

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**23 OCTOBER 2017**  
**LONGBRIDGE**

**BIRMINGHAM CITY COUNCIL ACT 1990**  
**ESTABLISHMENTS FOR MASSAGE AND/OR SPECIAL TREATMENTS**

**BIRMINGHAM THAI THERAPY, 1159 BRISTOL ROAD SOUTH, NORTHFIELD,**  
**BIRMINGHAM B31 2SL**

**GRANT OF LICENCE**

1. Summary

- 1.1 Anyone conducting an establishment for treatment by way of massage, solaria, jacuzzi, sauna, steam treatment, aromatherapy and other similar types of treatment is required to be licensed.
- 1.2 Each premises is subject to an inspection by a Licensing Enforcement Officer and there is consultation with the West Midlands Police concerning the suitability of applicants.
- 1.3 An application has been received for the grant of a licence for the provision of massage at Birmingham Thai Therapy, 1159 Bristol Road South, Northfield, Birmingham B31 2SL.
- 1.4 Paragraph 5 of this report outlines the criteria for consideration of a Massage and Special Treatment Licence.

2. Recommendation

- 2.1 That Committee is requested to consider and determine the application for the grant of a Massage & Special Treatment licence in accordance with the provisions of Birmingham City Council Act 1990 and having regard to the options contained in paragraph 6.1 of this report.

Contact officer: David Kennedy, Principal Licensing Officer  
Telephone: 0121 303 9896  
Email: [david.kennedy@birmingham.gov.uk](mailto:david.kennedy@birmingham.gov.uk)

### 3. Background

- 3.1 Patricia Ballinger t/a Birmingham Thai Therapy, 1159 Bristol Road South, Northfield, Birmingham B31 2SL applied for the grant of a Massage and Special Treatment Licence to permit the provision of massage at the premises between the hours of 10am and 8pm Monday to Sunday. A copy of the application is attached at Appendix 1.
- 3.2 Representations have been received from a member of the public and a Licensing Enforcement Officer copies of which are attached as Appendices 2 and 3 respectively.
- 3.3 A copy of Birmingham City Council's standard conditions relating to Massage and Special Treatment Licences is attached at Appendix 4.
- 3.4 Ms Ballinger has been invited to attend the Committee meeting in support of her application and to respond to any questions members may have.
- 3.5 The objector and Licensing Enforcement Officer have also been invited to attend the Committee meeting in support of their representations and to respond to any questions members may have.

### 4. Consultation

- 4.1 The applicant was required to advertise the application by displaying a notice on or near the premises for a period of 21 days and serve notice of their application to the Chief Constable of West Midlands Police.
- 4.2 In addition, upon receipt of an application the Licensing Section consults with the relevant Local Policing Unit, the Licensing Enforcement Team and also notifies the appropriate Ward Councillors.
- 4.3 A representative of West Midlands Police Licensing Team has confirmed that they have no objections to the grant of a licence.

### 5. Matters for Consideration

- 5.1 The Committee is advised that the Birmingham City Council Act specifies the following grounds for refusal of an application for the grant of a licence in the case of:
  - a) any person under the age of 21;
  - b) any person who has been convicted of an offence under the Sexual Offences Acts 1956 to 1976 or the Street Offences Act 1959 or who may be otherwise unsuitable to hold such a licence;

- c) any premises which are unsuitable for the purposes of an establishment for massage or special treatment or in which the accommodation or provision for such treatment is not reasonably adequate or suitable;
- d) any establishment which has been or is being improperly conducted;
- e) any establishment in which adequate professional, technical or other staff is not available for the administration of such massage or special treatment as may there be provided; or
- f) any establishment which is being carried on in contravention of the provisions of this Act or any byelaw made there under.

5.2 Having considered the application, the representations received and having heard from all parties present at the hearing the Committee is required to determine the application for the grant of a Massage and Special Treatment Licence.

## 6. Options Available

6.1 The Committee may:

- 6.1.1 Grant the licence subject to compliance with the standard conditions of licence.
- 6.1.2 Grant the licence subject to compliance with the standard conditions of licence and / or the imposition of other terms, conditions or restrictions as the Committee may consider appropriate.
- 6.1.3 Refuse the licence. The Committee may not refuse the application without first giving the applicant an opportunity of appearing before and being heard by a Committee of the Council, and if so required by him, the Council shall within 7 days after their decision give him notice thereof containing a statement of the grounds on which it was based.

## 7. Right of Appeal

- 7.1 The Act provides that any applicant for the grant, renewal or transfer of a licence has a right of appeal against decisions to refuse to grant, renew or transfer a licence to the Magistrates Court.
- 7.2 The Act also provides that any applicant who is aggrieved by the terms, conditions or restrictions on or subject to which the licence is granted or renewed has a right of appeal to the Magistrates' Court.

- 7.3 Any such appeals to be lodged within 21 days beginning with the date on which they are notified of the decision in writing.

8. Implications for Resources

- 8.1 A fee of £196 is payable for the grant of a Massage and Special Treatment Licence to permit the provision of one treatment.
- 8.2 In the event of an appeal hearing, the Magistrates power to award costs derives from Section 64 of the Magistrates Courts Act 1980 which entitles them to make such order as they think just and reasonable.

9. Implications for Policy Priorities

- 9.1 The work identified in this report is consistent with our mission statement being locally accountable and responsive fair regulation for all – achieving a safe, healthy, clean, green and fair trading City for residents, business and visitors.

10. Public Sector Equality Duty

- 10.1 No specific implications have been identified. Officers have considered the Public Sector Equality Duty in accordance with the provisions of the Equality Act 2010 and determined that there are no Equality and Diversity implications in respect of their report because of the nature of the recommendation.

**ACTING DIRECTOR OF REGULATION AND ENFORCEMENT**

Background papers: nil

MST 1/25

## BERMINGHAM CITY COUNCIL ACT 1990

Application for a Licence to use any Premises as an Establishment for Massage and/or Special Treatments

1. Trading Name of Massage/Special Treatment Business:  
 ..... Birmingham Thai Therapy .....  
 Address of Business: ..... 1139 Bristol Road South, Nechells .....  
 ..... Dringham, B51 2BJ ..... Tel No. ....

2. Is the application being made by an individual: ☒ (go to Q 3)  
 or on behalf of a partnership ☐ (go to Q 4)  
 or a company? ☐ (go to Q 4)

## INDIVIDUAL APPLICANT'S DETAILS

3. Full name of the Applicant: ..... Felicia Gailinger .....  
 (Any former names must also be given).  
 Home Address of the applicant .....  
 .....  
 Date of Birth .....  
 National Insurance no. or the EU Member State equivalent .....  
 Contact tel. no (during normal office hours) .....  
 Address you wish any correspondence to be sent to ..... FAO - Nicola Stanbury, Harrison Clark Rickards  
 ..... 6 Darnley Way, Walsley, WUL 1 2JG .....

## COMPANY/PARTNERSHIP APPLICATION DETAILS

4. Name of Company and company registration number (where applicable): .....  
 Address: .....  
 .....  
 If the applicant is a company, complete the details below in respect of each of the directors, the company secretary or other persons responsible for the management of the company. In the case of a partnership, details of all the partners must be given.

Name	Address	Designation

3

DCC  
REGISTRATION & ENFORCEMENT  
LICENSING SECTION  
DATE RECEIVED  
24 JUL 2015

REF NO 000488/000270  
INITIALS NW C/C £196.00

**GENERAL DETAILS OF THE APPLICATION**

MST 1/25

The following questions are to be answered by all applicants

5. Is this application for a  
Grant ☒ or a Renewal ☐ or a Transfer ☐ or to add further treatments ☐  
If renewal give the date existing licence is due to expire: .....
6. For what activities is the licence required?  
Massage ☒ Sauna ☐ Solarium/Sunbed ☐ Spa/baths etc ☐ Steam treatment ☐  
If any other treatment, please give details: .....
7. Will the massage or special treatment be available specifically for;  
Males: ☐ Females: ☐ Both: ☒
8. Give details of the time during which it is proposed that the premises shall be open.  
i) Days of the week: Monday to Sunday (Inclusive) .....  
ii) Hours of the day: 10am - 8pm .....  
NB. Treatments shall be permitted only between 6am and 12 midnight on any day
9. Are the whole premises described above to be used for massage/special treatment?  
Yes ☒ No ☐
10. If the answer to question 9. above, is 'No', please state:  
i) Which part of the premises is to be used for the purposes of the licence?  
.....  
ii) What are the rest of the premises used for?  
.....
11. Are the premises leasehold? Yes ☒ No ☐  
Are the premises freehold? Yes ☐ No ☐  
Please give the name and address of the landlord or of the freeholder:  
T & P Properties, 20 Kent Road, Southmead, Redditch, B97 4PC  
.....

12. State the full name(s) and address(es) of the owner(s) of the massage/special treatment business, if different to the applicant.

.....

.....

.....

13. If there is to be a manager responsible for the premises in the absence of the licence holder, please supply the following details:

First Name	Surname	Former Name (if any)	Permanent Address	Date of Birth

14. Please give details of ALL persons who will be administering treatment (whether qualified or not)

Full Name	Address
<p>Singha Wilkink</p> <p>Thip Duth Natchanon Pengseng</p>	

NB - For each person detailed above you must complete a personal details form (document ref MST 6/2) and submit all completed forms with this application

15. Please give details of involvement with any other message or special treatment establishment and also the nature and extent of such interest, either as:

a) owner or director of trading company: None

or

b) employee: None

16. Has the applicant or any persons named of this form any convictions/cautions? Yes ☐ No ☒

If so, please give details below (road traffic convictions/cautions need not be stated).

Convictions:

First Name	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

Cautions:

First Name	Surname	Former Name (if any)	Offence	Date	Where Caution Administered

(If necessary, please continue on a separate sheet)



**DECLARATION****To be completed by Applicant:**

I declare that the information given above is true and correct to the best of my knowledge and I understand that if I provide any false information or intentionally withhold any relevant information, I am liable to prosecution.

Signed: ..... Date of Application: ...../...../.....

Name (PLEASE PRINT) .....

Job title .....

ND: If the application is on behalf of a company, the Company Secretary, or Director of the company should sign the above declaration. If any person signs the declaration on behalf of an applicant, please state in what capacity you are acting.

**If completed on behalf of an Applicant please complete the following:**

I can confirm that the details given on this form are as stated by the applicant and are correct to the best of my knowledge.

Name (Full name) ..... Nickie Stenebe

Organisation ..... Horizon Clark Rickways, 6 Deansway, Wombourne, WVR1 2JG

Relationship to Applicant (eg Solicitor, Employer) ..... Solicitor for the applicant

Signature ..... Date 28/07/2019

Completed Applications should be returned to:

Birmingham City Council  
Licensing Section  
P.O. Box 17013  
Birmingham  
B6 8ES  
Email: [licensing@birmingham.gov.uk](mailto:licensing@birmingham.gov.uk)

**Checklist for Applicants**

Have you remembered to:-

Enclose cheque/payment

☐ To pay by credit card

Sign application form

☒

Send Notice of Application to WM Police

☒

Enclose completed Personal details form

for each Person listed in section 14

☒

Display Notice of Application (grant only)

☒

Electrical Certificate (required for grant & renewal)

☐ Message only

## Birmingham City Council Act 1990 - Massage and Special Treatments Licence

## Personal Details Form

Trading Name and Address of Massage and/or Special Treatment Premises:	BIRMINGHAM TAI THERAPY
Full name of person giving treatment (Please give former names if any):	THIP PUSIN NATCHANIN PENGSENG
Address:	
Postcode:	
Age:	
National Insurance Number:	
Date and Place of Birth:	
Qualifications to give the treatments:	Thai Traditional Massage REN FROM TREATMENT
Name and Address of College/Organisation:	WAT PO TRADITIONAL MEDICAL SCHOOL THAILAND

I consent to the information provided on this form being exchanged with other agencies in the interests of enforcement and protection of public funds

Signature: .....

Dated: 27/06/17

This form is to be completed for each person providing treatments under the Birmingham City Council Act 1990. It must be signed by the individual named on the form.

Completed Forms should be sent to:

Birmingham City Council  
Licensing Section  
P.O. Box 17013  
Birmingham  
B6 9ES

## Birmingham City Council Act 1980 - Massage and Special Treatments Licence

## Personal Details Form

Trading Name and Address of Massage and/or Special Treatment Premises:	BIRMINGHAM THAI THERAPY
Full name of person giving treatment (Please give former names if any):	Singthip Williams
Address:	
Postcode:	
Age:	
National Insurance Number:	
Date and Place of Birth:	
Qualifications to give the treatment:	Thai massage certificate 150 hr
Name and Address of College/Organisation:	Teknat College Phanakhan Phanom Thailand

I consent to the information provided on this form being exchanged with other agencies in the interests of enforcement and protection of public funds

Signed: .....

Dated: 26/6/07

This form is to be completed for each person providing treatments under the Birmingham City Council Act 1980. It must be signed by the individual named on the form.

Completed Forms should be sent to:

Birmingham City Council  
Licensing Section  
P.O. Box 17013  
Birmingham  
B6 8E8

BRISTOL RD STM  
NORTHFIELD  
BIRMINGHAM B31

16.8.17

RE THAI ORIENTAL

Dear Sir/Madam,

I am writing to object to a license being granted to the Thai Oriental at 1159 BRISTOL RD SOUTH NORTHFIELD. My objection is based on the fact that I know that this establishment isn't just offering massage, but also offering sexual favours to men.

It is now common knowledge in the area that this is the type of establishment that it is, and we have had men come into my studio: <sup>telling me that</sup> they've had "bliss" in there. Only men go there, and they park over the road and sleepily enter the premises, and there's frequently a sign stating that all the girls are busy until such a time as stated.

It's lowering the tone of the area, and  
P.T.O

bringing what is a nice area down.

Even the lady from the council told me months ago "I know it's a knocking shop, and you know it's a knocking shop, but I can't prove it!"



**Birmingham City Council  
Licensing Service**

- Birmingham Thai Therapy, 115B Bristol Road South, Northfield, B31 2SL

**Introduction**

Patricia Ballinger is the applicant for a Massage and Special Treatment Licence in respect of the above premises. The premises are currently not trading. I met with the applicant on 23<sup>rd</sup> August 2017 at the premises and we discussed the conditions that are attached to the licence once issued and must be complied with. Ms Ballinger advised me that she is in the process of buying the business from Jayne Wojtasik but didn't want to complete the purchase until she is sure that she would be issued with a licence.

Ms Ballinger has never held a licence or worked within the Massage and Special Treatments sector previously, she states that her friend Wan who she has known for a number of years let her know about the business opportunity and provided her with some details of therapists who she has spoken with and nominated on the application.

**Matters For Consideration**

Licensing Enforcement have had concerns with the premises previously which ultimately led to the previous applicant withdrawing their application for Massage and Special Treatments following an objection to the application by Licensing Enforcement as we could not be sure that that the premises were not being used for illegal or immoral purposes.

I have informed Ms Ballinger of our previous concerns with the premises, she has made assurances that she is in no way connected to the previous applicants and will ensure that unlawful activity will not take place.

**Licensing Enforcement Recommendations**

If committee are minded to grant the licence we recommend that an unannounced inspection be conducted once the premises are trading to ensure compliance with the conditions.

Sarah Lavender

Licensing Enforcement Officer

**Regulation and Enforcement  
Licensing Section  
P.O. Box 17013  
Birmingham  
B6 9ES**

Tel. 0121 303 9731

[sarah.lavender@birmingham.gov.uk](mailto:sarah.lavender@birmingham.gov.uk)



MST 4.7 (01.11.2007)

**BIRMINGHAM CITY COUNCIL ACT 1990**  
**CONDITIONS OF LICENCE**  
**MASSAGE AND SPECIAL TREATMENT ESTABLISHMENTS**

**THE LICENSEE**

1. Treatments that are covered by the Birmingham City Council Act 1990 which are not specified on the licence shall not be offered.
2. The establishment shall trade at the address specified in the licence, and in the name specified in the licence.
3. The Licensee shall notify the Council in writing, within 7 days, of any change in the name or private address of the Licensee.
4. The Licensee, if a company, shall notify the Council in writing, within 7 days, of any change in the names of directors of the company.
5. Unless the Licensee has written consent of the Council they shall not:
  - a) employ anyone at the premises whose licence has previously been revoked or who has been refused a licence where they were unsuitable to hold a licence;
  - b) employ anyone at the premises where the Council has previously considered that individual to be unsuitable because of misconduct; or
  - c) permit any such person mentioned in a) or b) above to directly or indirectly have an interest in the business carried on at the premises;
  - d) employ any person in the conduct of the establishment under the age of 17.
6. Treatment shall only be given by persons approved by the Council or under the supervision of a person approved by the Council.
7. The Licensee shall ensure that all persons approved by the Council to offer treatments shall display at the premises all certificates of recognised qualifications in respect of the services permitted by the Licence.
8. The Licensee must display, in a prominent position within the premises, the Licence issued by the Council

9. The Licensee shall at all times exhibit, in a conspicuous position, a complete scale of fees for treatments given at the premises.
10. The Licensee shall notify the Council, within 7 days, any change to the list of persons engaged in the provision of massage or special treatment at the establishment. If the change relates to the addition of a new person then notification must be by completion and submission within 7 days of Document MST6.1.
11. The Licensee shall notify the Council in writing within 7 days of any conviction received by him/her in respect of any offence of dishonesty or immorality.
12. The Licensee shall not permit the establishment to be used for any illegal or immoral purpose.

#### **THE PREMISES**

13. The premises and any treatment room or waiting room must be kept clean and maintained in good repair and condition.
14. There shall be adequate lighting and ventilation to any treatment or waiting room, either by natural or artificial means.
15. Readily accessible wash hand basins must be provided for any treatment rooms.
16. There shall be provided for each wash hand basin, hot and cold water, soap, a nail brush and clean hand drying facilities.
17. There shall be provided in every treatment and waiting room suitable and sufficient means for heating and a reasonable room temperature shall be maintained.
18. Suitable and sufficient toilet accommodation must be available for employees and clients.
19. The Licensee shall ensure compliance at all times with the relevant provisions of the Health and Safety at Work Act 1974 and shall at all times take reasonable precautions to ensure the safety of clients whilst in the premises.

#### **CUSTOMER CARE**

20. Where it is intended that more than one person shall be treated in the same room, suitable screening shall be provided to maintain privacy.



21. All instruments, towels, materials and equipment used in connection with the establishment shall be thoroughly cleansed prior to use by, or application to any client and there shall be provided proper means for securing the cleansing of all such instruments, towels, materials and equipment.
22. The Licensee shall ensure that all persons present in any part of the establishment are decently and properly dressed at all times, except for those persons receiving treatment in accordance with the conditions of this Licence.
23. Adequate changing accommodation shall be provided.

#### **RECORDS**

24. The Licensee shall keep and maintain:
  - a) A record of all persons employed for administering treatment, whether qualified or not, with details of their full name, date of birth, private address, national insurance number, signature and qualifications where applicable.
  - b) A daily register of all staff administering treatment shall be maintained; the register shall record the start and finish time of each therapist.

The above records shall be kept on the premises named on the licence at all times, and shall be immediately available for inspection, by an authorised officer, during opening hours.

No person shall make a false entry into any records required to be kept as a condition of the licence.

#### **CONDUCT OF BUSINESS**

25. The Licensee or a responsible person nominated by the Licensee, in writing to the Licensing Section, must be on the premises and in charge of the establishment and immediately contactable by an authorised officer at any time during the permitted hours of opening.
26. The Licensee must ensure that the nominated person is fully aware of the Conditions of Licence, particularly those relating to the maintaining of records.
27. The Manager or other person directly or indirectly responsible for the management of the premises shall be under the same obligation as the Licensee to comply with these conditions.

**PERMITTED HOURS**

28. The services provided by this establishment shall be permitted only between the hours of 6.00 am and 12.00 midnight on any day. (Please note that the hours permitted by this licence do not override any restrictions imposed by any planning consents for the premises.)

**SAFETY OF EQUIPMENT - ELECTRICAL CERTIFICATE**

29. The Licensee shall on application for renewal of this Licence submit to the Council a certificate signed by a competent electrician certifying the safety of all electrical installations, equipment and electrical apparatus used within the establishment for the purposes of the Licence.

**SPECIFIC CONDITIONS RELATING TO MASSAGE**

1. All massage rooms/areas shall contain a suitable massage couch/bench/table. (Four Poster beds, or beds designed for the purpose of sleeping shall not be permitted.)
2. There shall be no advertisement in words or pictures suggesting that there is an erotic element in the treatment provided.

**SPECIFIC CONDITIONS FOR SUNBEDS AND SOLARIA**

1. See Appendix A attached.

### **SPECIFIC CONDITIONS FOR SUNBEDS AND SOLARIA**

Each premises licensed to provide facilities of ultra violet tanning equipment, sun beds and tanning booths shall ensure compliance with the following conditions:

1. The Licensee shall draw up a schedule of maximum exposure times based on the information supplied by the manufacturer and the operator shall advise clients of suitable exposure levels to avoid over-exposure particularly during initial sessions.

### **Notice**

2. Warning notices and guidance notes issued by the Health and Safety Executive shall be clearly displayed near the machine informing users of the equipment of the danger of over-exposure.

### **Safety Equipment**

3. Suitable goggles for the protection of the eyes of users of the equipment must be provided and each user must be advised of the dangers of failing to properly protect the eyes from ultra violet light. No user of the equipment should be allowed to undertake treatment without such protection.
4. A suitable readily identified emergency device shall be fitted within easy reach of a person using the equipment. The device, when operated, should switch off ultra violet lamps and summon assistance.
5. Equipment must be situated in a suitable room or cubicle and so positioned that adequate ventilation and cooling is provided. The operation of the equipment must not result in the temperature in the treatment room becoming unreasonable.

### **Cleaning**

6. The licensee must have procedures in place to ensure that the surface of the bed is cleansed, between each client use, with a suitable cleanser as recommended by the manufacturer of the appliance.

### **Safety of Users**

7. The Licensee must have procedures in place to ensure that prospective users of sun beds are made aware, on each visit, that certain medical conditions or medicines that are combined with exposure to UV light can have an adverse effect on the health and safety of the user.
8. The Licensee must have procedures in place to ensure that prospective users of sun beds are provided with clear and concise information for:-
  - Guidelines on how to identify individual skin types
  - Safe limits for using a sun bed without burning, to include an understanding that there must be 48 hours between tanning sessions and not to exceed more than 20 tanning sessions per year
  - Informing users whenever the lamps have been changed in the previous 2 weeks, thus making the sun bed more powerful.