle was found on the Premises.
10. The Officers also raised their concern about the means of escape from the Premises in case of fire. Ms Nathan informed the Sub-Committee that at the time of inspection the fire exit was open to allow for ventilation, but the manager of the Premises informed them that it is usually kept locked. Furthermore, when they went to leave the Premises a staff member had to buzz open the door to let them out. This, it was said, would also create a problem if there was a need to escape if there was a fire. There was also an issue with the location of the counter not being consistent with its location on the licence plan.
11. As a result of their written and oral representations, the Licensing Authority recommended the Sub-Committee reject the renewal application. Mr Cudjoe did not believe the Premises were fit for purpose and that they were being adequately or safely operated. Furthermore, they would not want this to be the standard set for special treatment premises.
12. In relation to the comment made about an online review suggesting improper conduct was occurring on the Premises, the Sub-Committee was informed that a copy of the same was not included in the Agenda papers, but that it was the other matters they had raised that were the main issues of concern.

13. In response to this Mr Peters informed the Sub-Committee that most of the issues raised by the report had been actioned. He stated that in relation to the front door, you could just open the door by using a latch rather than being “buzzed” out and that if the electricity was to go out then the door would be unlatched. Similarly, with the fire escape at the rear of the Premises, this was also secured with a latch but could easily be opened. Mr Peters said he did not know why the Manager stated that the fire exit was locked, and that she might have meant the door was “closed” rather than “locked”.
14. Mr Peters stated he was happy to change all the treatment beds and that he had removed the peepholes and the notices in the treatment rooms warning female practitioners not to contact customers outside of work. He stated that peepholes had been there for years and had never been queried before and that they were there to ensure the safety of the female practitioners in case a male customer tried to assault them. The treatment table that was by the wall had been moved and that room was now being used as a storeroom rather than a treatment room. As for the locked cupboards that the Officers were unable to access during their inspection, it was said these contained materials for use by the Premises.
15. Mr Peters also stated the bottles in the treatment room had been changed and they all had labels on them now.
16. Mr Peters was questioned about the front door by the Licensing Officers as they stated that when they visited they could not let themselves out through the front door and had to be “buzzed” out. Mr Peters suggested that it could be the latch was not working at the time. Mr Peters was asked why there was any need to buzz people in and out at all, and the Sub-Committee was informed this was to stop anyone just coming in off the street and causing a problem.
17. Mr Peters informed the Sub-Committee that the Premises have not been changed for the last 30 years, although he himself had only been the owner since 2011. He stated that these days he visits the Premises every Saturday but is contactable by phone and text during the day and there is a Manager covering the Premises the whole day.
18. With regard to the shower facilities, Mr Peters stated that there were separate shower cubicles behind the main shower curtain, which had their own folding door. However, it appears there is no separate changing / drying area and with the Premises open for men and women this suggests there would only be the same communal changing area for customers.
19. With regard to the recording of client information, Ms Nathan stated there were contact cards at the Premises, but they did not contain sufficient information, for example, if the customer had any medical issues or the time of the treatment or type of treatment. The cards only have the customer’s contact information and date of treatment.
20. Mr Cudjoe also queried why Mr Peters would think having peepholes in the doors to the treatment rooms would be okay regardless of whether they were previously there or not and that this was not something he would expect someone running a premises in a fit and proper manner to have allowed. To this Mr Peters said it had not been raised by Council Officers in the past and was there to ensure the therapists were okay and not being threatened.

21. The Sub-Committee is concerned that some basic rules were not being followed at the Premises, such as client information not being fully and properly recorded by including any medical issues, what treatments they were receiving and what oils they were using. That information, which is also part of the Council's conditions for special treatment licences, is required to ensure the safety of any members of the public who may visit the Premises for a special treatment. The Sub-Committee was also concerned about the peepholes in the doors, the showers not providing sufficient privacy to customers and the fact that bottles in the treatment room were not labelled.
22. The issues set out above and in the Licensing Authority's representation are important to ensure that the Premises are in good order, that there are no health and safety issues, no sanitation issues, no problems escaping the Premises in the event of a fire and to ensure any customer visiting the Premises will be able to receive a massage or aromatherapy treatment in a safe and proper manner and in properly run premises.
23. The Sub-Committee is informed by Mr Peters that he has carried out works covering "most" of the issues raised by the inspection report, however aside from his representations at the hearing no evidence of these works has been submitted before the Sub-Committee. Therefore, it is not possible for the Sub-Committee to be satisfied as to what works have been carried out, whether those works are to a satisfactory standard, what issues remain outstanding and when any remaining issues will be addressed.
24. With regard to the issue of the rear fire exit, Mr Peters speculated that the Manager might have meant to say this was kept "closed" rather than "locked" during the day, and he stated the rear fire exit was not kept "locked" during the day. This issue could have been clarified with the Manager ahead of the hearing rather than speculate on what they meant. Similarly, the Sub-Committee is not satisfied about the ease of exiting through the front door on the evidence before it, with the Licensing Officers saying there were unable to exit the front door themselves without being buzzed out. The Sub-Committee notes that Mr Peters says this is not the case and customers can exit the Premises themselves, or that there might have been an issue with the latch on the date of the inspection, but again there is no evidence that any latch mechanism is currently in working order.
25. The Sub-Committee also considers that certain issues, such as the proper recording of customer information, any client medical issues and a record of the treatment to be provided would be expected in premises run in a fit and proper way. This would also include not having any peepholes in the doors to the treatment rooms, sufficient privacy in the shower area, labelling of bottles used in any treatments and treatment tables to be easily wiped down.
26. On the evidence before it, the Sub-Committee is therefore not satisfied the Premises have been or are being properly conducted and is concerned about all of the issues raised in the Licensing Officers' report that also breach conditions 19, 25a, 25b, 26, 27a, 27b and 37 in the Council's Regulations and Licence Conditions for Special Treatments, and that are also set out in Appendix 1 to the Council's Special Treatment Licensing Policy 2022-2027 under conditions 9, 15a, 15b, 16, 17a, 17b and 27.

27. The Sub-Committee therefore rejects this renewal application on the basis of sections 8(e), (f), (i) and (k) of the Act.

Right to Appeal

28. A person named in section 13 of the London Local Authorities Act 1991 may appeal the decision of the Licensing Sub-Committee to the Magistrate's Court before the expiration of the period of 21 days beginning with the date on which the person in question is notified in writing of the refusal of his application, the imposition of the terms, conditions or restrictions by which he is aggrieved or the revocation of his licence, as the case may be.

9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT

None.

The meeting finished at 11:10am