

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE A

THURSDAY 8 FEBRUARY 2024

- Councillors Present:** Councillor Gilbert Smyth in the Chair
Councillor Penny Wrout and Councillor Richard Lufkin
- Apologies:** Councillor Sem Moema
- Officers in Attendance:** Rabiya Khatun – Governance Officer
Amanda Nauth – Licensing and Corporate Lawyer
Suba Sriramana – Principal Licensing Officer
David Tuit - Business Regulation Team Leader
- Also in Attendance:** Mondrian Hotel, Private Club and Rooftop, Level-3 (Part of) Level -2, (Part of) Ground Floor & Roof Terrace, 45 Curtain Road, EC2A 3PT & Ennismore Hotel, (part of) Level-2, Level-1, (Part of) Ground Floor & First to Fifth Floors (Hotel Bedrooms), Mondrian Hotel,45 Curtain Road, London, EC2A 3PT
Damon Borley - Applicant (General Manager)
David Lockhart - Applicant's Legal Representative
Edith Lake - Applicant's Agent
- Other Persons
Mr R Eggelton & Mrs M Eggelton
A. Gore
J. O'Neill
Mr K. Davies & Mrs L Davies
R. Dudley

1 Election of Chair

1.1 Cllr Gilbert Smyth was duly elected as Chair.

2 Apologies for Absence

2. Apologies were received on behalf of Cllr Moema.

3 Declarations of Interest

3.1 There were no declarations of interest.

4 Minutes of the Previous Meeting

- 4.1 **RESOLVED: That the minutes of the previous meetings held on 25 September 2023 and 7 December 2023 were approved as a true and accurate record of proceedings.**

5 Licensing Sub-Committee Hearing Procedure

- 5.1 The Chair outlined the hearing procedure to be followed.

6 Premises Licence: Mondrian Hotel, Private Club and Rooftop, Level-3 (Part of) Level -2, (Part of) Ground Floor & Roof Terrace, 45 Curtain Road, EC2A 3PT

- 6.1 The Chair advised that agenda items 6 and 7 would be taken together as the applications and objections were from the same Applicant and other persons,

6.2 The sub-committee heard from the Acting Principal Licensing Officer, the Applicant's Legal Representative and Other Persons. The sub-committee noted the additional information submitted by the Applicant and Other Person B4 which was circulated to all parties prior to the hearing. It was clarified that the conditions at item 6 within the report applied to the rooftop terrace and the conditions at Item 7 applied to the bedrooms in the hotel. At the meeting the conditions at item 6 of the report would be considered.

6.3 The Applicant's Legal Representative David Lockhart clarified that there was no change of use to the premises and that they were seeking two duplicate premises licences with minor changes for the hotel as there would be two tenants and it would be clearer for enforcement purposes and transparency in the event of any breaches.

6.4 During the course of submissions and a discussion of both applications, the following points were noted:

- The Applicant's Legal Representative outlined the application seeking to authorise the supply of alcohol for consumption on the premises, late night refreshment and regulated entertainment comprising plays, films, live music, recorded music, performance of dance and anything of similar description on Monday to Sunday and in relation to the application at item 7 they were seeking authorisation for the provision of late night refreshment provision of regulated entertainment and sale of alcohol on Monday to Sunday. It was emphasised that there were no changes to the conditions and change of use and that they were seeking two premises licence for two tenants. The Applicant has addressed the complaints relating to staff smoking outside and were looking at a different area away from Cosmopolitan House and that customers could not access the rooftop terrace after 00.30 hours and alcohol ceased at 00.00 hours.
- The Other Persons made representations on the grounds of The Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and The Protection of Children from Harm. Representations from Other Persons in objection of the application were primarily about public nuisance, noise pollution, ASB including screaming and urination at night and as follows:

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- Blue Marlin Ibiza would be operating a different model from a hotel. The change in activities at the luxury party nightclub demonstrated a change of use.
 - The premises are in a predominantly residential area and the rooftop terrace was surrounded by residential properties.
 - The premises did not have adequate acoustic measures or a noise limiter in all sections of the premises. The retractable glass roof over the rooftop terrace at the restaurant did not provide adequate soundproofing, and the music and people shouting and screaming could be heard until 03.00 hours. A condition that there should be no music played on the rooftop terrace was requested to prevent noise nuisance affecting residents and their families' quality of life, sleep and mental health.
 - A noise complaint had been reported to the Council on 23 September 2023 for breaches of licensing conditions after loud noise from an event held on the rooftop terrace of Mondrian.
 - The open rooftop terrace allowed music and noise to travel long distance and adversely effect on residents' quality of life.
 - Mondrian had an existing bar called the Rose Bar.
 - They sought to retain Conditions 38 and 39 relating to smoking and numbers permitted on the rooftop terrace.
 - Concern was expressed about the public nuisance in particular noise pollution that would be caused from the 125 guests allowed on the rooftop terrace.
 - Concern was expressed that there were different hours on the licence for the inside and outside areas.
 - There had been a leaflet that had advertised the rooftop terrace as a beach club and they wanted assurances from the operator that they would not operate a beach club on the rooftop terrace.
 - Concern was expressed that there had been no consultation with residents about the applications.
 - There had been issues with loud noise coming from the basement in the hotel before December 2023 and anti-social behaviour such as drug dealing and littering.
 - They were disappointed that Environmental Protection had made no representation.
- Having heard submissions, the Applicant' legal representative and Applicant responded to the sub-committee concerns and made concessions as follows:
 - Confirmed that Condition 26 related to no use for entertainment and Condition 27 related to drinking permitted until 00.30 hours.
 - The allegation that a member of staff threatened to slap a resident was under investigation.
 - The Ibiza nightclub had been operating since December and had run an event on 14 December 2023 without any complaints.
 - The Applicant had not undertaken any consultation because there were no changes to the licence and they had written to residents and received one response.
 - The Applicant agreed to engage with residents to deal with their complaints and would be willing to attend meetings with residents to address the noise nuisance emanating from the rooftop terrace that exceeded ambient background noise.
 - Confirmed that alcohol was sold with a substantial meal.

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- The Applicant hosted canapes events and therefore did not agree to the proposed additional wording 'table' before service.
 - The Applicant did not agree to the proposed conditions for waste and ambient noise levels on the rooftop terrace as the premises was closed
 - It was confirmed that there was a swimming pool on the rooftop terrace however the rooftop operated as a restaurant from 18.00 hours supplying alcohol.
 - It was explained that the walls and roof of the premises were soundproofed except the retractable glass roof which was open during Summer and closed at 22.00 hours.
 - It was clarified that if the Sub-Committee granted a licence with different terms, the Applicant would not surrender the existing licence.
 - Clarified that there could be no specific condition on the licence relating to TEN events only
 - There had been no complaints about the glass enclosure except one complaint
- In response to the questions and queries from the sub-committee, the Other Persons replied as follows:
 - They requested that the application should not be granted because of the unclear planning situation and the issues relating to sound limiting measures. The applications should be resubmitted making clear the operators and imposing conditions to reduce noise nuisance in particular from the Rooftop Terrace which would operate from 09.00- 00.00 hours Monday to Sunday with a maximum capacity of 125 people.
 - They indicated that the noise from the rooftop terrace from 22.00 hours onwards with no acoustic measures or sound limiter on the rooftop terrace restaurant would have a detrimental impact on the residents living within the vicinity.
 - It was clarified that the motorised glass rooftop was not made from heavy glass and that the previous owner had only allowed ambient background noise on rooftop.
 - Concern was expressed about the Ibiza club and potential noise nuisance and later hours impacting on local residents.
 - They wanted additional conditions for a sound limiter to be installed during TENs events.
 - The Other Persons emphasised that they did not have issues with the hotel.

RESOLVED

The decision

The Licensing Sub-Committee in considering this decision from the information presented to it within the report and at the hearing today has determined that having regard to the promotion of all the licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance; and
- The protection of children from harm,

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the application for a premises licence has been approved in accordance with the Council's Statement of Licensing Policy and the proposed conditions set out in paragraph 8.1 of the report, with the following additional conditions:

- The Sub-committee approved the application seeking to authorise the supply of alcohol for consumption on the premises, late night refreshment and regulated entertainment comprising plays, films, live music, recorded music, performance of dance and anything of similar description on Monday to Sunday as applied for regulated entertainment, and conditions as set out in the report. The hours of licensable activity applied for were approved without amendment.

The following conditions to be added to the Premises Licence:

- The Premises Licence holder shall maintain a dedicated contact telephone number and email address that must be available at all times to all local residents, the Environmental Health Officers, the Licensing Authority, the Police, and any responsible authority or any person wishing to make a complaint. These contact details shall be included on the website of the premises and on display at the premises.
- The Premises Licence holder shall hold and publicise 2 liaison meetings each year (at least every 6 months) with local residents to address any concerns or complaints about the premises from local residents to prevent public nuisance.

Reasons for the decision

The application for a premises licence has been approved because the Licensing Sub-committee was satisfied that the licensing objectives would not be undermined.

The Sub-committee approved the application as applied for regulated entertainment,

late night refreshment and supply of alcohol for consumption on the premises Monday to Sunday and conditions as set out in the report with the above additional conditions agreed by the Applicant to be added to the premises licence. The hours of licensable activity applied for were approved without amendment.

The Sub-committee took into consideration that there were no objections from Responsible Authorities.

The Sub-committee took into consideration that there were representations made by 7 Other Persons (local residents of Cosmopolitan House). The Sub-committee noted that the local residents maintained their objections to the club part of the premises only, and the local residents were not persuaded by the Applicant's representations. The Sub-committee noted that the local residents had no objections to the application made by the hotel (Item 7 on the agenda).

The Sub-committee took into account that local residents made representations that there was no consultation on this application and that they had tried to contact the Environmental Protection Team, however, they were unable to get hold of them to check the noise limit. The local residents felt that there was no support provided for them when there were issues of noise nuisance. The Sub-committee noted that one resident complained of noise nuisance on the 29th of September 2023. The Applicant made representations that they were not aware of noise complaints in September 2023. It was noted that the rooftop is now run by a different operator.

The local resident made representations that they were objecting on the grounds of noise nuisance. The previous owner had agreed to ambient sound so that they could have a conversation in their homes and not be disturbed by loud music or noise late at night. The local residents felt there was a lack of transparency on the change of use of the club premises.

The local residents made representations about the impact of the noise on them and they felt the Applicant had not taken into consideration such impact. Some of the local residents had lived in the area for a number of years and were aware about the noise, pollution and antisocial behaviour that has occurred in the area which has worsened over time and has affected children and families that live in the area. The local residents felt the Applicant had not taken into consideration the impact of noise on them.

The Sub-committee took into consideration the Applicant's representations made by their legal representative that the applications for agenda items 6 and 7 were for the premises that is split into two parts: (1) a private members club, (2) a hotel. There will be no change of use and that there would be two tenants in the premises. Each of the two separate parts will be operated by two different operators and they each will require a separate premises licence. Since mid December 2023 the premises has been operating using the existing premises licence and Temporary Event Notices. There were no issues arising.

The Sub-committee noted the Applicants legal representative contended that this application was intended to make the operation of the premises more transparent for each part of the premises to have its own licence, and to make it more easy to enforce should there be any breach of the premises licence

The Sub-committee took into account the Applicant's made representations that they were clear that they were applying for a nightclub. It was previously a nightclub, and it was being licensed again for use as a nightclub by the new tenant. The nightclub will be situated in the basement of the premises and the rooftop area was used as a restaurant previously. There is no change of use or change of conditions for each area that they are applying for a licence.

The Sub-committee noted the purpose of the rooftop has changed. The rooftop has a swimming pool and a restaurant and they serve alcohol after 18:00. The Applicant confirmed that the existing licence does not permit music late at night and that they have been operating under the existing licence conditions since December 2023

The Applicant contended that there was no consultation with local residents beyond statutory requirements. There was nothing new about the premises that required consultation. The Sub-committee took into consideration that the Applicants wrote to local residents, however, only one wrote back to them. The Applicant received no complaints. The Applicant agreed to a condition to meet with the local residents to deal with any issues arising at the premises.

After hearing from the Applicant's legal representative, the Applicant and local residents, the Sub-committee was satisfied with the conditions on the licence and that the premises would not add to the cumulative impact in the area. The Sub-committee took into consideration that the applicant was an experienced operator.

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The Sub-committee were also concerned about the lack of engagement with local residents and hope that the Applicant will work with local residents in the future. The Sub-committee took into consideration that there were strict conditions 30, 31 and 32 on the use of the rooftop and that there was no use of the rooftop after 22:00 which would prevent noise nuisance. The Sub-committee hopes that the meetings every six months with local residents may help resolve any issues arising at the premises.

The Sub-committee was mindful of the Applicant being able to use their existing licence and decided to grant the two new licences.

The Sub-committee took into consideration that the Applicant needed to comply with acoustic noise conditions to prevent public nuisance.

The Sub-committee took into consideration that the premises had used their existing licence since December 2023, and used Temporary Event Notices which had been used without incident.

The Sub-committee took into account that the Applicant made representations that they cannot move the smoking area for health and safety reasons.

The Sub-committee took into account that should there be any breach of the conditions of the premises licence that local residents can apply for a review of the licence.

Having taken all of the above factors into consideration, the Licensing Sub-committee was satisfied, when granting the application for a premises licence, that the licensing objectives would not be undermined.

Public Informatives:

1. The Premises licence holder is advised to obtain an Acoustic report and work with the Environmental Protection Team to resolve noise nuisance issues affecting local residents.
2. The Premises Licence holder is encouraged to work with local residents and the Responsible Authorities to reduce noise nuisance, and prevent any negative impact in the area.
3. The Premises licence holder is reminded about staff smoking outside of the premises, and to prevent any nuisance caused by the smoke to local residents.

7 Premises Licence: Ennismore Hotel, (part of) Level-2, Level-1, (Part of) Ground Floor & First to Fifth Floors (Hotel Bedrooms), Mondrian Hotel,45 Curtain Road, London, EC2A 3PT

7.1 This application was discussed together with the application at agenda item 6. The application was seeking authorisation for the provision of late night refreshment, provision of regulated entertainment and sale of alcohol on Monday to Sunday.

RESOLVED:

The decision

The Licensing Sub-Committee in considering this decision from the information presented to it within the report and at the hearing today has determined that having regard to the promotion of all the licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance; and
- The protection of children from harm,

the application for a premises licence has been approved in accordance with the Council's Statement of Licensing Policy and the proposed conditions set out in paragraph 8.1 of the report, with the following additional conditions:

- The Sub-committee approved the application as applied for regulated entertainment, late night refreshment and supply of alcohol for consumption on the premises Monday to Sunday and conditions as set out in the report. The hours of licensable activity applied for were approved without amendment.

The following conditions to be added to the Premises Licence:

- The Premises Licence holder shall maintain a dedicated contact telephone number and email address that must be available at all times to all local residents, the Environmental Health Officers, the Licensing Authority, the Police, and any responsible authority or any person wishing to make a complaint. These contact details shall be included on the website of the premises, and on display at the premises.
- The Premises Licence holder shall hold and publicise 2 liaison meetings each year (at least every 6 months) with local residents to address any concerns or complaints about the premises from local residents to prevent public nuisance.

Reasons for the decision

The application for a premises licence has been approved because the Licensing Sub-committee was satisfied that the licensing objectives would not be undermined.

The Sub-committee approved the application as applied for regulated entertainment, late night refreshment and supply of alcohol for consumption on the premises Monday to Sunday and conditions as set out in the report with the above additional conditions agreed by the Applicant to be added to the premises licence. The hours of licensable activity applied for were approved without amendment.

The Sub-committee took into consideration that there were no objections to this application from Responsible Authorities.

The Sub-committee took into consideration the representations made by Other Persons (local residents), however, their objections related to Item 6 on the agenda a separate premises within the same building, and the local residents confirmed that they had no objections or concerns with this application.

The Sub-committee took into consideration the Applicant's representations made by their legal representative that the applications for agenda items 6 and 7 was for the premises that was split into two parts: (1) a private members club, (2) a hotel.

There will be no change of use and that there would be two tenants in the premises. Each of the two separate parts will be operated by two different operators and they each will require a separate premises licence. Since mid December 2023 the premises has been operating using the existing premises licence and Temporary Event Notices. There were no issues arising.

The Sub-committee noted the Applicants legal representative contended that this application was intended to make the operation of the premises more transparent for each part of the premises that have its own licence, and to make it more easy to enforce against the current tenant, should there be any breach of the terms of the premises licence.

After hearing from the Applicant's representative the Sub-committee was satisfied with the conditions on the licence and that the operation of the premises would not add to the cumulative impact in the area. The Sub-committee took into consideration that the Applicant was an experienced operator.

Having taken all of the above factors into consideration, the Licensing Sub-committee was satisfied, when granting the application for a premises licence, that the licensing objectives would not be undermined.

8 Temporary Event Notices - Standing Item

8.1 There were no temporary event notices for consideration.

Duration of the meeting: 7.00 - 9.15 pm